

9.2 LAND EXCHANGE ASSOCIATED WITH DEVELOPMENT OF LAND AT 110-120 KILMORE-LANCEFIELD ROAD, KILMORE

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File No: PLP283/17

Attachments: 1. Attachment 1 - Land Exchange Plan [↓](#)

SUMMARY

As part of the future development of land at 110-120 Kilmore-Lancefield Road, Kilmore a number of potential land exchanges present opportunities and benefits to both Council and the developer of this land. This report considers the exchange of these parcels of land and the benefits to both parties to ensure a quality development outcome.

RECOMMENDATION

THAT Council:

1. Consider the land exchange proposed in this report, being the exchange of the land held in the reserve at 108 Kilmore Lancefield Road Kilmore, Reserve 3 on LP16225M and contained in Certificate of Title Volume 9941 Folio 066, with land held in ownership at 110-120 Kilmore Lancefield Road and signify support to continue the necessary steps under the *Local Government Act 1989* Sections 189 and 223 to give Public Notice for the proposed exchange and receive submissions in response to the Public Notice.
2. Support the proposal for the land contained within the Ryan's Creek Reserve (identified as Area A1 in the report Attachment A) to be utilised by the developer of the land at 110-120 Kilmore-Lancefield Road, Kilmore to meet storm water quality and storm water retention objectives. The use of land identified as Area A1 is subject to the following:
 - a. The developer must maintain the storm water drainage functions of the new infrastructure to be located on Council land for a minimum of 2 years or until the final stage of the subdivision achieves statement of compliance, whichever is the latter.
 - b. The area identified as Area 2 in the report Attachment 1 is transferred to Council ownership at no cost to Council for consolidation into the adjacent Ryans Creek Reserve as an additional Open Space contribution.
3. At a later date, consider a Council report containing recommendations pertaining to the exchange of the land as described in this report.

BACKGROUND

The development site at 110-120 Kilmore-Lancefield Road, Kilmore is approximately 6.73ha in size. The Ryans Creek traverses the site in the South-West corner of the site creating two separate developable portions. The larger of these portions is

approximately 59,400m² in size while the smaller portion located in the South-West corner of the site is approximately 2,472m² in size. The balance area of the site (6,864m²) is expected to be consolidated into a 40m wide reserve along the alignment of Ryans Creek.

The property owner/developer of the site at 110-120 Kilmore-Lancefield Road, Kilmore is currently preparing a development proposal for the residential subdivision of this site and has recently lodged a Planning permit application.

Council officers from the Engineering and Planning Departments have been in recent discussions with the developers planning team regarding Council's development expectations for this site.

Among the items discussed during these conversations is the drainage strategy for this development, the internal road layout, roadway connections to existing development to the North of the site and various urban design principles that are expected to be met on this site. The developer has also engaged in recent discussions with VicRoads regarding the access to the development site from Kilmore-Lancefield Road and with the Goulburn Broken Catchment Management Authority (GBCMA) with regard to the existing waterway that traverses the site.

The development of this site presents Council with a number of opportunities to maximise the overall quality of the development for this site including the consideration of a number of proposals put forward by the developer relating to the exchange of land. These opportunities are explored further below.

ISSUES AND DISCUSSION

Use of Council Reserve for storm water drainage objectives.

Contemporary urban development guidelines require new subdivisions to consider the impacts of stormwater quality and quantity on downstream waterways. This typically requires developers to employ the use of water retarding structures (retarding basins) and water treatment nodes such as gross pollutant traps and water filtration beds that trap gross pollutants, heavy metals, nitrates and phosphorus to prevent them entering downstream waterways. These treatment nodes and water retention basins are then typically inherited by Council for future care and maintenance along with the land that they reside on.

The developer has proposed that these water quality and water retention objectives are met using a portion of the Council owned reserve known as Ryan's Creek Reserve. The area of land required to meet these objectives is approximately 2,850m² and is shown on Attachment A and marked as 'Area A'. Under this proposal, the developer would free up additional land on the development site for increased lot yield.

This proposal will also require the realignment of the natural water way, known as Ryan's Creek over a distance of approximately 130m to accommodate the construction of the required retention basin utilising an existing 'farm dam' located on this reserve. The developer has gained in-principle approval for this proposal from the GBCMA. Under the proposal the realigned Ryan Creek would be designed to meet the hydraulic requirements of flows in the Ryans Creek and have a natural form with improved habitat and water quality treatment. These works would be to the satisfaction of the GBCMA.

Under this proposal, the developer has offered to offset the impediment of Council land (Ryan's Creek Reserve) through a number of mechanisms including additional contributions of open space and in-kind landscaping works in Ryan's Creek Reserve. These offerings are discussed further below.

Open Space contributions.

As noted above, the proposed development of this site will result in two separate developable portions separated by Ryan's Creek. The smaller of these developable portions is located in the South-West corner of the site adjacent to Ryan's Creek Reserve and has a 36.4m frontage to Kilmore-Lancefield Road. This portion will also share a boundary with the proposed 40m wide reserve along the alignment of Ryans Creek. The area is shown on Attachment A and marked as 'Area B'.

While the development of this smaller portion for residential land will be assessed through the Planning Permit process, it can be said from an Urban Design perspective that development of this site is not desirable.

The location between two Council reserves (one existing, one proposed) will create an isolated 'island' of development that will have significant challenges in terms of servicing, access and visual amenity. Further, access to Kilmore-Lancefield Road is unlikely to be supported by VicRoads which will require.

