

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1208/2024
PERMIT APPLICATION NO. PLN/2023/319

CATCHWORDS

Dwelling in Rural Conservation Zone, Removal of native vegetation, Productive agricultural land

APPLICANT	Country Land Pty Ltd
RESPONSIBLE AUTHORITY	Macedon Ranges Shire Council
REFERRAL AUTHORITIES	Coliban Region Water Corporation Country Fire Authority Department of Energy, Environment and Climate Action
SUBJECT LAND	C/A 3 Section E TP264498Y P/Woodend 27 Jocks Gully Road ASHBOURNE VIC 3442
HEARING TYPE	Hearing
DATE OF HEARING	9 October 2025
DATE OF ORDER	23 October 2025
CITATION	Country Land Pty Ltd v Macedon Ranges SC [2025] VCAT 924

ORDER

Amend permit application

- 1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic), the permit application is amended by:

- (a) substituting for the permit application plans and supporting documents, the following plans filed with the Tribunal:

Plans Prepared by:	• Swanbuild Homes
Drawing numbers:	• Sheets 01-08
Dated:	• 5/6/2025
Documents	• Land Capability Assessment prepared by Edwards environmental, Native Vegetation Report prepared by NR Links, Integrated Land Plan prepared by NR Links, Bushfire Management Report prepared by NR Links.



Permit granted

- 2 In application P1208/2024 the decision of the responsible authority is set aside.
- 3 In planning permit application PLN/2023/319 a permit is granted and directed to be issued for the land at C/A 3 Section E TP264498Y P/Woodend 27 Jocks Gully Road Ashbourne VIC 3442 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

Planning scheme clause	Matter for which the permit has been granted
35.06-1 (RCZ)	Use of land for dwelling.
35.06-5 (RCZ)	Construct a building or carry out works for a building associated with a Section 2 use and for a building within 100m of a waterway
42.01-2 (ESO4)	Construct a building or carry out works for a dwelling that is not connected to a reticulated sewerage system
42.02-2 (VPO9)	Remove, destroy or lop any native vegetation as specified under Schedule 9
44.06-2 (BMO)	Construct a building or construct or carry out works associated with accommodation

T Bilston-McGillen
Member

APPEARANCES

For applicant	Daniel Robinson, lawyer. He called the following witness: Julie Lee, ecology/conservation.
For responsible authority	Sue Sinnatt, town planner.
For referral authorities	No attendance.



INFORMATION

Description of proposal	Use and development of land for a dwelling. The dwelling accommodates three bedrooms and a study and an open plan living, dining, kitchen and amenity areas. A deck is provided extending from the family area. The dwelling is constructed of external cladding, aluminium windows and doors and colourbond roofing. The dwelling is located 36 to 38 metres from Birranes Road. A new driveway is proposed from the south-west corner of the site off Birranes Road to the dwelling. A primary and secondary effluent treatment field of 4500sqm is proposed in the north setback of the dwelling. It is proposed to remove native vegetation to the extent required to provide vehicle access to the land from Birranes Road.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> (Vic) – to review the refusal to grant a permit.
Planning scheme	Macedon Ranges Planning Scheme.
Zone and overlays	Rural Conservation Zone Schedule 1. Vegetation Protection Overlay Schedule 9. Bushfire Management Overlay. Environmental Significance Overlay Schedule 4.
Tribunal inspection	I inspected the site and surrounds.

Permit requirements

Clause 35.06-1 (RCZ1) Use of land for a dwelling (must be the only dwelling on a lot and must meet the requirements of Clause 35.06-2).

Clause 35.06-5 (RCZ1) Buildings and works associated with a Section 2 use and for a building within 100m of a waterway.

Clause 42.01-2 (ESO4) Buildings and works associated with accommodation (including a dwelling) not connected to reticulated sewerage.

Clause 42.02-2 (VPO9) Remove, destroy or lop any native vegetation as specified under Schedule 9.

Clause 44.06 -2 (BMO) Construct a building or construct or carry out works associated with accommodation.

Land description

The review site has an area of 7.4 hectares and currently used as part of the agricultural production that occurs on the larger land holding and includes a large dam and some vegetation.

The review site is a square shaped allotment and has two frontages to Birranes Road. The review site is mostly cleared of vegetation and is currently used for grazing.

The lot to the immediate west of the subject site at 90 Birranes Road is 2.3 ha and contains a dwelling and dam and substantial area of native vegetation.

Council described the surrounding areas as follows. The lot to the north west at 78 Birranes Road is 2.1ha and also contains a dwelling and substantial areas of native vegetation.

The lot at the intersection of Birranes Lane and Jocks Gully Road at 48 Birranes Road was constructed under Planning permit PLN/1999/198 prior to the current planning scheme. The review site is not fenced (as part of a larger allotment under separate titles).

REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

- 1 Country Land Pty Ltd ('applicant') proposes to construct a dwelling and outbuilding and remove native vegetation on 27 Jocks Gully Road, Ashbourne.

