

# PLANNING ASSESSMENT REPORT

## DELEGATE REPORT

Application Details			
<b>Application Number:</b>	TP24-22	<b>Planner:</b>	Adam Moar
<b>Application Description:</b>	5-lot subdivision and creation of carriageway easement		
<b>Application Received:</b>	31 May 2022		
<b>Land / Address:</b>	Craig Avenue Warracknabeal 3393		
<b>Zoning:</b>	Farming Zone (FZ) General Residential Zone (GRZ) Rural Living Zone (RLZ)		
<b>Overlays:</b>	Bushfire Management Overlay Environmental Significance Overlay - Schedule 2 (Highway Environs Protection) Land Subject to Inundation Overlay		
<b>Under what clause(s) is a permit required?</b>	32.08-3: To subdivide the land into 5 lots 44.04-3: To subdivide land within Land Subject to Inundation. 44.04-2: To carry out cut and fill earthworks		
<b>VicSmart</b>	No		
<b>Current Use &amp; Development:</b>	Vacant		
<b>Land Use Terms:</b>	Residential/Accommodation		
<b>Cultural Heritage Management Plan details</b>	No		

### Proposal

The proposal is for a five-lot subdivision of Lot 2 on LP91903 Craig Avenue, Warracknabeal. The application also proposes the creation of a carriageway from Craig Ave to accommodate a new created lot which will be accessible via common property.

### Subject Site & Locality

The subject site is known as Craig Avenue (Lot 2 LP91903, Parish of Werrigar) and has a total area of approximately 121 hectares. The irregular shaped lot is located on the north-western

outskirts of Warracknabeal and has frontages on Rainbow Road (TRZ2), Craig Avenue, Symes Avenue and Clarendon Avenue. The lot primarily consists of dryland cropping which is associated with a farming enterprise. It also contains trees and other vegetation which is primarily located on the south-eastern boundary which abuts onto residential areas. The Farming Zone (FZ) applies to much of the land to the north and west while a General Residential Zone (GRZ1) applies to south-eastern portion. The Land Subject to Inundation Overlay (LSIO) also applies to much of the eastern portions of the property which runs near the Yarriambiack Creek. The lot interfaces between residential developments on the outer perimeter of the township and agricultural farmland which stretches to the west and north.

## Site History

Nil

## Restrictive Covenant / Section 173 Agreement

### Restriction Description

Covenant Nil

Agreement Nil

## Public Notification

The application was advertised to adjoining owners under Section 52 of the Planning and Environment Act 1987. Three objections were received during the initial advertisement in July-August of 2022. Two amended objections were also lodged during the readvertisement from one of the original objectors.

## Referrals

CFA - District 15, 16 & 17	Section 55 - Recommending
Department of Transport & Planning - Head, Transport for Victoria (Grampians)	Section 55 - Determining
Grampians Wimmera Mallee Water	Section 55 – Determining
Victorian Power Networks – Rural	Section 55 – Determining
Wimmera Catchment Management Authority	Section 55 - Recommending

## Planning Policy Framework (PPF)

### 2.01: Context

Yarriambiack Shire is located in the north-western part of Victoria. The Shire has an area of 7158 square kilometres which extends from the Wimmera River, just north of the Grampians in the south to the centre of the Mallee in the north.

The Shire's estimated population in 2018 was 6660 persons. More than two-thirds of the population live in urban centres above 200 people. Approximately a third of the population live in Warracknabeal, the largest town in the Shire. The Shire's population is projected to decrease by more than 1000 persons by 2036, creating challenges for the planning of facilities and services.

The main employment sectors within the Shire are agriculture, community services, and wholesale and retail trade. These industries are major components of the economy of the Shire and are very important in the service role of the smaller townships.

Most townships within the Shire have excellent community and sporting facilities that have the potential for hosting special events.

Yarriambiack contains significant areas of Mallee Parks and reserved public lands that protect some of the least disturbed mallee ecosystems in Australia. High quality areas of cultural, historical and conservation value include Wyperfeld National Park, Paradise Flora and Fauna Reserve, Outlet Creek, Wathe Flora and Fauna Reserve and Albacutya Reserve. These parks and public lands contain some of the largest areas of semi-arid wilderness and mallee stands in south eastern mainland Australia.

### 2.02: Vision

Yarriambiack Shire's vision is to provide a viable, sustainable and vibrant future.

From a land use and development perspective, Council intends to achieve its vision through the implementation of the following objectives:

- A place to live and grow.
- A safe and active community.
- A sustainable environment.
- A planned future.

### 2.03: Strategic Direction

#### 2.03-1: Settlement

The settlement pattern of Yarriambiack Shire is characterised by a number of urban centres and small towns, located in the midst of productive agricultural areas. The maintenance of a clear distinction between urban and rural areas is essential to efficient township development and continued agricultural production.

Factors contributing to the character of these townships include unique rural settings, heritage buildings and a rich community culture. The uniqueness and quality of life offered in each township is of great importance to the people of the Shire.

Some of the towns have lost the threshold population size to attract and to maintain the necessary services and facilities for residents and the surrounding farming district. Given the population thresholds and factors of location, environment and entrepreneurial initiative to rejuvenate towns, Council's settlement strategy is to consolidate development and provide infrastructure within towns in order of highest potential as follows:

- Warracknabeal
- Murtoa
- Hopetoun

- Minyip
- Rupanyup
- Beulah
- Woomelang.

Other settlements including Patchewollock, Brim, Yaapeet, Tempy, Speed and Lascelles will continue to be supported.

Warracknabeal has a district centre role. It is the largest centre of the Shire with the smallest rate of population decline. It is a retail, administrative and industrial centre, well serviced with educational, medical and community services. It is located on important transport routes and has potential for critical mass to support and sustain large industries. Warracknabeal is the second largest grain receival terminal after Murtoa. Graincorp's maintenance workshop is located in Warracknabeal.

### **Strategic directions**

- Direct development and growth to take place within the townships of Warracknabeal, Murtoa, Hopetoun, Minyip, Rupanyup, Beulah and Woomelang.
- Facilitate population growth to maintain threshold populations for townships and support delivery of services.
- Reinforce Warracknabeal as the main district service centre within the Shire, especially in terms of provision of community services and facilities, retail and business opportunities, recreational and social activities and the coordination of administrative and government functions.
- Develop an attractive commercial centre in Warracknabeal, with services and facilities that reinforce the role of the township.
- Minimise conflict between agriculture and urban land uses.
- Manage rural land sustainably, and discourage use and development that has the potential to restrict or adversely affect rural activities.

### **2.03-2: Environmental and landscape values**

The vegetation of the Mallee region within the Shire of Yarriambiack is varied, containing the following vegetation communities:

- Mallee Eucalyptus
- Grasslands
- Pine Buloke Woodland
- Mallee Heath
- Blackbox Woodland
- River Red Gum
- Lake Bed Herb Field
- Rare Saltbush
- Broombrush Mallee

Of particular conservation significance are the Pine Buloke Woodlands and Grasslands.