While the servicing and access to this site are primarily matters for the developer to consider, Council must consider the visual amenity and urban design principles associated with the development of this site and the context of residential development in this setting adjacent to the Ryans Creek waterway.

To offset the impediment of Council land (Ryans Creek Reserve) to achieve the drainage obligations of this development, the developer has offered to forego the development of the smaller developable portion of this site and surrender the land to Council for open space, in addition to the Open Space contributions normally required for this site.

In addition, an in-principle agreement has been reached between Council officers and the developer for the transfer of a 5m strip of land along the frontage of the site to Kilmore-Lancefield Road for a vegetation buffer and for the construction of an off-road footpath connecting existing footpaths recently constructed by Council either side of the development site. The developer has agreed to construct this missing footpath. The area is shown on Attachment A and marked as 'Area C'

It should be noted that VicRoads have provided preliminary advice indicating their requirement for a 10m wide strip of land to be surrendered along the frontage of the site. This is consistent with previous development along Kilmore-Lancefield Road either side of the development site. Whilst in excess of Councils requirement for an off-road footpath, Council officers have indicated to the developer that the VicRoads request for 10m is supported for its potential to be used more extensively for tree planting.

3.0m wide reserve

This land was transferred to Council ownership as part of the subdivision of the land adjacent to Kilmore-Lancefield Road which occurred under Planning Permit 4240 issued by the Shire of Kilmore. This subdivision is known as the Willowmavin Country Estate. The area is shown on Attachment A and marked as 'Area D' and has a total area of 759m².

This land is known as Reserve 3 on LP216225M, Certificate of Title Volume 9941 Folio 066 in Councils Land Asset Management System.

The land was intended to be a buffer between the residential development of the Willowmavin Country Estate and the existing vacant land to the West of this subdivision otherwise known as 110-120 Kilmore-Lancefield Road, Kilmore. With the impending subdivision of this site as described in this report, the function of this strip of land as a 'buffer' will become redundant and its retention will serve only as a drain on maintenance resources.

This report proposes the removal of the reserve status of this land and the sale/exchange of this strip of land to the developer of the site at 110-120 Kilmore-Lancefield Road, Kilmore for consolidation into the adjacent site (the development site) and subsequent subdivision into residential lots.

Summary

Table 1 below summarises the proposed exchange of land associated with the development of the land at 110-120 Kilmore-Lancefield Road, Kilmore.

Table 1. Summary of Land Exchange / Land Use

Land Parcel	Land Area	Current Ownership	Proposed Ownership	Comments	Benefits to Council
Development Site, East of Ryans Creek	59,400m ²	Developer	Residential development. Road reserves transferred to Council	Approximately 77 new residential lots.	
Ryans Creek Reserve	5700m ²	Developer	Council	40m reserve along natural waterway. To be consolidated into Ryans Creek Reserve	
A	2850m ²	Council. (Known as Ryans Creek Reserve)	Council	To be utilised by developer to meet drainage objectives. Council retains ownership.	Consolidation of stormwater drainage infrastructure into linear reserve
A1	2990m	Council. (Known as Ryans Creek Reserve)	Council	Re-alignment of Ryans Creek. Works conducted by developer. Council retains ownership.	Beatification / landscaping of natural waterway
B	2472m ²	Developer	Council	Developable portion to be gifted to Council as additional open space contribution to offset impediment of Area A and A1.	No future development of this site.

C	1160m ²	Developer	Council	Open space contribution including construction of shared path.	In-kind footpath works. Completion of off-road path network.
D	759m ²	Council	Developer	Existing 3.0m wide reserve. Function redundant, to be sold to developer.	Eliminates maintenance liability of this land.

CONSULTATION

Should Council support the sale/exchange of the Council owned reserve known as Reserve 3 on LP216225M, Certificate of Title Volume 9941 Folio 066, public notice and advertising period of 28 days will commence and adjoining landowners will be notified by letter of the proposed sale/exchange of land. Submissions to this process can be heard at a future Hearings Committee.

A future Council report will be prepared detailing the outcome of this advertising period, details of any submissions and a recommendation for Councils consideration.

The Active Communities Team have been consulted with regard to the potential use of Council land (Ryans Creek Reserve) by the developer to meet their storm water objectives. The proposal is generally supported and is not considered to sterilise any future opportunities for the development of this space for community recreation.

No further public consultation is required for the use of Ryans Creek Reserve by the developer to meet their storm water objectives.

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

As is the case with all residential development, Council will inherit additional infrastructure and open space assets for future care and maintenance as part of this development.

The net effect of the proposed additional land exchanges is expected to yield a cost neutral maintenance liability for Council.

Council's maintenance effort associated with the reserve known as Reserve 3 on LP216225M, Certificate of Title Volume 9941 Folio 066 is estimated at approximately \$5,000p/a for mowing and spraying of weeds. It is expected that these costs will be comparable with the future maintenance of a 5.0m wide strip of land along the Kilmore-Lancefield Road frontage of the development site.

The land known as Reserve 3 on LP216225M, Certificate of Title Volume 9941 Folio 066 will be appraised by an experienced and certified land valuer. This land value is expected to be proportionate with the value of works to be undertaken by the developer over and above what would typically be considered to be reasonable. i.e. the provision

of a 2.5m wide footpath in lieu of a conventional 1.5m footpath along the frontage of the site. A distance of 250m.

POLICY AND LEGISLATIVE IMPLICATIONS

The exchange of the land is consistent with Council's new and reviewed policies, including Council's Asset Disposal Policy 2014, Asset Management Policy 2010 – Revision 2015 and Asset Management Strategy 2010 – Revision 2015.