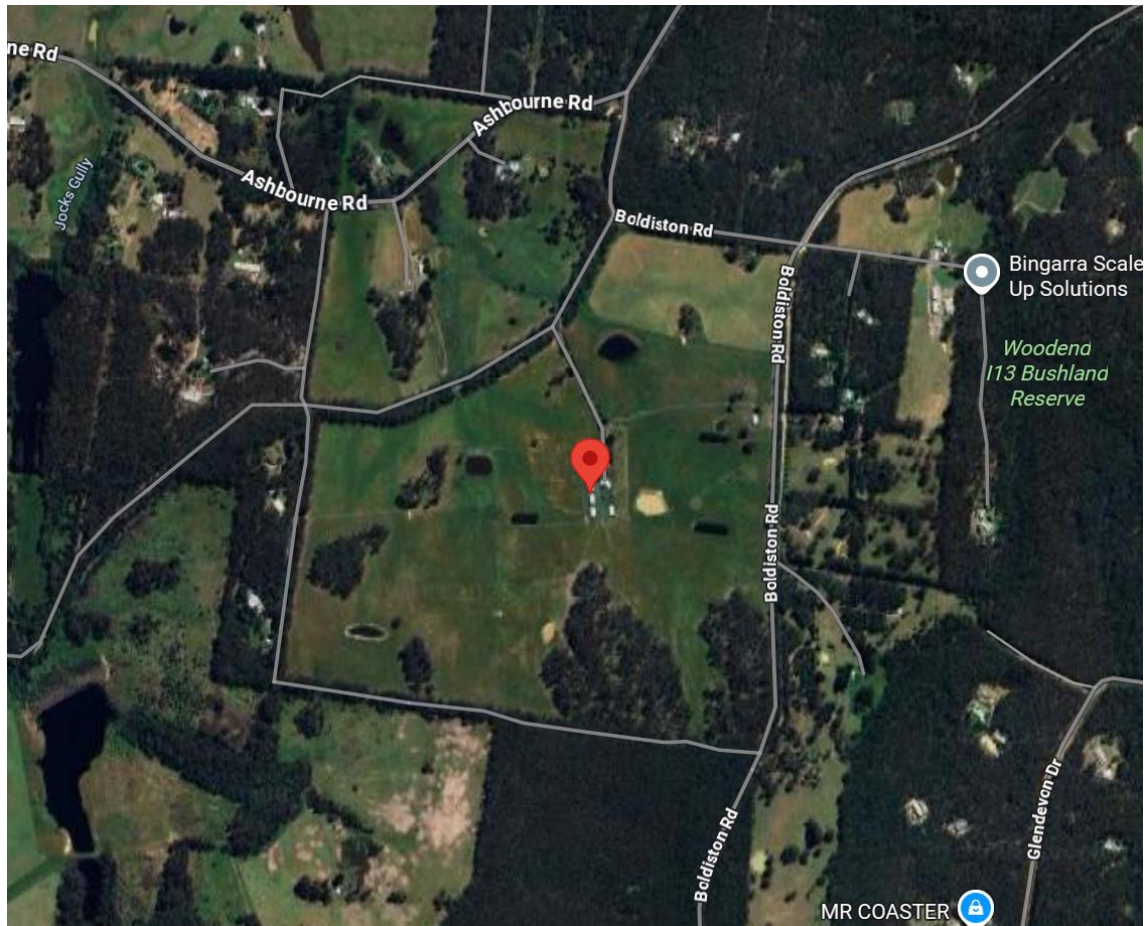


Figure 1: Aerial photograph of review site part of larger lot and surrounding area.
Source: google maps

- 2 In August 2024, the Macedon Ranges Shire Council ('council') refused to grant a planning permit for the proposal. The applicant has requested the Tribunal to review council's decision.
- 3 Council refused the proposal on the following grounds:
 - [1] The proposal is contrary to the relevant planning policy objectives that seek to protect agricultural land including Clause 14.01-1S, 14.01-1L, 14.01-2S and the purpose of the Rural Conservation zone as the proposal does not facilitate an outcome that protects agricultural land, would result in the fragmentation

¹ The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

of productive rural agricultural land and would ultimately result in a rural residential outcome.

- [2] The proposal is contrary to the relevant planning policy objectives that seek to protect and enhance the natural environment including Clause 12 and the Rural Conservation Zone as it fails to conserve, protect or enhance the environmental values, natural resources, biodiversity and landscape values of the area in any meaningful way. The Land Management Plan fails to demonstrate clear environmental outcomes with regards to the management and enhancement of existing landscape features.
- [3] The proposal is contrary to the relevant planning policy objectives that seek to protect the natural environment, biodiversity and native vegetation, including Clause 12.01 Biodiversity, the Rural Conservation Zone, the Vegetation Protection Overlay - Schedule 9 and Clause 52.17, as the proposal fails to provide the necessary detail required in order to properly assess and determine the full extent of impacts on native vegetation and biodiversity as a result of the use and development.
- 4 The proposal was referred to a number of authorities. It is noted that Coliban Water, Goulburn Murray Water, Greater Western Water, Country Fire Authority advise of no objection.
- 5 Prior to the commencement of the hearing, the applicant circulated amended plans. In summary, the amendments included:
- The planning permissions were updated to include the removal of native vegetation under the Environmental Significance Overlay, Vegetation Overlay and clause 52.17.
 - Increased the setback of the proposed dwelling from the existing adjoining dwelling.
 - Amended the setbacks from boundaries.
 - Amended the setback from the drainage line.
 - Identified trees proposed for removal.
 - Identified defensible space.
- 6 Despite the amended plans, council continues to maintain its opposition to the proposal. Council further submitted that the amended application plans and Land Management plans fails to provide sufficient necessary detail to determine full impacts on native vegetation and biodiversity by the development. The proposal was circulated again to all referral authorities as well as to the DEECA due to the new native vegetation trigger.
- 7 There being no objection to the substitution of the amended plans, I allowed the amended plans to be substituted, and these now form those on which my decision is reached.