The road verges throughout the Shire contain remnant vegetation and are valued for their visual quality against a flat and treeless agricultural cropping landscape. The preservation of vegetation on road verges is important to maintain rural character and existing habitat linkages.

Sites of rare or threatened species of Victorian flora and fauna have been identified and mapped in the municipality. The following species are noted as rare or threatened: White-bellied Sea-eagle, Plains Wanderer, Mallee Fowl, Grey-crowned Babbler and Hairy-pod Wattle. The following are noted as endangered: Weeping Myall, and Swamp Sheoak. Pest plants and animals are a concern in the municipality due to their impacts on rare or threatened species.

The rivers and creeks within the municipality play a vital role in the community and have historical significance. Issues relating to waterways include flooding, levee banks, erosion, deterioration of water quality and quantity, the protection of riparian vegetation and public access. Stable and high-quality waterway environments are important. They provide multiple benefits in protecting flora and fauna values, protecting water quality and enhancing landscape values.

Wetland areas, comprising of swamps, land subject to inundation and perennial or intermittent lakes provide important functions such as drainage, flora and fauna habitat, recreation, landscape features, water filtration and water storage. The maintenance of wetlands is a significant environmental issue. The continued drainage of wetlands results in considerable impact on wetland ecology, native vegetation and water quality.

### **Strategic directions**

- Maintain and enhance biodiversity.
- Protect the corridor and habitat value of roadside and riparian vegetation.
- Protect remnant vegetation from clearing.
- Protect the Pine Buloke Woodlands and Grasslands which are a highly significant and threatened vegetation community.
- Maintain and enhance the habitat of rare or threatened species of Victorian flora and fauna, such as those listed under Schedule 2 of the Flora and Fauna Guarantee Act 1988 .
- Promote effective pest plant and animal control, and ensure works do not contribute to the spread of environmental and agricultural weeds.
- Conserve water catchments, wetlands and watercourses, particularly the Yarriambiack Creek catchment.

### **2.03-3: Environmental risks and amenity**

Management of habitats, remnant vegetation and water catchments are vital to the sustainable growth of the Shire. The degradation of the environment affects both agriculture and tourism alike, with resulting flow on effects to the economy and amenity for residents.

The Shire is located in the catchments of the Wimmera, Avon, and Richardson Rivers. Not all towns are sewered, with some towns relying on septic tanks which discharge effluent into the sub soil. Some of the wastes are not satisfactorily disposed of on site and are entering the town drainage and eventually the river system.

The Southern Mallee is a subsurface catchment with groundwater flows trending in a NW direction towards the Murray River. It contains a significant terminal lakes system and valued biodiversity.

Although soil salinity is not yet a major issue, it is of increasing concern to landholders. Groundwater in the region is saline and rising and dryland salinity is a key land management issue, particularly around the Hopetoun and Patchewollock area. The Southern Mallee has areas of high local and regional watertables. Wind erosion can greatly impact on sustainable land management, particularly for the northern areas of the Shire. It is the prevalent form of erosion in the Mallee region.

A summary of the land systems within the Shire and their corresponding erosion risk is as follows:

- Tempy and Hopetoun – These are ridges running NNW SSE, overlaid by aeolian dunes. The overall erosion hazard is severe when land is cleared. Yet wind erosion hazard is less for the Hopetoun Land System. Dryland salting is also a land management problem.

- Big Desert – This area consists of relatively infertile deep white sand with an exceptionally high erosion hazard when cleared. This soil type has a relatively low carrying capacity to support development. Cleared desert sands have become unmanageable, and dunes are superimposed over ridges in NNW and SSE directions.
- Tyrell Creek – This area consists of grey clays and is prone to being adversely affected by salting.
- Culgoa – This area consists of plains with scattered low hummocks and grasslands. It has a relatively low risk of wind erosion.

### **Strategic directions**

- Ensure development supports catchment strategies and sustainable natural resource management practices, specifically the Wimmera and Mallee Regional Catchment Strategies.
- Maintain and enhance vegetative cover and minimise soil disturbance in areas prone to soil erosion and salinity.
- Prevent inappropriate development in areas affected by groundwater salinity.

### **2.03-6: Housing**

Medium density housing is limited in the Shire. With changing housing needs, a wider range of housing types is required and clear direction for the form and design of these types of development is also needed.

#### Strategic directions

- Protect existing residential amenity.
- Encourage use of vacant housing stock that preserves the surrounding residential amenity.
- Provide for a variety of lot sizes and housing choice to meet the requirements of all age groups, household types and lifestyles.
- Accommodate medium density development close to community services and commercial centres.

### **11.01-1S: Victoria**

#### **Objective**

To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

#### **Strategies**

Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.

Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.

Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.

Create and reinforce settlement boundaries.

Provide for growth in population and development of facilities and services across a regional or sub-regional network.

Plan for development and investment opportunities along existing and planned transport infrastructure.

Promote transport, communications and economic linkages between settlements through the identification of servicing priorities in regional land use plans.

Strengthen transport links on national networks for the movement of commodities.

Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:

- Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.
- Developing settlements that will support resilient communities and their ability to adapt and change.
- Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.
- Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.
- Encouraging an integrated planning response between settlements in regions and in adjoining regions and states in accordance with the relevant regional growth plan.
- Providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs in accordance with the relevant regional growth plan.
- Improving transport network connections in and between regional cities, towns and Melbourne.
- Integrating the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes.
- Minimising exposure to natural hazards, including increased risks due to climate change.
- Contributing to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design.
- Encourage a form and density of settlements that supports healthy, active and sustainable transport.
- Limit urban sprawl and direct growth into existing settlements.
- Promote and capitalise on opportunities for urban renewal and infill redevelopment.
- Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.
- Ensure retail, office-based employment, community facilities and services are concentrated in central locations.
- Ensure land that may be required for future urban expansion is not compromised.
- Support metropolitan and regional climate change adaptation and mitigation measures.

### **Policy documents**

Consider as relevant:

- Wimmera Southern Mallee Regional Growth Plan (Victorian Government, 2014)

### **11.01-1R: Settlement - Wimmera Southern Mallee**

#### **Strategies**

Support the regional city role of Horsham as the key population and employment centre for the region.

Support the ongoing growth and development of Edenhope, Hopetoun, Nhill, St Arnaud, Stawell and Warracknabeal as the key service hubs in their sub-regional communities of interest.

Provide local and some sub-regional services in Dimboola, Kaniva and Murtoa.

Provide for easy access to housing, education, employment and community facilities, particularly in Horsham and district towns.

Provide an ongoing supply of infill and greenfield residential land, particularly in Horsham and district towns.

### **11.02-1S: Supply of urban land**

#### **Objective**

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

#### **Strategies**

Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.