The exchange of land at Kilmore Lancefield Road is consistent with the *Local Government Act 1989* clauses for Council to:

- 3C(a) to promote the social, economic and environmental viability and sustainability of the municipal district.

The proposed outcome for Ryans Creek Reserve is also consistent with the Kilmore Structure Plan which identifies Ryans Creek as an open space corridor. The non-development outcome for the South-West portion of the development site would also be consistent with the Kilmore Structure Plan.

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

The proposed land exchange is supported by the Mitchell Environment Unit as it presents an overall environmental gain. This is achieved via the removal of a narrow strip of land known as Reserve 3 on LP216225M, Certificate of Title Volume 9941 Folio 066. Due to the dimensions of the reserve, it is very difficult to undertake weed control in this reserve, which is required under the *Catchment and Land Protection Act 1994*.

The provision of land adjacent the Ryan's Creek also presents an environmental improvement as it continues the riparian zone either side of the waterway, allowing for a longer biolink and consistent management along the waterway within the development area.

It is noted that a development outcome which avoids the development of the South-West portion of the site will result in amenity values being protected adjacent to the Ryans Creek waterway and be consistent with contemporary urban design principles.

The Environment Unit raised concerns about the water quality requirements for the development being achieved via the use of public land (i.e. the existing Ryan's creek reserve) and stressed the need for a net environmental and social outcome via the land exchange. As such the Environment team welcomes the possibility of additional open space contributions and in-kind landscaping works as mentioned earlier in this report and suggests a formal agreement is reached to ensure a beneficial outcome for the environment and the community.

The Environmental Unit also noted that in terms of maximizing the environmental and amenity outcome and minimising future ongoing maintenance of Ryans Creek Reserve, that the preferred option for water retention would be for the consideration of decommissioning of several of the smaller water retention/treatment basins located throughout Ryans Creek Reserve and for the creation of one large treatment basin which could become a constructed wetlands area integrated into the open space function of the Ryan Creek Reserve.

It is noted however that this type of consolidated, inline treatment is at odds with current GBCMA policy for waterways.

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

The future development of the land located at 110-120 Kilmore-Lancefield Road, Kilmore presents Council with a number of opportunities to maximise the overall quality of the development outcome for this site.

The disposal of the 3m wide strip of land adjacent and East of the site, will remove Council's maintenance liability for this land and allow Council to secure a 5m wide strip of land along the frontage of the site for the construction of an off-road footpath at the developers cost. Council's maintenance effort can then be redirected towards the maintenance of this land to support this off-road active transport corridor.

Further, an agreement to allow the developer of this site to meet their storm water objectives on land owned by Council will ensure a more appropriate non-development outcome for the developable portion in the South-West corner of the site. This outcome will result in an improved amenity outcome for this development consistent with contemporary urban design principles.