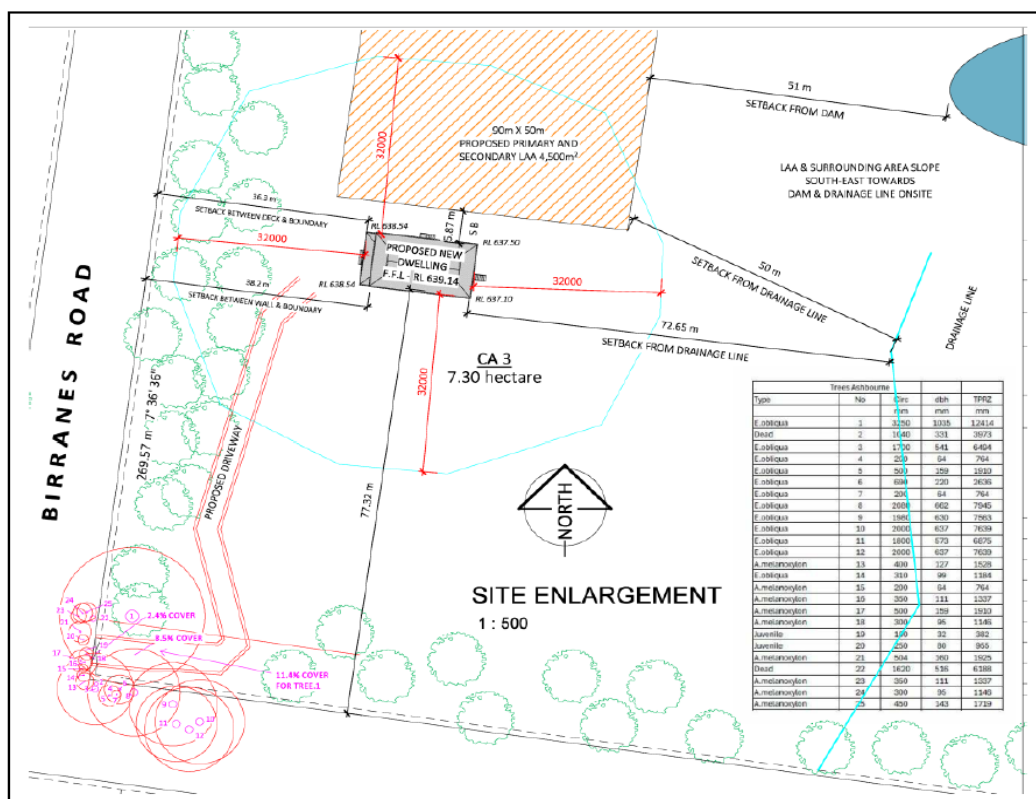


Figure 2: Proposed amended development plan.

- 8 There are a number of background matters I wish to outline:
- i Council acknowledged that it had no concerns with the design of the proposed dwelling and on-site wastewater treatment and disposal and no concerns with the bushfire management plan.
 - ii The review site is currently undeveloped and has previously been used for grazing purposes as part of the larger 83.5 hectare land holding.
 - iii There are no details of the outbuilding referred to in the ‘permit description’. The applicant agreed to delete any reference to ‘outbuilding’ forming part of the application.
 - iv A permit is not required to remove native vegetation under clause 52.17. At the commencement of the hearing, the matter of the permit trigger was discussed. The amended plans and submission initially indicated that there was a trigger to remove native vegetation under clause 52.17. Because of this, at a Practice Day Hearing, I ordered the proposal be referred to Department of Energy, Environment and Climate Action (‘DEECA’). DEECA advised no objection subject to conditions.

Notwithstanding the above, upon further review of the proposal, the applicant in its submission to this proceeding, submitted that a permit is not required to remove native vegetation because of the exemption in clause 52.17 which reads:

Vehicle access from public roads

If a fence is proposed at the parcel boundaries, it will not be subject to the Fences Exemption, which applies to 'property boundaries' in different ownership, and impacts to native vegetation will need to be appropriately assessed and mapped. This may be mapped by a 4 metre buffer (2 metres either side) along the parcel boundary that includes the canopy and large tree status of any vegetation within the buffer.

- vi With regards to boundary fencing, the applicant advises that there is no boundary fencing proposed.
 - vii The applicant called Ms Lee to provide evidence on environmental and land management issues. The applicant agreed that Ms Lee is not an 'independent expert' as she prepared documents for the planning application and supported the application throughout the council process. I make the observation that whilst Ms Lee is not an 'independent expert' she provided useful information regarding the proposed use and capabilities of the land.
- 9 This matter, like many applications for dwellings in rural conservation areas reflects the tension in developing land that is relatively close to townships but has high environmental values and bushfire risks. In this case, the bushfire concerns can be addressed satisfactorily, and the only removal of native vegetation is to provide access to the review site. The referral authorities provided conditional consent to the proposed development and vegetation removal.
- 10 The key issue in this proceeding is if the proposed dwelling is consistent with planning policies and the Rural Conservation Zone Schedule 1 ('RCZ1').
- 11 Having considered the evidence, submissions, the range of State and Local Planning Policies and Provisions of the Macedon Ranges Planning Scheme ('planning scheme') and my site inspection, I must decide whether a permit should be granted and, if so, what conditions should be applied. I have decided that a permit should issue subject to conditions. My detailed reasons follow.

REASONS FOR DECISION

The proposed dwelling is consistent with the planning policies and RCZ1

- 12 There are a range of policies to guide my decision making on this matter.
- 13 Policy at clause 02.03-1 identifies the review site/location as being a 'hamlet'. Clause 02.03-2 'Environmental and landscape values' seeks to conserve the biodiversity values of the shire by protecting, enhancing, managing and restoring indigenous vegetation and fauna. Housing policy at clause 02.03-6 recognises that the existing rural living areas located adjacent to towns and smaller settlements will meet the housing demand and protect land in the Farming Zone ('FZ') (noting the review site is in a RCZ1 not a FZ).