Ensure that sufficient land is available to meet forecast demand.

Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. Residential land supply will be considered on a municipal basis, rather than a town-by-town basis.

Planning for urban growth should consider:

Opportunities for the consolidation, redevelopment and intensification of existing urban areas.

Neighbourhood character and landscape considerations.

The limits of land capability and natural hazards and environmental quality.

Service limitations and the costs of providing infrastructure.

Monitor development trends and land supply and demand for housing and industry.

Maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry.

Restrict rural residential development that would compromise future development at higher densities.

#### **Policy guidelines**

Consider as relevant:

- Victorian Government population projections and land supply estimates.

#### **Policy documents**

Consider as relevant:

- Melbourne Industrial and Commercial Land Use Plan (Department of Environment, Land, Water and Planning, 2020)

### **13.02-1S: Bushfire planning**

#### **Policy application**

This policy must be applied to all planning and decision making under the Planning and Environment Act 1987 relating to land that is:

- Within a designated bushfire prone area;
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazard.

#### **Objective**

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.



## **Strategies**

Protection of human life

Give priority to the protection of human life by:

- Prioritising the protection of human life over all other policy considerations.
- Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
- Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.
- Bushfire hazard identification and assessment

Identify bushfire hazard and undertake appropriate risk assessment by:

- Applying the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard.
- Considering the best available information about bushfire hazard including the map of designated bushfire prone areas prepared under the Building Act 1993 or regulations made under that Act.
- Applying the Bushfire Management Overlay to areas where the extent of vegetation can create an extreme bushfire hazard.
- Considering and assessing the bushfire hazard on the basis of
  - Landscape conditions - meaning conditions in the landscape within 20 kilometres (and potentially up to 75 kilometres) of a site;
  - Local conditions - meaning conditions in the area within approximately 1 kilometre of a site;
  - Neighbourhood conditions - meaning conditions in the area within 400 metres of a site; and
  - The site for the development.

Consulting with emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measures.

Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures.

Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.

## **Settlement planning**

Plan to strengthen the resilience of settlements and communities and prioritise protection of human life by:

- Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).
- Ensuring the availability of, and safe access to, areas assessed as a BAL-LOW rating under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018) where human life can be better protected from the effects of bushfire.

## *Delegate Report - TP24-22*

- Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.
- Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall.
- Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.
- Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.
- Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018).

### **Areas of biodiversity conservation value**

Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that are important areas of biodiversity.

### **Policy guidelines**

Consider as relevant:

- Any applicable approved state, regional and municipal fire prevention plan.

### **Policy documents**

Consider as relevant:

- AS 3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018)
- Building in bushfire-prone areas - CSIRO & Standards Australia (SAA HB36-1993, 1993)
- Any bushfire prone area map prepared under the Building Act 1993 or regulations made under that Act

## **13.03-1S: Floodplain management**

### **Objective**

To assist the protection of:

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

### **Strategies**

Identify land affected by flooding, including land inundated by the 1 in 100 year flood event (1 per cent Annual Exceedance Probability) or as determined by the floodplain management authority in planning schemes.

Avoid intensifying the impact of flooding through inappropriately located use and development.

Plan for the cumulative impacts of use and development on flood behaviour.

## **Policy guidelines**

Consider as relevant:

- Regional catchment strategies and special area plans approved by the Minister for Environment or Minister for Water.
- Any floodplain management manual or guideline of policy and practice, or catchment management, river health, wetland or floodplain management strategy adopted by the relevant responsible floodplain management authority.
- Any best practice environmental management guidelines for stormwater adopted by the Environment Protection Authority.

## **Policy documents**

Consider as relevant:

- Victorian Floodplain Management Strategy (Department of Environment, Land, Water and Planning, 2016)

## **14.01-1S: Protection of agricultural land**

### **Objective**

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

### **Strategies**

Identify areas of productive agricultural land, including land for primary production and intensive agriculture.

Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.

Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.

Protect productive farmland that is of strategic significance in the local or regional context.

Protect productive agricultural land from unplanned loss due to permanent changes in land use.

Prevent inappropriately dispersed urban activities in rural areas.

Protect strategically important agricultural and primary production land from incompatible uses.

Limit new housing development in rural areas by:

- Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.
- Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- Desirability and impacts of removing the land from primary production, given its agricultural productivity.
- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- Compatibility between the proposed or likely development and the existing use of the surrounding land.

- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.

Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.

Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

### **15.01-1S: Urban design**

#### **Objective**

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

#### **Strategies**

Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.

Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.

Ensure the interface between the private and public realm protects and enhances personal safety.

Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.

Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.

Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.

Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.

Promote good urban design along and abutting transport corridors.

#### **Policy documents**

Consider as relevant:

- Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)

### **15.01-3S: Subdivision design**

#### **Objective**

To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.

#### **Strategies**

In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:

- Creating compact neighbourhoods that have walkable distances between activities.
- Creating urban places with a strong sense of place that are functional, safe and attractive.

## *Delegate Report - TP24-22*

- Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.
- Protecting and enhancing habitat for native flora and fauna, and providing opportunities for people to experience nature in urban areas.

Providing utilities and services that support the uptake of renewable energy technologies, such as microgrids and energy storage systems, including batteries.

### **Policy documents**

Consider as relevant:

- Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)

### **15.01-5S: Neighbourhood character**

#### **Objective**

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

#### **Strategies**

Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:

- Pattern of local urban structure and subdivision.
- Underlying natural landscape character and significant vegetation.
- Neighbourhood character values and built form that reflect community identity.

## Zoning

### 32.08: General Residential

#### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To encourage development that respects the neighbourhood character of the area.

To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

#### 32.08-3: Subdivision

##### Permit requirement

A permit is required to subdivide land.

An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area. This does not apply to a lot created by an application to subdivide land where that lot is created in accordance with:

- An approved precinct structure plan or an equivalent strategic plan;
- An incorporated plan or approved development plan; or
- A permit for development.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Class of subdivision	Objectives and standards to be met
3 – 15 lots	All except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6.

A permit must not be granted which would allow a separate lot to be created for land containing a small second dwelling.

#### 32.08-14: Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

##### General

The Municipal Planning Strategy and the Planning Policy Framework.

- The purpose of this zone.
- The objectives set out in a schedule to this zone.
- Any other decision guidelines specified in a schedule to this zone.

- The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.

### **Subdivision**

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.
- Dwellings, small second dwellings and residential buildings
- For the construction and extension of one dwelling on a lot and a small second dwelling, the applicable objectives, standards and decision guidelines of Clause 54.
- For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55. This does not apply to an apartment development of five or more storeys, excluding a basement.
- For the construction and extension of an apartment development of five or more storeys, excluding a basement, the objectives, standards and decisions guidelines of Clause 58.

### **35.07: Farming Zone**

#### **Purpose**

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To provide for the use of land for agriculture.