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

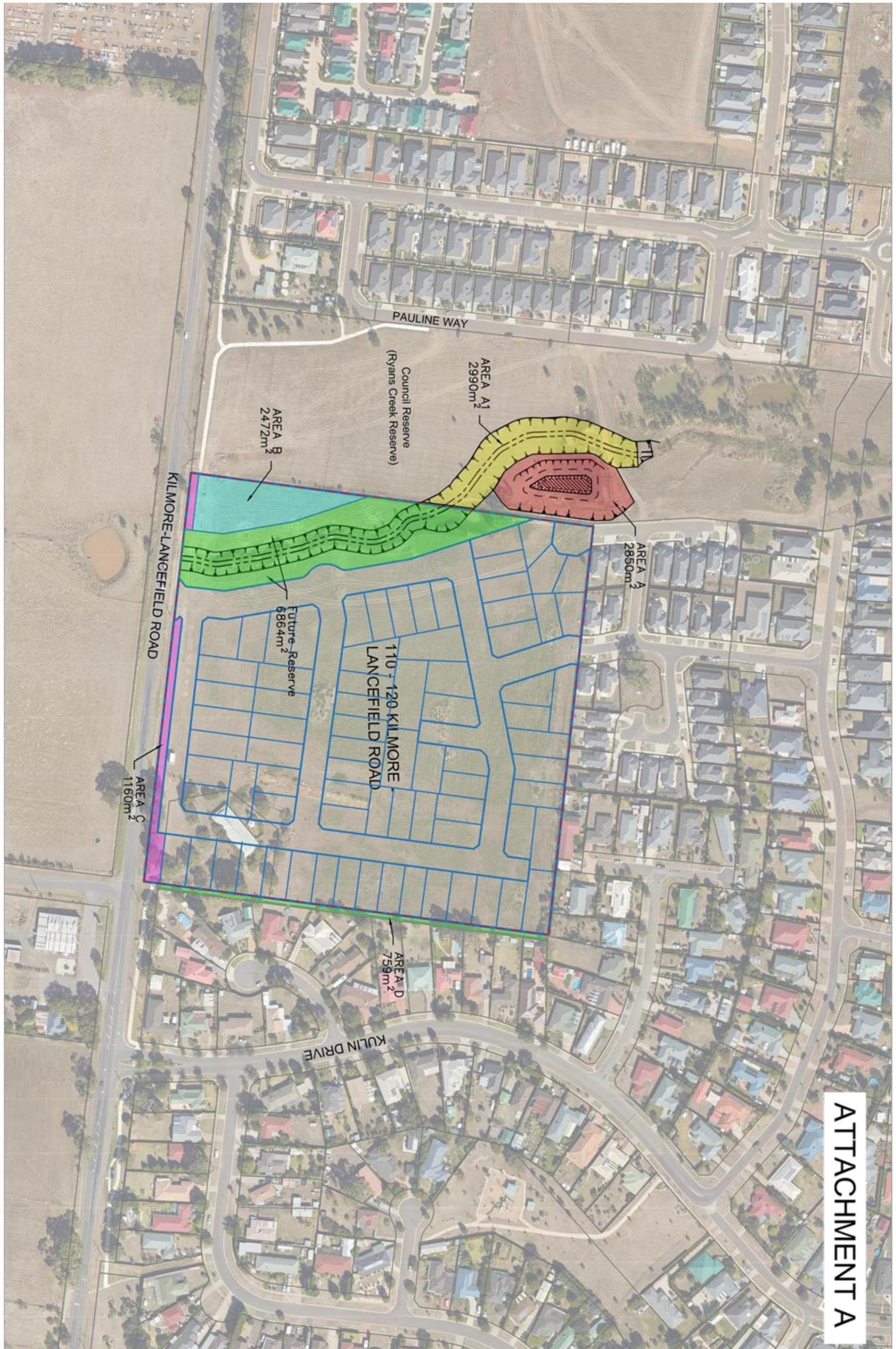
18 DECEMBER 2017

9.2

**LAND EXCHANGE ASSOCIATED WITH
DEVELOPMENT OF LAND AT 110-120
KILMORE-LANCEFIELD ROAD, KILMORE**

Attachment No: 1

Attachment A - Land Exchange Plan



ATTACHMENT A

9.3 PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE

Author: Justin Harding - Strategic Planner

File No: PL/05/253

Attachments: 1. [Amendment C130 Documentation](#)↓

SUMMARY

Proposed Planning Scheme Amendment C130 seeks to rezone 40 Butlers Road, Kilmore from Farming Zone to General Residential Zone for residential purposes. The subject site is located within the West Growth Precinct as identified by the adopted Kilmore Structure Plan. The request was lodged by in October 2017 following involvement during consultation of the Kilmore Structure Plan and discussions with Council officers.

In February 2010 Council and the landowner entered into a Section 173 Agreement whereby the landowner provides a minimum of five hectares, or approximately 28% of the site, to Council for use as active open space (eg. sports facilities) provided that the balance of the land can be used for residential development. This will provide land for additional sports facilities in Kilmore and represents an opportunity to improve social and health outcomes that will only occur if the land is rezoned.

The subject site is located approximately one kilometre from Kilmore's Sydney Street town centre and fronts both Kilmore-Lancefield and Butlers Roads, Kilmore. The subject site has been identified as a priority development site. This is based on proximity to Kilmore's town centre and the existing Section 173 Agreement that applies to the land which calls for the provision of active open space.

It is recommended that Council request authorisation from the Minister for Planning to prepare Planning Scheme Amendment C130 as outlined in this report and upon receipt of authorisation, it is recommended that Council exhibit Planning Scheme Amendment C130. Attachment 1 to this report provides a draft copy of the proposed amendment documentation.

RECOMMENDATION

THAT Council:

1. Seeks Ministerial Authorisation in accordance with Section 8(a) of the *Planning and Environment Act 1987* for the preparation of a Planning Scheme Amendment generally in accordance with the draft documentation at Attachment 1 of this report.
2. Subject to Ministerial Authorisation, Council prepares and exhibits a Planning Scheme Amendment in accordance with the *Planning and Environment Act 1987*.

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

BACKGROUND

Subject site and surrounds

A request for a planning scheme amendment to the *Mitchell Planning Scheme* was received 31 October 2017 and seeks to rezone 40 Butlers Road from Farming Zone to General Residential Zone. The subject site is approximately 18 hectares in area and is comprised of two land parcels. It is bordered by:

- Alpha Delta machinery sales on the southeast corner of the Kilmore-Lancefield/Butlers Road intersection which is within the General Residential Zone.
- South of the machinery sales on the eastern boundary is largely undeveloped land owned by Assumption College which is within the Special Use Zone 4.
- South of the site is cleared farm land which is within the Farming Zone.
- West of the site is the Kilmore Roman Catholic Cemetery and General Cemeteries which is within the Public Use Zone (Schedule 5 – Cemetery / Crematorium).
- North of the site is Kilmore-Lancefield Road, Willowmavin Estate, a public park which follows Ryans Creek and a vacant residential development site. Willowmavin Estate is within the General Residential Zone and the park is within the Public Park and Recreation Zone.

The subject site is within the Farming Zone and has no Overlays. The subject site has approximately 360 metres of frontage to Butlers Road and 500 metres frontage to Kilmore-Lancefield Road, Kilmore. Within the cemetery is a Heritage Overlay (HO257) that protects the Kilmore Roman Catholic Cemetery which borders the site.

The site is predominately vacant with mature introduced tree species surrounding the dwelling located at the southeast corner of the site and on parts of the fence line. Ryans Creek runs through the centre of the site from north to south.



Figure 1: 40 Butlers Road, Kilmore Aerial Photo

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

Section 173 Agreement and Active Open Space

In February 2010 Council and the landowner entered into a Section 173 Agreement under the *Planning and Environment Act 1987* whereby the landowner is required to provide a minimum of five hectares, or approximately 28% of the site, to Council for active open space (eg. sports facilities) provided that the balance of the land can be used for residential development.