- 14 The 'Rural Framework Plan' map at clause 02.04 identifies the review site as being within the 'Living Forest' and 'Northern Catchment' areas.
- 15 Clause 11.03 'Planning for Places' seeks to balance objectives to improve land use and development outcomes and preserve and protect rural land and natural resources. Clause 11.03-5S 'Distinctive areas and landscapes' recognises the importance of distinctive areas and landscapes and refers to a policy document 'Macedon Ranges Statement of Planning Policy (Victorian Government 2019)'. The policy, amongst other things, aims to support efforts to enhance conservation of the area's unique habitats, ecosystems and biodiversity and provide greater certainty about the landscape values and rural land to be conserved for current and future generations.
- 16 Clause 12 Environmental and Landscape Values seeks to protect and enhance Victoria's biodiversity.
- 17 Clause 12.01-2S relates to native vegetation management and seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. Strategies are to ensure that decisions which involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017):
- Avoid the removal, destruction or lopping of native vegetation.
 - Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
 - Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.
- 18 Clause 13.02 relates to Bushfire policy. It must be applied to all planning applications within a Bushfire Management Overlay ('BMO') and seeks 'to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.'
- 19 Clause 14.01-1S seeks the protection of agricultural land.
- 20 Clause 15.01-6S and 15.01-6L 'Design for Rural Areas' seek to ensure development respects valued areas of rural character.
- 21 Clauses 16.01-3S Rural residential development and 16.01-3L Rural residential development – Macedon Ranges sets strategies and guidelines to, amongst other things, limit residential development of rural land not in a Rural Living zone unless it is related to the use of the land for agriculture or other economic activities and ensure development protects existing remnant native vegetation and protects and enhances the existing forest mosaic within the Living forest area.
- 22 The review site is zoned RCZ1, with the purpose of the zone being:

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

To conserve the values specified in a schedule to this zone.

To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.

To protect and enhance natural resources and the biodiversity of the area.

To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.

To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.

To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.

- 23 The zone includes a number of decision guidelines as they relate to environmental issues and accommodation. These guidelines seek to ensure that an assessment is undertaken of the likely impact on the biodiversity of the area, how the use and development relates to sustainable land management, whether the dwelling will result in the loss or fragmentation of productive agricultural land and the location of on site effluent disposal areas to minimise the impact on waterways and native vegetation.

- 24 The purpose of Schedule 1 ‘Conservation Values’ includes:

To ensure that the existing forest mosaic is protected and that any development does not compromise native vegetation, but provides for its enhancement.

To ensure that land use within water supply catchments, most particularly proclaimed catchments, will not compromise water quality.

To protect the unique flora, fauna and landscapes that are fundamental to the character and biodiversity of the area from inappropriate land use and development.

To protect the conservation and landscape values of adjoining public land.

To ensure that the character and landscape values of the area are protected.

To achieve sustainable agricultural practice.

- 25 VPO9 ‘Living Forest’ applies to the review site. The vegetation protection objectives include:

To protect and enhance all remnant native vegetation for its role in biodiversity, natural resource management, and landscape and character.

26 The decision guidelines include:

- The need to protect all native vegetation in this area to pursue the “Living Forest” vision.
- The relative value of the vegetation in terms of the surrounding vegetation community and at a regional level.
- The threat of soil erosion and land slip resulting from loss of vegetation.
- The need to locate access roads across slope to minimise visual intrusion of the road on land where slope is greater than 20 per cent.

27 Council refused the proposed dwelling on the ground that it is contrary to objectives that seek to protect agricultural land and that ultimately the land would result in a rural residential outcome. This is a key concern. Council is also concerned that the proposal has not sufficiently addressed the grounds of refusal relating to the protection of biodiversity and conservation, the landscape values of the land and the protection of agricultural land.

28 Council submitted that the ‘primary purpose of the RCZ is to protect and conserve rural land for its environmental features, biodiversity value, living forest areas and water catchments. This zone is environmentally based with the protection and enhancement of natural resources and biodiversity at its core’. The applicant agreed with this policy and submitted that it is proposed not just to conserve the existing ecological values of the site but to materially improve them through best practice land management and a program of revegetation to restore and reconnect existing areas of remnant vegetation. It was further submitted that the applicant would accept a permit condition requiring revegetation of the drainage line.

29 The applicant submitted that there is no strategic imperative to retain the review site for broadacre agricultural use and that the review site is not in the FZ and is not identified in any strategic document as important for agricultural production. The purpose of the RCZ1 makes it clear that the principle strategic imperative of the zone is the protection and enhancement of the natural environment.

30 In considering if the proposed use and development is consistent with the provisions of the zone and planning policies, I refer to two documents, the Land Capability – Integrated Land Plan (‘Land Plan’) prepared by NR Links Rev B dated 12.6.2025 and the Native Vegetation Report NR Links, May 2025 (‘Native Vegetation Report’).

31 The Land Plan is a plan that sets out goals, objectives and management for the review site. In summary, it provides the following commentary:

- The site is mapped to contain EVC 45 Shrubby Foothill Forest which is listed as Least Concern in the Central Victorian Uplands. The trees on site are:
 - A mix of *Eucalyptus rubida*, *Eucalyptus viminalis*, *Eucalyptus obliqua* and *Acacia melanoxylon*.
- The lot contains a dam that has been constructed for stock purposes and is not fenced and shows signs of erosion and has no spillway to direct water flow in the event of high rainfall. The dam needs to be fenced to control stock access and have spill ways to control water movement into the drainage line.
- This location has recorded sightings for the following threatened faunal species:
 - Gang Gang (*Callocephalon fimbriatum*) is listed in the Endangered category of the threatened species list under the Environment Protection and Biodiversity Conservation Act 1999 ('EPBC Act').
 - Powerful Owl (*Ninox strenua*)
 - Flora records near the site include the following species:
 - Swamp Everlasting (*Xerochrysum palustre*) EPBC Act as Vulnerable
 - Black Gum (*Eucalyptus aggregate*) (listed as threatened on the Flora and Fauna Guarantee Act 1988 ('FFG Act')).
- The site is valuable because the trees are older and in the next 10-20 years will be of an age to have hollows and provide nesting opportunities.
- In relation to the Black Gum (*Eucalyptus aggregata*), the only known natural occurrence of Black Gum in Victoria is at Woodend. Being an important species, the report notes that 'it is essential to review the site for the emergence of this species should it occur on site and there have been sightings in the vicinity of the site. A more detailed description with fruits, juvenile leaves for identification is included in the appendix to this report'.
- The native vegetation, logs and coarse woody debris contribute to the ecological value and character of the site, including providing habitat for native fauna species.
- Four farm management zones are identified including, Domestic area, Conservation Zone – Drainage line and Dam, Conservation Zone Remnant Vegetation and Farming – Grazing.