To encourage the retention of productive agricultural land.

To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

To encourage the retention of employment and population to support rural communities.

To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

#### **35.07-3: Subdivision**

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

A permit cannot be granted which would allow a separate lot to be created for land containing a small second dwelling.

#### **35.07-6: Decision guidelines**

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

**General issues**

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

**Agricultural issues and the impacts from non-agricultural uses**

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

**Accommodation issues**

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.
- The potential for accommodation to be adversely affected by noise and shadow flicker impacts if it is located within one kilometre from the nearest title boundary of land subject to:
  - A permit for a wind energy facility; or
  - An application for a permit for a wind energy facility; or
  - An incorporated document approving a wind energy facility; or



- A proposed wind energy facility for which an action has been taken under section 8(1), 8(2), 8(3) or 8(4) of the Environment Effects Act 1978.
- The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.

### **Environmental issues**

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

## **Overlays**

### **44.04: Land Subject To Inundation Overlay**

#### **Purpose**

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.

To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

To minimise the potential flood risk to life, health and safety associated with development.

To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.

#### **44.04-1: Land subject to inundation objectives and statement of risk**

A schedule to this overlay may contain:

- Land subject to inundation management objectives to be achieved.
- A statement of risk.

#### **44.04-3: Subdivision**

A permit is required to subdivide land.

#### **44.04-4: Application requirements**

An application must be accompanied by any information specified in a schedule to this overlay.

#### **44.04-6: Exemption from notice and review**

An application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

#### **44.04-7: Referral of applications**

An application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.

#### **44.04-8: Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- Alternative design or flood proofing responses.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
  - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
  - The flood warning time available.
  - Tidal patterns.
  - Coastal inundation and erosion.
  - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.
  - The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
  - The effect of the development on river, marine and coastal health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality, estuaries and sites of scientific significance.
  - Any other matters specified in a schedule to this overlay.

### **SCHEDULE TO CLAUSE 44.04 LAND SUBJECT TO INUNDATION OVERLAY**

#### **4: Application requirements**

##### **Notice of applications**

Notice of an application must be given in accordance with Section 52(1)(c) of the Act to the person or body specified as a person or body to be notified in Clause 66.06 or a schedule to that clause.

## 5: Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The effect of any development on the safety and operation of the road.
- The prevention of ribbon development in the vicinity of the main road.
- The objectives of the zone within which the land is situated.
- The preservation of the amenity of the neighbourhood and the need to prevent unnecessary intrusive development from occurring in visually exposed areas.
- The necessity to control the exterior colour and finishes of buildings, structures and works that directly affect the visual quality of the area, and to encourage where appropriate such buildings, structure and works to conform and reflect the character and atmosphere of the surrounding township.
- The conservation and enhancement of the area.
- The preservation of, and impact on, the natural environment or landscape values.
- The role of native vegetation in conserving the flora and fauna and in the providing of food, shade and shelter for native Fauna.
- The need to retain native vegetation if it is rare or supports rare species of flora or fauna and where it forms part of a wildlife corridor.
- Whether provision is made or is to be made to establish and maintain native vegetation elsewhere on the land.
- The sensitive location of driveways or crossings over roadside reserves.

## Particular Provisions

See attachment: Clause 56 Assessment – Craig Avenue Warracknabeal (TP24-22)

## Assessment

### 65.01: APPROVAL OF AN APPLICATION OR PLAN

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- **The matters set out in section 60 of the Act.**

*Planning response:*

Section 60 of the Act states:

1. Before deciding on an application, the responsible authority must consider—

- a. the relevant planning scheme; and

This report considers the relevant provisions of the Yarriambiack Planning Scheme

- b. the objectives of planning in Victoria; and
- c. all objections and other submissions which it has received and which have not

been withdrawn; and

d. any decision and comments of a referral authority which it has received; and

e. any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development; and

f. any significant social effects and economic effects which the responsible authority considers the use or development may have.

After considering the provisions of the planning scheme and the submissions made for this application, it is concluded that the objectives have been considered in this report. Additionally, previous VCAT decisions have been reviewed and will be referenced where relevant.

- **Any significant effects the environment, including the contamination of land, may have on the use or development.**

*Planning response:*

The land is in a flood prone area which will be discussed under the LSIO provisions below. The land may potentially be contaminated from soil, an issue raised by some of the objectors, which was placed on the proposed lots prior to the issuance of a planning permit. Therefore, it is considered that further analysis is required.

- **The Municipal Planning Strategy and the Planning Policy Framework.**

*Planning response:*

The application proposes a five-lot subdivision which would separate existing agricultural land from four lots within a residential area. The proposed residential lots are likely to be subject to flooding during 1 percent Annual Exceedance Probability (AEP) event. The Municipal Planning Strategy (MPS) and the Planning Policy Framework (PPF) identifies Warracknabeal as the municipality's district centre which has the highest settlement potential due to its role as retail, administrative and industrial centre with educational, medical and community services. In assessing the application, the following Clauses are relevant:

- Clauses 13.03-1S and 19.03-3S identify the need to protect life, property, community infrastructure and the environment from intensifying impacts from land use and development as well as managing stormwater and flood risk.
- Clause 15.01-3S supports subdivisions that create neighbourhood centres which provide a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people, and which protect and enhance habitats for native flora and fauna and provide opportunities for people to experience nature in urban areas.
- Clause 15.01-5S is also relevant in consideration of the existing neighbourhood character, cultural identity, and sense of place. It considers as relevant the pattern of local urban structure and subdivision, the underlying natural landscape character and significant vegetation and supports development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

**The purpose of the zone, overlay or other provision.**

*Planning response:*

The proposal will subdivide off four lots from agricultural land. The proposed three of the four

proposed lots are in keeping with the existing lot sizes within the locality as further discussed in the Clause 56 assessment. The fourth lot contains native vegetation and will be retained as a water catchment. No further housing development has been proposed as a part of the application.

The location of the proposed lots is within the 1 percent Annual Exceedance Probability (AEP) flood event area which will be further discussed below. It is also proposed that 290 cubic metres of soil be cut from Lot 4 and will be used to fill lots 1, 2 and 3. Further requirements regarding hydrology reports and stormwater management plans to address flood hazards and drainage conditions will be discussed below.

**Any matter required to be considered in the zone, overlay or other provision.**

*Planning response:*

The proposal will be considered under the decision guidelines for the General Residential Zone (GRZ1) under Clause 32.08-14.

The Municipal Planning Strategy and Planning Policy Framework and purpose of the zones and overlays have already been considered and discussed above. The objectives and standards have been discussed in the Clause 56 assessment (see the attachment).

- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- Alternative design or flood proofing responses.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
  - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
  - The flood warning time available.
  - Tidal patterns.
  - Coastal inundation and erosion.
  - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.
- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
- The effect of the development on river, marine and coastal health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality, estuaries and sites of scientific significance.