Typically, residential subdivision requires a 5% contribution of land or cash in lieu of land under the Section 18 of the *Planning and Environment Act 1987* for open space purposes. The agreement ensures that Council receives land required for the growing needs of the community by providing for additional active open space. This will result in significantly improved social and health outcomes that will only occur if the land is rezoned.

The Section 173 agreement was entered into to provide justification for rezoning of land that at the time was not identified by Council for residential use. This was not acted upon in 2010 and subsequent planning through the *Kilmore Structure Plan, August 2016* has identified the site as appropriate for residential development and accounted for the 5-hectare open space contribution.

In addition to the five hectares of active open space required by the agreement, residential development must not occur within a 40-metre buffer along the drainage line. The five hectares of active open space is not included within this 40-metre buffer.

ISSUES AND DISCUSSION

Kilmore Structure Plan and Planning Scheme Amendment C123

Planning Scheme Amendment C123 seeks to formally adopt the Kilmore Structure Plan into the *Mitchell Planning Scheme*. The subject site is located within the West Growth Precinct of Kilmore and is identified as a Priority Development Site (Figure 2) due to proximity to Kilmore's Town Centre and the Section 173 agreement discussed above. Structure Planning for the West Growth Precinct and the subject site was prepared in consideration of the Section 173 Agreement.

Amendment C123 concluded public exhibition on 17 November 2017. No submissions regarding residential use of 40 Butlers Road have been received at time of writing this report.

The Kilmore Structure Plan identifies a road and shared path following Ryans Creek with a potential activity node that would allow for community uses such as a private child care centre, a kindergarten and / or small-scale convenience level retailing at the intersection of Kilmore-Lancefield Road and Butlers Road.

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)



Figure 63 Precinct 2 Activity Node Detail Plan

Figure 2: Kilmore Structure Plan - Priority Development Site

The Kilmore Structure Plan identifies that rezoning requests within the nominated Growth Precincts will be considered on a discretionary basis by Council and based on the ability of a request to achieve net community benefit. Below is an assessment table of the rezoning request in accordance with the net community benefit criteria identified within the Kilmore Structure Plan:

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

Criteria	Officer Response
Criteria 1: Genuine development interest and the proposal is for an entire precinct or significant portion.	While the proposal is not for the entire precinct, it allows for a more coordinated development outcome across the subject site, including provision of active open space and a linear connection within the Ryans Creek corridor which will allow future off-road pedestrian connectivity between neighbourhoods.
Criteria 2: The land adjoins other land that has been developed for urban purposes and would not result in isolated / disconnected development from the existing urban area.	The subject site has a road frontage to Kilmore Lancefield Road which has residential development on the north side. The subject site borders Willowmavin Estate and a vacant General Residential Zoned site at 110 Kilmore-Lancefield Road which is the subject of a current planning permit application for subdivision. This is currently under consideration.
Criteria 3: The proposal will deliver missing links which will improve network connectivity.	The proposal will unlock a portion of the Ryans Creek Corridor which will allow for a continuation of the public open space corridor and provision for a future shared path. The proposal will allow for the upgrade of Butlers Road and provide the starting point for a new north south key local road that will service future residential growth in the western growth corridor of Kilmore.
Criteria 4: Development of the land will facilitate transfer of land that is nominated for public purposes.	As discussed earlier in this report, a Section 173 Agreement exists on the land that ensures Council will receive a minimum of five hectares of land for active open space purposes and provides for the provision of a 40-metre wide creek buffer which will provide land for passive open space including a shared path.
Criteria 5: Detailed planning has been undertaken including preparation of background reports and a development plan.	Partly – background reports for drainage, traffic, soil contamination, planning and flora and fauna have been prepared in support of the request and has demonstrated that the site is appropriate for residential use. An indicative concept plan has been prepared for the entire site however, the assessment of a development plan will occur following the processing of this Planning Scheme Amendment.

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

<p>Criteria 6: The proposal represents the orderly extension of existing reticulated services and provision is made for adjoining / nearby land.</p>	<p>Yes – this approach will result in a consolidated outcome for the site and avoids the need for interim approaches, particularly for associated drainage infrastructure.</p>
<p>Criteria 7: Proponents are willing to enter into a Section 173 Agreement (or equivalent) with Council to implement a Shared Infrastructure Funding Scheme to ensure a coordinated and timely approach to delivery of infrastructure.</p>	<p>Although the current Agreement requires land to be set aside for active open space purposes, Council officers will negotiate with the proponent to confirm the extent of supporting local infrastructure contributions necessary to facilitate the planned growth. This will be based on the recently prepared Kilmore Infrastructure Funding Framework which forms part of Amendment C123 to the Mitchell Planning Scheme.</p>

Kilmore Infrastructure Funding Framework and Contributions

The Kilmore Infrastructure Funding Framework (KIFF) is a proposed reference document within the *Mitchell Planning Scheme* that provides a strategic basis for seeking contributions for planned infrastructure within Kilmore. This provides the opportunity for collection of contributions and / or works in kind for delivery of local infrastructure.