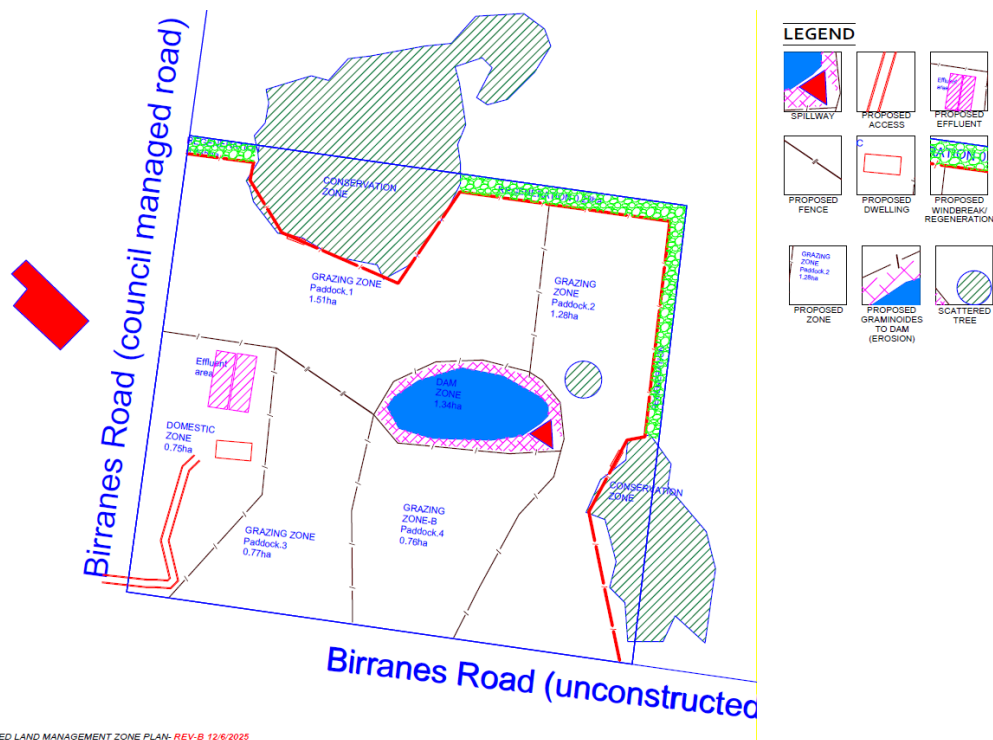


Figure 4: Proposed Land Management Zone Plan. NR Links.

- 32 The application of the RCZ is an acknowledgement that the site is in an area with a high conservation value. I must take the zone as it is and apply its purposes, which are clear in the intent of providing for land for conservation purposes. But in this case, I am persuaded by the applicant that the proposed dwelling can exist without compromising the ability of the review site to continue to support the environmental values of the review site. I make these findings for the following reasons.
- 33 First, the RCZ is a rural zone and whilst the zone purposes do not make reference to residential or housing development, it doesn't prohibit the use and development of a dwelling. A permit is required for the use and development. It is noted that a purpose of the zone states 'To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality'.
- 34 Second, I give little weight to the existence of dwellings located in the surrounding lots, but I make the observation that dwellings do exist within the surrounding area. A house on this lot would not introduce a foreign element in the broader location.
- 35 Third, council wants to see the review site consolidated with the adjoining lots to create a larger land holding. Council directed me to policy at clause 12.01-1L seeks to avoid further fragmentation of existing lots and to limit residential development on existing lots within the Living Forest area. There is no question that a consolidated larger lot, with no development, could result in greater ecological values of the land, with the caveat that the owners of the land would need to be of the mindset and willing to 'improve

the ecological values of the land'. But I make the observation that the 'larger land holding' council refers to has been subdivided into seven lots. This is an existing situation. I am persuaded by the applicant that there is no 'effective fragmentation' because the application does not propose any subdivision. The review site is already a separate allotment. My conclusions on this case may be different if it was a subdivision application, but it is not.

- 36 Fourth, council criticized the Land Plan stating that it provides for minimal revegetation of existing remnant vegetation patches to meet the biodiversity and forest mosaic policies of the VPO9 and RCZ1. I make the observation that this issue can be further addressed by a planning permit condition requiring further detail in the Land Plan detailing further revegetation where possible. I am satisfied that the Land Plan will provide for an improved outcome for the land for the following reasons:
- i It provides an outline of how the review site can be managed including providing for the retention of trees as well as managing the land for grazing.
 - ii It divides the site into four management zones including domestic area, conservation zone – drainage line and dam, conservation zone – remnant vegetation and farming – grazing.
 - iii It includes a monthly management timeline linked to tasks required to be undertaken in relation to survey, weed seedlings, weedy plant, pest animals, fencing and regeneration.
 - iv It provides details of the type of wildlife fencing to be included.
 - v It provides for the revegetation of the review site.
 - vi It includes in the monitoring of native vegetation using Photo points. That is, photographs are taken at particular points over time so that a comparison of how the area has changed over time can be monitored. This requirement has been included as a condition of permit.
- 37 I find that based on the advice of Ms Lee, submissions of the applicant and the Land Plan, regeneration can occur on the site and in this case, there should be an improved environmental outcome because the dwelling on the land can manage and improve the land.
- 38 Fifth, a ground of refusal reads that the proposal does not facilitate an outcome that protects agricultural land, would result in the fragmentation of productive rural agricultural land and would ultimately result in a rural residential outcome. I am persuaded by the applicant that the land is not considered to be 'productive' agricultural land. The purpose of the RCZ1 is to provide for agricultural use consistent with the conservation of environmental and landscape values of the area and protect and enhance the biodiversity of the area. The review site is not in a FZ and is not prime agricultural land.