There is no local floodplain development plan however the application has been considered in the context of the floodplain management strategies, reports and comments provided by the

*Delegate Report - TP24-22*

Wimmera CMA (WCMA) as the relevant floodplain authority.

The site of the proposed subdivision is within proximity of the Yarriambiack Creek, a distributary of the Wimmera River which experiences significant flows when the Wimmera River is in flood. However, riverine flooding within the township only occurs when the Wimmera River is experiencing significant flooding. Warracknabeal has also previously experienced flash flooding which is due to heavy rainfall exceeding the capacity of the town's stormwater drainage system. As a result, the WCMA has identified Warracknabeal as the highest risk town in the municipality from flooding because of cost of damages and identified flood mitigation measures such as the creation of the Warracknabeal levee, which is now in place.

The application for the creation of five lots and a carriageway was referred to the WCMA under Section 55 of the Planning and Environment Act 1987 who did not object to the granting of a permit subject to the following conditions:

1. All proposed lots must be filled to at least 0.3 metres above the flood level for that lot. Before a Statement of Compliance is issued for any stage of the subdivision under the Subdivision Act 1988, a survey plan prepared by or under the supervision of a licensed land surveyor, showing levels reduced to the Australian Height Datum, must be submitted to Yarriambiack Shire Council to demonstrate that the land has been filled in accordance with Wimmera CMA's requirements.
2. Any earthworks or construction must not reduce the available flood storage on the site. If fill is proposed, a cut and fill balance ratio of 1:1 must be achieved on the site. Any proposed cut areas must be self-draining. If construction reduces flood storage soil will need to be removed from the site equal to the volume lost. Before the commencement of works, volume calculations must be submitted to Wimmera CMA demonstrating how this condition will be achieved.
3. Before the commencement of any works related to the subdivision, a hydraulic report demonstrating that the proposed development, fill and road development (see condition 6) will not have any adverse impacts on the floodplain is to be submitted to Wimmera CMA. In particular, computations that detail impacts upon flows, velocities, flood storage and flood levels must form part of this report.
4. Natural overland flow paths and natural floodplain features should be retained. If an applicant seeks to modify such flow paths and floodplain features, earthworks must be designed to compensate for any loss of flood storage or flood behaviour.
5. Excavations to deliver this storage must:
  - a. Be self-draining
  - b. Be within the development site
  - c. Provide for the equivalent hydraulic capacity
  - d. Be compliant to any CMA conditions
  - e. Before a Statement of Compliance is issued for any stage of the subdivision under the Subdivision Act 1988, plans must be provided which show finished ground levels (to metres AHD) of all fill and borrow areas and as constructed depths of cut and fill. Computations must be provided, which indicate that the net cut and fill meet the flood storage.
6. Any vehicular and/or pedestrian access must be designed and constructed to comply

with the following safety criteria associated with the applicable flood level.

- a. Depth of flow does not exceed 0.30 m;
  - b. Velocity of flow does not exceed 2.0 m/s;
  - c. The Depth Velocity product does not exceed 0.30 m<sup>2</sup>/s.
7. Before the commencement of any work related to the subdivision, a stormwater management plan must be approved and endorsed by the responsible authority Yarriambiack Shire Council. The stormwater management plan must demonstrate the subdivision is designed and constructed to comply with stormwater and integrated water management objectives, 56.07 and 53.18 of the Victorian Planning Provisions:
- a. To minimise damage to properties and inconvenience to the public from stormwater.
  - b. To ensure that the streets operate adequately during major storm events and provides for public safety.
  - c. To minimise increases in stormwater and protect the environmental values and physical characteristics of receiving waters from degradation by stormwater.
  - d. To encourage stormwater management that maximises the retention and reuse of stormwater.
  - e. To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.
  - f. To protect drainage infrastructure and receiving waters from sedimentation and contamination.
  - g. To protect the site and surrounding area from environmental degradation before and during construction of subdivision works.

The proposed lots are subject to overland/stormwater flooding which is primarily caused by run-off from the agricultural lot. The Warracknabeal and Brim Flood Investigation (2016) has determined that the 1% AEP flood level for the proposed allotment ranges between 108.39 and 108.53 metres Australian Height Datum (AHD). The proposal also includes to cut and fill the lots, removing 290 cubic metres of soil from the rear of Lot 4 which would then be used to fill Lots 1, 2 and 3, raising the ground level by 300mm. It is intended that this would offset some of the impacts from overland/stormwater flooding. However, no hydrology or flooding report was submitted as a part of the application to determine any further localised flooding impacts and how stormwater would be directed and managed. Given the current impacts of flooding in the area, as evidenced by photos submitted by the objectors, the condition recommended by the WCMA, as well as flood mitigation measures undertaken following the Wimmera Floodplain Management Strategy (2017), it is considered that further studies should be undertaken to address the proposed subdivision as well as existing flooding.

Planning Practice Note 11 *Applying for a Planning Permit under the Flood Provisions* (PPN11) and Planning Practice Note 12 *Applying the Flood Provisions in Planning Schemes* (PPN12) may be used for assessing any planning application within a designated flood prone area. Although both use outdated terminology such as *Annual Recurrence Interval (ARI)*, it is considered relevant to assessing the current application. Both PPN11 and PPN12 identify the four flooding provisions:

- the Urban Floodway Zone (UFZ),

## *Delegate Report - TP24-22*

- Floodway Overlay (FO),
- Land Subject to Inundation Overlay (LSIO); and,
- Special Building Overlay (SBO).

These have been derived based on the types of flooding and the potential level of risk to life and property.

They define the LSIO as applying to mainstream flooding in both rural and urban areas, which in general, are considered to have a lower flood risk than UFZ or FO areas. PPN11 also identifies the decision guidelines council's and floodplain management authorities should consider which includes larger events than the 1% AEP, relocating developments, earthworks and cumulative impacts.

PPN11 also outlines the grounds on when a development should be refused:

- it is likely to result in danger to the life, health and safety of the occupants due to flooding of the site
- it relies on low-level access to and from the site
- it is likely to increase the burden on emergency services and the risk to emergency personnel
- it is likely to increase the amount of flood damage to public or private assets
- it is likely to raise flood levels or flow velocities to the detriment of other properties.
- Potentially adverse effects on upstream and downstream areas must be identified and addressed. Development should not transfer flooding problems from one location to another
- it is likely to obstruct flood flows or reduce natural flood storage. The capacity of land subject to inundation to convey and store floodwater must be maintained
- it is likely to be detrimental to natural habitats, waterway stability, water quality or sites of significance
- if any subdivision, development or redevelopment is likely to increase the number of buildings located in a floodway area.