Prior to development commencing, the existing Section 173 agreement will be amended to include necessary infrastructure contributions. This will relate to (but may not be exclusive to) the delivery or apportionment of contributions toward the following infrastructure projects identified in the KIFF:

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

Project Number	Project Description	Delivery Responsibility	Category
IN18	Lancefield-Kilmore Road / Butlers Road Intersection	Council / Developers	Transport
RD17	Lancefield-Kilmore Road Upgrade	Council / Developers	Transport
SH06	Construction of shared paths	Developers	Active Recreation and Open Space
OS04	Active Open Space	Council / Developers	Active Recreation and Open Space
DRO2	Drainage	Council / Developers	Utilities and Drainage
CFO4	Community Hub	Council / Developers	Community
CF06a	Indoor Multipurpose Facility	Council / Developers	Community

Process

The rezoning is proposed to be supported by a precinct specific Development Plan Overlay (being implemented through Planning Scheme Amendment C123). The use of the Development Plan Overlay allows Council to have greater control over specific planning outcomes for the site and will ensure details are provided (above those required to support rezoning) to guide subdivision applications and to achieve a coordinated and well-planned development outcome.

If the land is rezoned and a Development Plan Overlay applied the following process will be followed:

- A development plan is prepared by the land owner in consultation with Council Officers to determine the road network and appropriate location for the five-hectare active open space area and shared pathway along Ryans Creek.
- The development plan is placed on public exhibition for comment. Submissions are considered in the assessment of the plan.
- Once a development plan is endorsed, all planning and subdivision plans will need to be generally in accordance with the development plan.
- It would be appropriate to consider rezoning the active open space and creek corridor to Public Park and Recreation Zone (PPRZ) once the land is within public ownership. This will form a logical north south continuation of the Ryans Creek Reserve.

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

CONSULTATION

If Ministerial Authorisation is received for the preparation of proposed Planning Scheme Amendment C130, public exhibition will be required in accordance with the provisions of Section 19 of the *Planning and Environment Act 1987*.

Public exhibition will include sending notices to the land owners / occupiers in the surrounding properties. Public exhibition will also include advertising within the local newspapers and via Council's website, as well as hard copies of the Amendment being made available for public inspection during opening hours at the Kilmore Library and the Wallan Planning and Building Office.

Following completion of the exhibition period, a report will be provided to Council which outlines the exhibition process and any submissions received.

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

There are minimal financial implications for Council as this is a proponent-led Planning Scheme Amendment. The applicant will bear the costs associated with processing this Planning Scheme Amendment including application fees and costs associated with public exhibition and a Planning Panel should a hearing be required.

Council Officers have liaised with Planning Panels Victoria around combining a hearing for current Planning Scheme Amendments which affect land in Kilmore which will reduce the resource impacts for Council with regards to cost and officer time.

POLICY AND LEGISLATIVE IMPLICATIONS

Proposed Planning Scheme Amendment C130 is consistent with the relevant objectives of the Council Plan 2017 – 2021, including the following:

Strategic Objective: Responsible Planning

To demand best practice outcomes when planning for future growth.

Relevant Key Strategies: *Plan for growth and change through best practice design of services, infrastructure, open space and recreation facilities.*

Plan for a diversity of housing and households.

Strategic Objective: Strong Communities

Relevant Key Strategies: *Establish and maintain high quality roads, footpaths, parks, recreation facilities, streetscapes, bike paths and public open spaces.*

The proposed amendment has been prepared in accordance with the provisions of the *Planning and Environment Act 1987*.

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

Social

This Planning Scheme Amendment will have positive social outcomes as it will facilitate a residential development capable of providing new connections across the subject

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD, KILMORE (CONT.)

site and the surrounding area and provide a five-hectare site for active open space purposes. Specifically, the delivery of a shared path and sports facilities will encourage healthy and active communities for existing and future residents.

Environmental

The proposed rezoning will unlock a section of the Ryans Creek corridor for passive open space that would otherwise remain in private ownership if development did not occur. Residential development will provide opportunities to beautify the Ryans Creek and improve the environmental conditions of the corridor.

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

Proposed Planning Scheme Amendment C130 is strongly supported as it meets the strategic intent of the Kilmore Structure Plan. The rezoning of 40 Butlers Road, Kilmore from Farming Zone into the General Residential Zone represents a logical extension to the urban area of Kilmore. Importantly, the existing Section 173 Agreement provides significant public open space along Ryans Creek and requires five hectares of land for active open space for the benefit of current and future residents of Kilmore.

This report recommends that a Planning Scheme Amendment be prepared and exhibited in accordance with the relevant provisions of the *Planning and Environment Act 1987*.

PROPOSED PLANNING SCHEME AMENDMENT C130 - RE-ZONING OF LAND AT 40 BUTLERS ROAD,
KILMORE (CONT.)

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

18 DECEMBER 2017

9.3

**PROPOSED PLANNING SCHEME
AMENDMENT C130 - RE-ZONING OF LAND AT
40 BUTLERS ROAD, KILMORE**

**Attachment No: 1
Amendment C130 Documentation**

Planning and Environment Act 1987

MITCHELL PLANNING SCHEME

AMENDMENT C130

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Mitchell Shire Council which is the planning authority for this amendment.

The amendment has been made at the request of G2 Urban Planning who act on behalf of RW Developments Pty Ltd.

Land affected by the amendment

The amendment applies to 18 hectares of land at Crown Allotment 127, Volume 10685, Folio 022 and Crown Allotment 126, Volume 9686, Folio 372, Kilmore, commonly referred to as 40 Butlers Road, at the south-east corner of the intersection of Butlers Road and Kilmore Road as shown in Figure 1 below.



Figure 1: 40 Butlers Road, Kilmore

What the amendment does

The Amendment proposes to rezone 40 Butlers Road, Kilmore from Farming Zone to General Residential Zone Schedule 1.

The Amendment proposes the following changes to the Mitchell Planning Scheme.