- 39 Sixth, in relation to the Black Gum (*Eucalyptus aggregata*), the Land Plan identifies that the only known natural occurrence of Black Gum in Victoria is at Woodend. Due to this, the Land Plan further identifies that ‘it is essential to review the site for the emergence of this species should it occur on site and there have been sightings in the vicinity of the site.’ I consider it appropriate that the Land Plan requires a further review to require this to occur and monitored in perpetuity.
- 40 Seventh, there is no removal of native vegetation on the review site and the removal of vegetation for the access is the minimum possible. I give this significant weight in my decision.
- 41 Overall, I agree with Council that a fair and balanced reading of the planning scheme reveals that dwellings are not expressly encouraged in this location and that the primary purpose of the zone is to conserve the values of the site, protect and enhance the natural resources and biodiversity of the area. It further however expresses a purpose to ‘encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality’.
- 42 I find that the Land Plan if amended in the manner referred to above, has demonstrated that because of the dwelling on the site, the land can be enhanced and regenerated as well as used for grazing purposes in line with an approved Land Plan. I am persuaded by the applicant that in this case, a planning permit with conditions can carefully manage the land.
- 43 A RCZ1 purpose is to ‘to ensure that the existing forest mosaic is protected and that any development does not compromise native vegetation, but provides for its enhancement’. Having regard to the imposition of an appropriate Land Plan, I am persuaded that the review site can provide for the enhancement of the native vegetation on site.

Native vegetation

- 44 The Native Vegetation Report addressed the issue of the proposed access from Birranes Road to the review site. The report states that the reason for removal is to access to the site and allows for a trafficable width of 3.5 metres with 0.5 metres either side being an overall width of 4.5 metres. It assessed two scenarios, 1 and 2 which are detailed below.

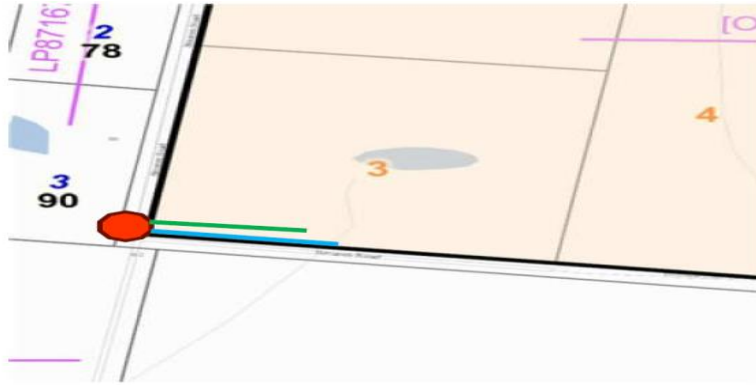


Figure 5: Scenarios 1 and 2 providing access from Birranes Road to the review site.
Source Vegetation report prepared by NR Links

This section had a wide section where there were only very small trees with limited larger trees nearby. I ran two options one to run the driveway along the southern fence (blue line above known as **scenario. 1** which resulted in the removal of small patch and 4 trees with over 10% coverage of the Tree Protection Zone (2 of these trees measured just below that of a large tree) and the offset requirement was 0.045 general habitat units with a strategic score of 0.572 with no large trees- Basic removal

Senario.2 (greenline above) did impact on the large old, scattered tree just inside the boundary which has a large tree protection zone. I tried to reduce the impact to below 10% but this was not possible and the overall result was 11.4% coverage which requires me to allow for its consequential removal. This option required the following offset:

0.02 general habitat units with a strategic score of 0.616 with 1 large tree -Intermediate removal (due solely to the large tree only)

On review of two options for entry the one with only 1 tree as consequential removal was deemed the least impact. This large old growth tree is a *Eucalyptus viminalis* and the impact is just over the 10% so it is allowed for in the offset but will remain on site. The entry into this site (not on the road reserve) will need to avoid disturbance of top soil and only allow for additional road base on the top. This will avoid any direct impact to the roots of this tree and the road base must be permeable to allow air and water to reach the tree roots. This needs to be made a condition on the permit.

- 45 The proposed removal of the vegetation relies on the exemption contained in clause 52.17. As stated earlier, there was no dispute between the parties that the exemptions apply. Notwithstanding the above, a planning permit is required to remove the native vegetation clause 42.02, VPO9. Schedule 9 'Living Forest' sets a statement of nature and significance of vegetation to be protected which reads:

Council's vision for the areas around Woodend, Macedon and the Cobaw Ranges is protecting and enhancing the existing forest mosaic. This native vegetation is considered valuable for its environmental

role, including its contribution to biodiversity, and for the part it plays in the character and amenity of the Shire.

- 46 I make the observation that the removal of native vegetation is proposed to be 'as minimal as possible' and limited to the access point. With the exemption in mind and location of the proposed access, I would not refuse the proposal because of the provisions of the VPO.

WHAT CONDITIONS ARE APPROPRIATE?

- 47 Council prepared a draft set of conditions. I have largely adopted the recommendations of council including deleting conditions relating to the removal of native vegetation offsets as this is no longer a permit trigger.

CONCLUSION

- 48 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

T Bilston-McGillen
Member

APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

PERMIT NO	PLN/2023/319
PLANNING SCHEME	Macedon Ranges Planning Scheme
RESPONSIBLE AUTHORITY	Macedon Ranges Shire Council
ADDRESS OF THE LAND	C/A 3 Section E TP264498Y P/Woodend 27 Jocks Gully Road ASHBOURNE VIC 3442

THE PERMIT ALLOWS:

Planning scheme clause	Matter for which the permit has been granted
35.06-1 (RCZ)	Use of land for dwelling.
35.06-5 (RCZ)	Construct a building or carry out works for a building associated with a Section 2 use and for a building within 100m of a waterway
42.01-2 (ESO4)	Construct a building or carry out works for a dwelling that is not connected to a reticulated sewerage system
42.02-2 (VPO9)	Remove, destroy or lop any native vegetation as specified under Schedule 9
44.06-2 (BMO)	Construct a building or construct or carry out works associated with accommodation

CONDITIONS TO APPLY TO THE PERMIT:

Amended plans

- 1 Before the commencement of the development, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must show:
 - (a) Amended site plans generally in accordance with the plans prepared by Swanbuild Homes dated 5 June 2025 but modified to include the following:
 - i The location of the underground septic tank and connecting pipe to the effluent field.