As discussed above, flood mitigation measures have been adopted since the 2011 floods which includes the formation of the Warracknabeal levee as well as early flood warning systems. The proposed subdivision could be potentially located on Lot 5 which is located outside of the 1% AEP flood level. However, the land is currently used in association with a farming enterprise and would require rezoning in order to be considered and, therefore, is considered that there are no alternative sites available. The proposed cut-and-fill earthworks are considered to mitigate flooding to the newly proposed lots. However, road construction and further residential developments may also impact on the natural flow and velocity of floodwater and therefore will need to be addressed in a flood and stormwater investigation to assess for any adverse impacts to adjoining properties.

- **The orderly planning of the area.**

*Planning response:*

The proposed subdivision will create new lots within the General Residential Zone. Therefore, it



is considered to not impact on the orderly planning of the area.

- **The effect on the environment, human health and amenity of the area.**

*Planning response:*

The impacts on the environment human health have been discussed above.

- **The proximity of the land to any public land.**

*Planning response:*

The subject site is situated next to the Yarriambiack Creek.

- **Factors likely to cause or contribute to land degradation, salinity or reduce water quality.**

*Planning response:*

As discussed above.

- **Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.**

*Planning response:*

As discussed above, any planning permit issued will be conditioned to provide a hydrology report and supply a stormwater management plan to investigate, assess and mitigate any future flooding.

- **The extent and character of native vegetation and the likelihood of its destruction.**

*Planning response:*

No native vegetation is proposed to be destroyed however the applicant is proposing to cut and fill the lots as discussed above.

- **Whether native vegetation is to be or can be protected, planted or allowed to regenerate.**

*Planning response:*

The existing native trees will be retained on Lot 4. Any permit is issued will be conditioned to supply an environmental management plan.

- **The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.**

*Planning response:*

As discussed, the subject site is prone to flooding. The site is also located within a bushfire prone area and therefore any future developments on site will be subject requirements under the National Construction Code.

- **The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.**

*Planning response:*

The proposed subdivision will extend the Clarendon Avenue to connect to Lots 1 and 2. However, it is not proposed under the current application to connect Clarendon Avenue to Symes Avenue which runs on the southern boundary. Any planning permit issued will be

conditioned to construct the road extension to the specifications of the WCMA and CFA as well as to provide a turning circle for emergency and service vehicles.

- **The impact the use or development will have on the current and future development and operation of the transport system.**

*Planning response:*

It is considered that the proposed subdivision will not impact on the current and future development/operation of the transport system.

#### **65.02: APPROVAL OF AN APPLICATION TO SUBDIVIDE LAND**

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- **The suitability of the land for subdivision.**

*Planning response:*

The land is within a General Residential Zone (GRZ1) as well as a Land Subject to Inundation Overlay (LSIO). It is considered that the land is within an appropriate zone however, consideration must be given to the nature and extent of flooding on the land which is discussed in Clause 65.01.

- **The existing use and possible future development of the land and nearby land.**

*Planning response:*

The subject site is currently surrounded by residential developments. Given the existing developments and zoning, it is considered that the land would likely be further developed for accommodation uses.

- **The availability of subdivided land in the locality, and the need for the creation of further lots.**

*Planning response:*

There are six vacant lots within the locality that are available for further development. Five of those sites are within the LSIO, two of which are approximately 190 sqm each. A 2020 review of the housing market found shortages of residentially zoned and serviced land for sale and identified that future provision for residential land, not just reliance on infill blocks, is required to provide modernised medium density housing stock (*Wimmera Southern Mallee Regional Housing Review 2020*). It is considered that the new lots are better suited to the existing subdivision pattern and density of the township.

- **The effect of development on the use or development of other land which has a common means of drainage.**

*Planning response:*

There is no proposed development associated with this application. Any planning permit issued will be conditioned to provide a stormwater management plan to address drainage.

- **The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.**

*Planning response:*

As discussed in the Clause 56 and 65.01 assessments, the proposed subdivision will retain

existing vegetation on Lot 4.

- **The density of the proposed development.**

*Planning response:*

As discussed above, there is no development proposed on any of the lots.

- **The area and dimensions of each lot in the subdivision.**

*Planning response:*

Four of the lots will be located in a residential area and the proposed lot areas are:

- a. Lot 1: 796 sqm
- b. Lot 2: 784 sqm
- c. Lot 3: 1059 sqm
- d. Lot 4: 9365 sqm

The remaining agricultural lot, Lot 5, will be 119.4 ha.

- **The layout of roads having regard to their function and relationship to existing roads.**

*Planning response:*

As discussed in the Clause 56 and 65.01 assessments, Lots 2, 3 and 4 will have access to Clarendon Avenue which is an undeveloped gravel road. This connects to Craig Avenue which is sealed local road and Symes Avenue which is a gravel road. Craig Avenue feeds traffic to residential dwellings across the west side of Yarriambiack Creek and connects to Rainbow Road and Dimboola Road which are within the principal road network (TRZ2). Symes Avenue connects residential developments to Menin Avenue and serves as an access road to the existing agricultural lot.

- **The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.**

*Planning response:*

As discussed in the Clause 56 assessment.

- **The provision and location of reserves for public open space and other community facilities.**

*Planning response:*

There are no proposed reserves for public open spaces or other community facilities.

- **The staging of the subdivision.**

*Planning response:*

The proposed subdivision will not be staged.

- **The design and siting of buildings having regard to safety and the risk of spread of fire.**

*Planning response:*

There are no buildings proposed as a part of this application. Any planning permit issued will be conditioned requiring the owner to enter into a Section 173 agreement providing for building

envelopes.

- **The provision of off-street parking.**

*Planning response:*

There is no provision of off-street parking on Clarendon Avenue. It is considered that off-street parking is available on Craig Avenue.

- **The provision and location of common property.**

*Planning response:*

The applicant is proposing to create a common property access for the newly created Lot 3 and for the adjoining owner of Lot 4 LP76571 to formalise access to an existing garage.

- **The functions of any body corporate.**

*Planning response:*

No body corporate is proposed as a part of the application.

- **The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.**

*Planning response:*

The subject site is serviceable for water, sewerage and electricity utilities. As discussed above, the applicant will be required to demonstrate how stormwater will be managed.

- **If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.**

*Planning response:*

Not applicable

- **Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.**

*Planning response:*

The subdivision has been designed to retain all existing vegetation on Lot 4.

- **The impact the development will have on the current and future development and operation of the transport system.**

*Planning response:*

As discussed in the Clause 56 assessment.

### **Objectors' grounds:**

During the advertising period for the initial seven lot subdivision, there were three objectors to the application. In summary, they objected to the granting of a permit on the following grounds:

1. Adverse impacts from flooding and stormwater to existing properties
2. Adverse impacts on flora and fauna
3. Further residential development and privacy
4. Road development and access

5. Earthworks without a planning permit/soil contamination

**Response:**

Any planning permit issued will be conditioned to supply a hydrology assessment and stormwater management plan. This will be done to assess the suitability of the land for further development and, if so, to mitigate or improve existing stormwater disposal.