- Rezone 40 Butlers Road, Kilmore from Farming Zone to General Residential Zone Schedule 1

Strategic assessment of the amendment

Why is the amendment required?

The Amendment is required to facilitate residential development of the land which is consistent with the Kilmore Structure Plan adopted by Mitchell Shire Council on 15 August 2016. The Structure Plan identifies 40 Butlers Road as a Priority Development Site.

Due to projected population growth additional residential land is required for Kilmore. The site is opposite existing residentially zoned and developed land to the east and north and is a logical development site.

The rezoning will facilitate a portion of the land to be designated as a public open space reserve in line with an existing Section 173 agreement that applies to the land.

How does the amendment implement the objectives of planning in Victoria?

The proposed amendment implements the objectives in Section 4 of the *Planning and Environment Act 1987* in providing for the fair orderly, economic and sustainable use of land. The proposed amendment will benefit current and future residents of Kilmore.

How does the amendment address any environmental, social and economic effects?

Environmental Effects

The subject site is predominately cleared, flat land. An assessment of flora and fauna for the site identified minimal native vegetation and no significant trees. An assessment of the site found no land contamination. A Section 173 agreement for the site provides for a 40 metre development buffer along the drainage line which will provide for an extension of the park north of the site and environmental protection of a waterway.

Social Effects

The proposed amendment will facilitate orderly development by ensuring contiguous residential development along Kilmore Lancefield Road consistent with land to the north. The Amendment will provide for an estimated 100-140 dwellings to service the high level of population growth that Kilmore is experiencing.

A Section 173 agreement applies to the subject site whereby the landowner provides a minimum of 5 hectares, or approximately 28% of the site, to Council for use as active open space and a 40 metre development buffer along the drainage line which will provide space for a shared path provided the balance of the land can be used for residential development

The provision of public open space and opportunity for a shared path will provide significant health and social benefits for residents of Kilmore.

Economic

There will be beneficial economic effects in providing for residential development which is located approximately one kilometre from the subject site. The subject site is serviced by Kilmore-Lancefield and Butlers Roads and is connected to or has nearby availability of electrical, sewerage, telecommunications and water services, making provision of services for residential development cost effective.

Does the amendment address relevant bushfire risk?

The subject site is not covered by the Bushfire Management Overlay and is not identified as having a high risk from bushfire.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The proposed amendment is consistent with Ministerial Direction No. 11: Strategic Assessment of Amendments and is also consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the *Planning and Environment Act, 1987*.

The proposed amendment is not affected by any other Ministerial Directions under Section 12 of the *Planning and Environment Act, 1987*.

How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?

The proposed amendment is consistent with and supports the State Planning Policy Framework. Kilmore is a peri-urban township nominated for growth in the *Hume Regional Growth Plan, May 2014* and *Plan Melbourne 2017-2050, March 2017*. The Kilmore Structure Plan provides a strategic framework for future growth of Kilmore.

Clause 11: Settlement

The proposed amendment facilitates appropriate development that *“responds to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, community facilities and infrastructure”* by rezoning land for residential use.

Clause 11.02-1 requires *“the ongoing provision of land and supporting infrastructure to support sustainable urban development”*. It is estimated that the amendment will provide land for an additional 100-140 dwellings to service Kilmore’s high population growth in an area ideally located near services.

Clause 11.02-4 seeks *“to manage the sequence of development in growth areas so that services are available from early in the life of new communities”*. The subject site is the logical commencement point for Kilmore’s residential growth in the west as the site is located adjacent existing residential areas, is connected to or can easily access servicing infrastructure and is accessible via a main road. Additionally there is an existing Section 173 agreement on the land which will handover 5 hectares of the site for active open space to service existing and future residents of Kilmore.

Clause 11.12: Hume

The proposed amendment is consistent with the Hume Regional Growth Plan at Clause 11.12-5 as Kilmore is nominated as a *“designated identified growth centre in Plan Melbourne”* and to *“support growth in these urban locations, and lifestyle opportunities”*.

Clause 16: Housing

The proposed amendment is consistent Clause 16.01-2 which seeks to *“locate new housing in or close to activity centres and in urban renewal precincts that offer good access to jobs, services and transport”*. The subject site is located approximately one kilometre from Kilmore’s town centre and within two kilometres of Kilmore’s major employers including Kilmore Hospital, Assumption College, Kilmore International School, the bulk goods retail precinct in the south and industrial estate in the north.

Clause 18: Transport

The amendment is consistent with Clause 18.02-4 which seeks to *“manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure”*. The subject site fronts Kilmore-Lancefield Road, which has capacity to handle additional traffic with upgrades.

Clause 19: Infrastructure

The amendment is consistent with Clause 19.02-3 which seeks *“to develop strong cultural environment and increase access to art, recreation and other cultural facilities”*. The subject site has an existing Section 173 agreement that will handover 5 hectares of land for active open space.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The proposed amendment is consistent with the objectives of the Local Planning Policy Framework.

Clause 21.02: Settlement

The proposed amendment implements the provisions of Clause 21.02-1, Urban Growth as the subject site makes use of existing infrastructure capacity within Kilmore and is located directly adjacent the township.

21.10: Infrastructure

The proposed amendment addresses the key issue of Clause 21.10-1 *"improving the health and wellbeing of the community"* as the subject site has a Section 173 agreement which will handover 5 hectares of land for active open space.