- ii The location, dimensions and capacity of the proposed 10,000 L water tank(s).
 - iii The location of the waterway.
 - iv The location of the road reserve and existing vegetation within the road reserve.
 - v The location and dimensions of the proposed vehicle crossing.
 - vi The location and identification of all native vegetation species proposed to be removed clearly identified.
 - vii Deletion of the canopy trees incorrectly shown located within the lot along the western and southern lot boundaries.
- (b) An Amended Integrated Land Management Plan generally in accordance with the Integrated Land Plan Revision B prepared by NR Links dated 12 June 2025 but modified to include the following:
- i The location and species of native vegetation on site and within the road reserve clearly identified.
 - ii The location of the waterway.
 - iii A detailed revegetation plan and table of species for planting along the northern and western lot boundaries and waterway revegetation with appropriate species selected from Appendix 5 of the land management plan without increasing bushfire risk above 4 k Wm² radian heat flux.
 - iv A comprehensive implementation schedule of actions for habitat management and revegetation.
 - v A conservation plan for all remnant patches of native vegetation throughout the lot to include wildlife friendly fencing to be situated around each remnant patch of native vegetation. All patches of native vegetation in close proximity to each other should be grouped as one conservation patch/zone.
 - vi A detailed Conservation area fencing plan which clearly identifies Wildlife Friendly Conservation fencing across the property identifying the type of fencing.
 - vii A Land Management Plan Reporting Template for the landowners to complete and submit to Council on an annual basis. The Land Management Plan must include the following information:
 - Management action/s
 - Timing of action
 - Who has undertaken the action
 - Progress at end of financial year

- Council authorisation
- Compliance checklist with photo points.

Layout not altered

- 2 The use and development permitted by this permit as shown on the endorsed plans and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

Land management staging plan

- 3 Before a building permit is issued for the dwelling on the property, a Land Management Staging Plan generally in accordance with the amended Integrated Land Plan Revision B prepared by NR Links dated 12 June 2025 must be submitted to and approved by the responsible authority. The Staging plan must include a clear site plan of the whole site, and be drawn to scale with dimensions, and include a schedule of when each of the following works will be completed:
 - (a) Revegetation of plant species within the conservation areas
 - (b) Revegetation planting along the northern and western lot boundaries
 - (c) Construction of wild life friendly fencing along the northern and western lot boundaries.
 - (d) Weed Control
 - (e) Control of pest animals
 - (f) Revegetation and fencing of the water way

The Land Management Staging Plan must indicate to the satisfaction of the Responsible Authority at what stage the proposed dwelling will be constructed. It must also indicate that the proposed land management actions have been reasonably established on the site prior to construction of the proposed dwelling commencing.

Construction phase

- 4 All activities associated with the construction of the development permitted by this permit must be carried out to the satisfaction of the responsible authority and all care must be taken to minimise the effect of such activities on the amenity of the locality.

Electricity Supply

- 5 The dwelling must be connected to a reticulated electricity supply or have an alternative energy source to the satisfaction of the responsible authority.

MRSC Environmental Health Conditions

- 6 All wastewater from the dwelling, must be treated to a secondary standard of at least 20mg/L BOD and 30mg/L suspended solids and disposed of via pressure compensating subsurface irrigation.
- 7 Before the development is occupied, all sewage from the proposed development must be discharged into a new, EPA approved, on-site wastewater treatment system as described in the Land Capability Assessment Report prepared by Edwards Environmental, Version 2.0, dated June 2025 to the satisfaction of the Responsible Authority.
- 8 All wastewater generated must be treated and contained within the property boundaries.
- 9 The wastewater disposal area must be located at least 100 metres from any potable waterways and 60 metres from any dams/non-potable waterways - these set-backs may be reduced by 50% if the effluent is treated to a secondary standard and a service contract is in place. The wastewater disposal area is to be free of, buildings, driveways and service trenching.
- 10 An 'Application to install a septic tank' must be submitted to Council's Environmental Health Department to ensure the proposed wastewater treatment and disposal system is installed as per the LCA and the EPA Victoria – Guidelines For On-Site Wastewater Management

MRSC Engineering conditions

- 11 No polluted and/or sediment-laden run-off is to be discharged directly or indirectly into drains or watercourses. Soil erosion control measures must be employed throughout the works to the satisfaction of the Responsible Authority.
- 12 Prior to works commencing, the development must be provided with a legal point of discharge approved by the Responsible Authority and any other statutory authority from which approval must be received for the discharge of drainage.
- 13 Prior to works commencing, a new crushed rock crossover must be constructed, as per Councils standard drawing SD001. The roadside table drain must be reshaped and regraded. Prior to commencing the crossover works the contractor must conduct a prestart meeting with Council's inspection engineer.

Goulburn Murray Water conditions

- 14 All construction and ongoing activities must be in accordance with EPA Publication 1834.1 Civil Construction, Building and Demolition Guide (September 2023).
- 15 All wastewater from the dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must have a certificate of conformity issued



by the relevant body (or equivalent approval) and be installed, operated and maintained in accordance with the relevant Australian Standard(s) and EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced.