No native vegetation is proposed to be removed as a part of this current application. Existing vegetation will be subdivided off onto Lot 4. Any planning permit issued will be conditioned to mitigate adverse impacts to the environment.

Any planning permit issued will be conditioned to create building envelopes to limit the location of future residential developments. The recommended conditions include a requirement that no fill is placed within 1 metre of the rear boundary of Lots 1, 2, 3 and 4 LP76571.

The applicant is proposing to extend Clarendon Avenue by 30 metres to provide access the newly created lots. Any permit issued will be conditioned to provide to construct roads to the requirements of the WCMA and CFA, and to be constructed to the full length of the frontage of lots 1 and 2.

Any planning permit issued will be conditioned to test all soil that has already been placed onsite, and the testing of any future soil that is to be bought to the site to achieve the fill works specified in the proposed plan for endorsement.

If the application was to be refused, then the applicant will be required to return the land to its previous levels by removing the soil that has been bought onto the site.

Since the last major flood that came through Warracknabeal there has been mitigation works that have been undertaken, including the construction of a levee and installation of early warning systems to mitigate the impacts of flood water.

Some of the submissions outline other areas of Warracknabeal that are suitable for residential development, however those sites are not currently subject to a planning permit application. Some of the identified sites, such as the former Warracknabeal Secondary College are not zoned appropriately and therefore not able to be subdivided until the Department of Education identifies how they intend to use the land.

Overall it is considered after assessment of both the objections, the provisions of the Yarriambiack Planning Scheme and the advice from the referral authorities, this application is suitable to be approved, subject to the conditions listed below.

## RECOMMENDATIONS

That Planning Permit Application Number **TP24-22** be determined pursuant to Section 60(1) of the *Planning and Environment Act 1987* by issuing a notice of decision to approve a planning permit for **5-lot subdivision and creation of carriageway easement on Craig Avenue Warracknabeal 3393 (Lot 2 PS: 091903 Parish of Werrigar)** subject to the following conditions:

**This Permit allows:** 5-lot subdivision and creation of carriageway easement.

### Proposed Conditions:

#### ENDORSED PLANS AND LAYOUT

Compliance with documents approved under this permit

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

Layout not altered

2. The layout of the subdivision and associated works must not be altered from the layout on the approved and endorsed plans without the written consent of the responsible authority.

#### SUBDIVISION

Endorsed subdivision plans – amended plans required

3. Before the plan of subdivision is certified under the Subdivision Act 1988, plans must be approved and endorsed by the responsible authority. The plans must:
  - a. be prepared to the satisfaction of the responsible authority
  - b. be drawn to scale with dimensions and submitted in electronic form
  - c. be generally in accordance with the plans forming part of the application, but amended to show the following details:
    - i. the total number of lots not to exceed 5
    - ii. all bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements
    - iii. easements in favour of the relevant authorities as outlined in the conditions of this permit to the satisfaction of the responsible authority
    - iv. building envelopes are to be shown on lots 1, 2 and 3 with dimensions to each boundary to be shown
    - v. hydraulic Report as identified in Condition 18.
    - vi. Easements
4. All existing and proposed easements and sites for existing and required utility services and roads on the land must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.

Reticulated services

5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, and electricity to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Telecommunications

6. The owner of the land must enter into an agreement with:

*Delegate Report - TP24-22*

- a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the item; and
- b. a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Detailed construction plans – roads and drains

7. Before any works associated with the subdivision start, detailed construction plans must be approved and endorsed by the responsible authority. The construction plans must:
  - a. be prepared to the satisfaction of the responsible authority
  - b. be drawn to scale with dimensions and submitted electronically.
  - c. Include the following:
    - i. the extension of Clarendon Avenue to the southern corner of proposed lot 2. The extension is to match the existing construction of Clarendon including road width and kerb and channel.
    - ii. underground drains
    - iii. vehicular crossings to each lot
    - iv. provision of a turning area adequate to allow for emergency and service vehicles at the end of the extension of Clarendon Avenue.
  - d. The responsible authority may consent in writing to vary any of the details of these requirements.
  - e. Any modifications to the detailed construction plans agreed to by the responsible authority must be shown on an amended plan that is endorsed by the responsible authority.

Building envelopes

8. Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987. The agreement must provide for the following:
  - a. on each lot to be created, buildings may be constructed only within the building envelopes as shown on the endorsed plans of this permit
  - b. no fill is to be placed within 1 metre of the rear boundaries of Lots 1, 2, 3 and 4 LP76571
  - c. this/these envelope(s) must not be altered without the written consent of the responsible authority.

## *Delegate Report - TP24-22*

The owner of the land must pay all of the responsible authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

### Common property

9. Before the issue of a Statement of Compliance the area set aside for common property is to be properly formed to provide all weather access to proposed lot 3 to the satisfaction of the responsible authority.

### ENVIRONMENT

#### Run-off control

10. Polluted and/or sediment laden run-off must not be discharged directly or indirectly into Council's drains or watercourses.

#### Ongoing soil erosion control

11. All works must be undertaken in a manner that minimises soil erosion to greatest extent practicable, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.

#### Site Management

12. All construction activities, including the storage of materials and the parking of construction vehicles, are to be undertaken form within the site. The storage of building goods and associated items shall be wholly within the subject site and not be on adjacent Council owned land or road reserves unless approved in writing by the Council.

#### Fill

13. Before any works associated with the subdivision start the applicant is to provide the responsible authority with documentation from a suitably qualified person to demonstrate that:
  - the existing fill that has been placed on the land is free from contamination and other matter, and is suitable for residential development; and
  - any additional fill that is to be placed on the land is free from contamination and other matter and is suitable for residential development.

Any fill that is not identified as suitable must be removed from the site and disposed of at an appropriate location.

#### Fill Location

14. No fill is to be placed within 1 metre of the rear boundaries of lots 1, 2, 3 and 4 LP76571. Any fill that has been placed within this 1 metre is to be removed as part of the works required for this permit.

#### Stormwater management

15. The site is to be designed and graded such that it drains to a legal point of discharge and does not direct water onto a neighbouring site.

#### WCMA

##### Wimmera CMA - Required fill level

16. All proposed lots must be filled to at least 0.3 metres above the flood level for that lot.

Before a Statement of Compliance is issued for any stage of the subdivision under the Subdivision Act 1988, a survey plan prepared by or under the supervision of a licensed land surveyor, showing levels reduced to the Australian Height Datum, must be submitted to Yarriambiack Shire Council to demonstrate that the land has been filled in accordance with Wimmera CMA's requirements.

##### Wimmera CMA - Flood storage



*Delegate Report - TP24-22*

17. Any earth works or construction must not reduce the available flood storage on the site. If fill is proposed, a cut and fill balance ratio of 1:1 must be achieved on the site. Any proposed cut areas must be self-draining. If construction reduces flood storage soil will need to be removed from the site equal to the volume lost. Before the commencement of works, volume calculations must be submitted to the Wimmera CMA demonstrating how this condition will be achieved.