21.11-3: Local Areas / Kilmore

Clause 21.11-3 does not nominate the subject site for residential growth. The subject site is nominated for residential growth within the *Kilmore Structure Plan, August 2016*. Currently the Structure Plan is being implemented through Amendment C123, which concluded exhibition in November 2017. Amendment C123 proposes revising Clause 21.11-3. The revised Kilmore Framework Plan shows the subject site as within the growth area boundary.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment proposes to apply the most applicable zone to the land in accordance with the proper use of the Victorian Planning Provisions.

How does the amendment address the views of any relevant agency?

Any relevant agency will have an opportunity to comment on this planning scheme amendment through the exhibition process under Section 19 of the *Planning and Environment Act 1987*.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The proposed amendment is not expected to have a significant impact on the transport system.

Resource and administrative costs

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

The amendment is not expected to have any significant impact in relation to the resource and administrative costs of the responsible authority.

Where you may inspect this Amendment

The amendment is available for public inspection, free of charge, during office hours at the following places:

- Wallan Planning and Building Office, 4a & 4b (Level 1), 61 High Street, Wallan
- Kilmore Library and Customer Service Centre, 12 Sydney Street, Kilmore

The Amendment can be viewed online at www.mitchellshire.vic.gov.au

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.delwp.vic.gov.au/public-inspection

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by **[insert submissions due date]**.

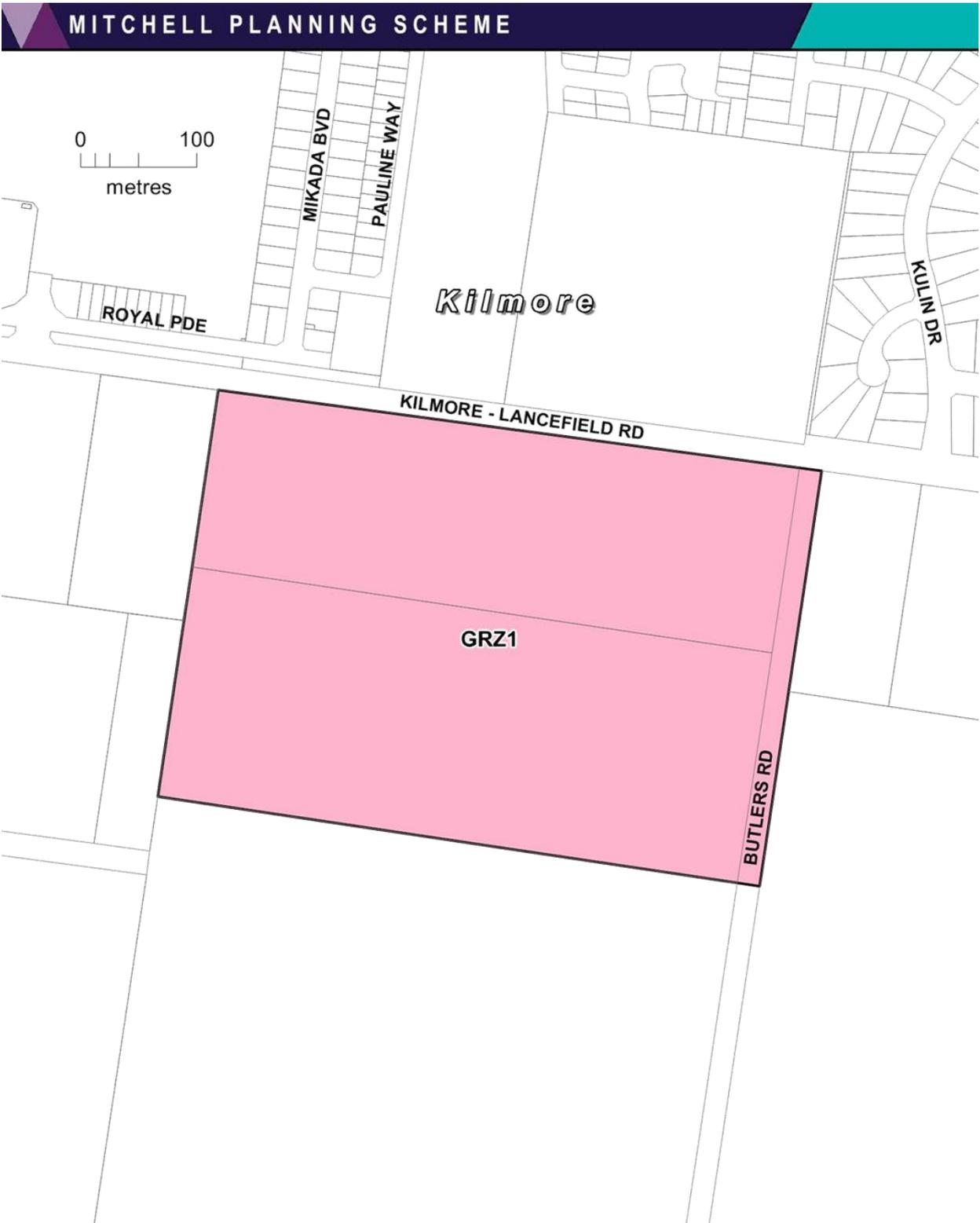
A submission must be sent to:

Mitchell Shire Council
Submissions to Planning Scheme Amendment C130
113 High Street
BROADFORD VIC 3658
Or via email:

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: [insert directions hearing date]
- panel hearing: [insert panel hearing date]]



LEGEND Part of Planning Scheme Map 16

GRZ1 GENERAL RESIDENTIAL ZONE - SCHEDULE 1

AMENDMENT C130

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