- 16 All wastewater must be applied to land via pressure-compensating sub-surface irrigation installed along the contour.
- 17 The wastewater disposal area must be located in accordance with the setback distances set out in Table 4-10 of the EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced.
- 18 The wastewater management system must be appropriately designed to manage the potential volume of wastewater generated under full occupancy (based on a minimum 4 bedrooms), including an appropriately sized disposal area based on a full water balance specific to the proposal and subject land in accordance with the relevant Australian Standard(s) and EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced.
- 19 The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. Unless disposal is by subsurface irrigation methods, a reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
- 20 Stormwater must be discharged to a legal point as nominated by the Responsible Authority. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.
- 21 The shed must not contain bedrooms (or rooms that could be used as bedrooms) or any facilities with the potential to produce wastewater, including toilets, kitchens or other food preparation facilities.
- 22 The shed must not encroach on the wastewater treatment system or disposal area, or breach the minimum setback distances specified in the relevant Australian Standard(s) and EPA Guideline for Onsite Wastewater Management, May 2024, as updated or replaced. Stormwater run-off from the shed roof must not be directed towards the disposal area.
- 23 Stormwater run-off from buildings and other impervious surfaces must be dissipated as normal concentrated overland flow or directed to a storage tank or dam.
- 24 The dwelling and shed must not be constructed within 30m of any waterways or on any drainage lines.

Greater Western Water conditions

- 25 Before a building permit is issued for the dwelling, the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority and Greater Western Water. The owner must pay all costs associated with the preparation, negotiation, registration and enforcement of the agreement. The agreement must provide for the following:
- (a) Wastewater from the development must be treated to a minimum standard of 20 mg/L Biochemical Oxygen Demand (BOD), 30 mg/L Total Suspended Solids (TSS) and 10 cfu/100 mL E.coli ('the 20/30/10 standard') and retained onsite by a wastewater management system.
 - (b) The onsite wastewater management system must be in accordance with the Land Capability Assessment Report prepared by Edwards Environmental dated June 2025 Version 2.0 Report No. 2408ProEdwardsEnv and the accompanying management plan followed and implemented. The Land Capability Assessment may be varied if the responsible authority and Greater Western Water consent in writing.
 - (c) The onsite wastewater management system must have a certificate of conformity issued by the conformity assessment body (or equivalent approval) and be installed, operated and maintained in accordance with the Environment Protection Authority 'EPA Guideline for Onsite Wastewater Management May 2024 (as updated or replaced) and the relevant Australian Standard(s).
 - (d) The onsite wastewater management system must be inspected annually by a suitably qualified person to ensure compliance with the 20/30/10 standard. Following each annual inspection, a written report prepared by a suitably qualified person setting out the condition and operation of the system and the quality of wastewater achieved must be provided to the responsible authority. A copy of the report must be made available to Greater Western Water on request. The owner must pay all costs associated with the inspection and report.
 - (e) The onsite wastewater management system must be desludged at least once every three years and evidence of this must be provided in the following annual report.
 - (f) If identified in the annual report or otherwise required by the responsible authority or Greater Western Water, the owner must upgrade or carry out works on the onsite wastewater management system to achieve the 20/30/10 standard as soon as reasonably practicable and within any specified time. Such works must be at the cost of the owner and documented and reported to the responsible authority and Greater Western Water.

- (g) Wastewater must be applied to the wastewater disposal area via sub-surface pressure-compensating irrigation installed along the contour.
- (h) The wastewater disposal area must be:
 - i sized and located in accordance with the Land Capability Assessment and EPA Guideline for Onsite Wastewater Management May 2024 (as updated or replaced)
 - ii shown on the plans approved and endorsed by the responsible authority, including any fencing shown on the Land Capability Assessment site plans
 - iii identified by signage discouraging access
 - iv kept free of paving, driveways, patios, fences, building extensions, sheds, children's playgrounds and utility service trenching
 - v planted with appropriate vegetation to maximise its performance.
- (i) Stormwater must be:
 - i diverted away from the wastewater disposal area.
 - ii managed to minimise the risk of erosion of the surrounding land.
 - iii Wastewater must be dispersed using methods that prevent waste and treated waste from discharging from the land at all times.
- (j) All actions and recommendations contained within the Integrated Land Plan prepared by Natural Resource Link Pty Ltd Rev B Dated June 2025 Job No:2484 or as amended, must be followed and implemented to the satisfaction of Greater Western Water and Macedon Ranges Shire Council.
- (k) During construction, appropriate sediment pollution controls must be used until the disturbed area has been regenerated.
- (l) Low-volume water fittings, such as water-efficient showerheads, dual-flush toilets and tap aerators, must be fitted to all water fixtures.
- (m) Any existing or proposed shed must not be used for the purposes of accommodation or contain facilities that result in the discharge of wastewater

CFA conditions

26 Endorsement of Bushfire Management Plan

Before the development starts, the Bushfire Management Plan prepared by NR Links (Reference No: 2484 (Revision B) dated 12 June 2024) must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

Department of Environment Energy and Climate Change conditions

27 Notification of permit conditions

Before works start, the permit holder must advise all persons undertaking the vegetation removal works on site of all permit conditions pertaining to native vegetation protection.

28 Protection of native vegetation to be retained

Before works start, a native vegetation protection fence must be erected to protect all native vegetation to be retained within 15 metres of the works area. This fence must be erected at:

- (a) A radius of 12 times the diameter of the tree trunk at a height of 1.4 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree; and
- (b) Around the patch(es) of native vegetation at a minimum distance of 2 metres from retained native vegetation.

The fence must be constructed of star pickets and paraweb or similar, to the satisfaction of the responsible authority and the Department of Energy, Environment and Climate Action. The protection fence must remain in place until all works are completed to the satisfaction of the department.

29 Except with the written consent of the department, within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:

- i Vehicular or pedestrian access;
- ii trenching or soil excavation;
- iii storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;
- iv construction of entry and exit pits for underground services; or
- v any other actions or activities that may result in adverse impacts to retained native vegetation

Expiry

30 This permit as it relates to use and development will expire if one of the following circumstances applies:

- (a) The development is not started within two years of the date of this permit.
- (b) The development is not completed within four years of the date of this permit.
- (c) The use is not started within four years of the date of this permit.
- (d) The use is discontinued for a period of two years.

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.

– End of conditions –