Wimmera CMA - Hydraulic report

18. Before the commencement of any works related to the subdivision, a hydraulic report demonstrating that the proposed development, fill and road development (see condition 7) will not have any adverse impacts on the floodplain is to be submitted to Wimmera CMA. In particular, computations that detail impacts on flows, velocities, flood storage, and flood levels must form part of this report.

Wimmera CMA - Natural overland flow paths

19. Natural overland flow paths and natural floodplain features should be retained. If an applicant seeks to modify such flow paths and floodplain features, earthworks must be designed to compensate for any loss of flood storage or flood behaviour.

Wimmera CMA - Excavations for storage

20. Excavations to deliver this storage must:
  - a. Be self-draining
  - b. Be within the development site
  - c. Provide for the equivalent hydraulic capacity
  - d. Be compliant to any CMA conditions
  - e. Before a Statement of Compliance is issued for any stage of the subdivision under the Subdivision Act 1988, plans must be provided which show finished ground levels (to metres AHD) of all fill and borrow areas and as constructed depths of cut and fill. Computations must be provided, which indicate that the net cut and fill meet the flood storage.

Wimmera CMA - Vehicular and/or pedestrian access

21. Any vehicular and/or pedestrian access must be designed and constructed to comply with the following safety criteria associated with the applicable flood level.
  - a. Depth of flow does not exceed 0.30 m;
  - b. Velocity of flow does not exceed 2.0 m/s;
  - c. The Depth Velocity product does not exceed 0.30 m<sup>2</sup>/s.

Wimmera CMA - Stormwater management plan

22. Before the commencement of any work related to the subdivision, a stormwater management plan must be approved and endorsed by the responsible authority Yarriambiack Shire Council. The stormwater management plan must demonstrate the subdivision is designed and constructed to comply with stormwater and integrated water management objectives, 56.07 and 53.18 of the Victorian Planning Provisions:
  - a. To minimise damage to properties and inconvenience to the public from stormwater.
  - b. To ensure that the streets operate adequately during major storm events and provides for public safety.
  - c. To minimise increases in stormwater and protect the environment values and physical characteristics of receiving waters from degradation by stormwater.

## *Delegate Report - TP24-22*

- d. To encourage stormwater management that maximises the retention and reuse of stormwater.
- e. To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.
- f. To protect drainage infrastructure and receiving waters from sedimentation and contamination.
- g. To protect the site and surrounding area from environmental degradation before and during construction of subdivision works.

### CFA

#### CFA - Hydrants

23. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note: CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrant for Firefighting Purposes' available under publications on the CFA website ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).

#### CFA - Roads

24. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- a. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.
- b. Curves must have a minimum inner radius of 10 metres.
- c. Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
- d. Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

### GWMWATER

#### Developer Agreement

25. The owner/ applicant must enter into a Developer Agreement with GWMWater for the supply of water and sewerage to each lot of the subdivision.

#### Metered water services

26. The owner/ applicant must provide individually metered water services to each lot/dwelling in accordance with GWMWater's requirements.

#### Sewerage main installation

*Delegate Report - TP24-22*

27. The owner/ applicant must install sewerage mains and associated works to individually serve each lot/ dwelling of the proposed development, at the owner's cost, in accordance with GWMWater' s specifications and requirements.

Sewer services

28. The owner/applicant must provide individual sewer services to each lot/dwelling in accordance with GWMWater' s requirements.

Supply plans and estimates

29. The owner/ applicant must provide plans and estimates of all proposed sewerage works prior to commencement for GWMWater's approval.

Verifying existing connections

30. The owner/ applicant is responsible for verifying the condition of any existing sewer connection point/s to determine their suitability for use.

Easement

31. The owner/ applicant must provide three-metre-wide easements in favour of GWMWater over all existing and proposed sewers located within private land.

Updated drainage plan

32. The owner/ applicant must provide GWMWater with an updated drainage plan for each lot/dwelling submitted by a qualified plumber.

Abandoned assets

33. The owner/ applicant must ensure any existing water or sewer services and GWMWater assets made redundant by this development are abandoned, at the owner's cost, in accordance with GWMWater's standards.

Minimum horizontal clearance

34. The owner/ applicant must ensure a minimum horizontal clearance of 1.0m is maintained from any GWMWater assets to proposed structures in accordance with Section 148 of the Water Act 1989.

Powercor

Plan of subdivision to be referred

35. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.

Electricity supply to all lots

36. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.

Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

Compliance with the Victorian Service and Installation Rules

37. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

Areas for substation(s)

38. The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations.

*Delegate Report - TP24-22*

Notes: Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements:

- RESERVES established by the applicant in favour of the Distributor.
- SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years.

The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.

Easements

39. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.

Notes:

- Existing easements may need to be amended to meet the Distributor's requirements
- Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:

Easement Reference	Purpose	Width (metres)	Origin	Land Benefited / In Favour Of
	Power Line		Section 88 – Electricity Industry Act 2000	Powercor Australia Ltd

COMMENCEMENT AND EXPIRY

Commencement of permit

40. This permit will operate from the issued date of this permit.

Expiry – Subdivision

41. This permit as it relates to development (subdivision) will expire if one of the following circumstances applies:

- a. The plan of subdivision has not been certified under the Subdivision Act 1988 within 2 years of the issued date of this permit.
- b. A statement of compliance is not issued within 5 years of the date of certification.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Useful information

(The following information does not form part of this permit)

A. The Wimmera CMA provides the following notes:

- The Warracknabeal & Brim Flood Investigation (2016) determines the 1% AEP flood level for the allotment ranges between 108.39 and 108.53 metres Australian Height Datum (AHD).

*Delegate Report - TP24-22*

- The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent than the 1% AEP flood, may occur in the future.
- Wimmera CMA advises that allotments created by this subdivision are subject to flooding, future development on the land may be limited and/or subject to conditions to minimise any detrimental flood impact to neighbouring properties in the area.
- Clarendon Avenue must comply with condition 7.

B. The CFA provides the following comments:

- CFA acknowledges that Council have waived any application requirements to be applied under the Bushfire Management Overlay provisions Clauses 44.06-3.
- The mandatory subdivision condition at clause 44.06-5 of the Scheme is not required.
- CFA consents under Section 9 of the Subdivision Act to the Certification of the Plan of Subdivision. CFA does not require the Plan of Subdivision for this planning permit application to be referred under Section 8 of the Subdivision Act.
- CFA does not consent to the issuing of Statement of Compliance for the subdivision at this stage.

C. It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link: <https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator>

**Assessing Officer**



Adam Moar

Manager Development and Environmental Services

**Date:** 21 January 2025