



**S96A Planning Scheme Amendment and  
Permit Application Planning Report**  
14-40 & 42-60 Wills Street & 98 King Street, Warragul 3820  
Prepared for Advantage All Group Pty Ltd, November 2022



## Contents

<b>1</b>	<b>Introduction .....</b>	<b>3</b>
1.1	Overview .....	3
1.2	Background to PSA Request .....	5
<b>2</b>	<b>Site Context.....</b>	<b>7</b>
2.1	The Site.....	7
2.2	The Surrounds .....	9
<b>3</b>	<b>The Proposal .....</b>	<b>11</b>
3.1	Planning Scheme Amendment .....	11
3.2	Subdivision .....	14
3.3	Background Reports.....	15
<b>4</b>	<b>Planning Provisions .....</b>	<b>22</b>
4.1	Existing Zoning.....	20
4.2	Overlays.....	25
4.3	Particular Provisions.....	34
<b>5</b>	<b>Policy Context .....</b>	<b>35</b>
5.1	Planning Policy Framework .....	35
5.2	Relevant Strategic Documents .....	39
5.3	Ministerial Directions .....	40
5.4	Planning Practice Notes.....	41
<b>6</b>	<b>Assessment of the Planning Scheme Amendment .....</b>	<b>42</b>
6.1	Introduction.....	42
6.2	Why is the amendment required? .....	42
6.3	How does the amendment implement the objectives of planning in Victoria?.....	43
6.4	How does the amendment address any environmental effects, social and economic effects?.....	44
6.5	Does the amendment address any relevant bushfire risk? .....	45
6.6	Does the amendment comply with the requirements of any other Minister’s Direction applicable to the amendment? .....	45
6.7	How does the amendment support or implement the Planning Policy Framework and any adopted State policy?.....	45
6.8	If the planning scheme includes a Local Planning Policy Framework, how does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?.....	48
6.9	If the planning scheme includes a Municipal Planning Strategy, how does the amendment support or implement the Municipal Planning Strategy? .....	49
6.10	Does the amendment make proper use of the Victoria Planning Provisions? .....	49
6.11	How does the amendment address the views of any relevant agency? .....	50
6.12	Does the amendment address the requirements of the Transport Integration Act 2010? .....	50
<b>7</b>	<b>Assessment of the Planning Permit Application .....</b>	<b>51</b>
7.1	Subdivision .....	51
7.2	Buildings and Works.....	52
7.3	Environmental Considerations .....	52
<b>8</b>	<b>Conclusion.....</b>	<b>54</b>

**APPENDIX A:** Stormwater Management Strategy prepared by Incitus (November 2021)

**APPENDIX B:** Ecological (Flora and Fauna) Assessment prepared by Paul Kelly & Assoc. (April 2022)

**APPENDIX C:** Engineering Services Report prepared by Taylor Miller (July 2021)

**APPENDIX D:** Giant Gippsland Earthworm and Warragul Burrowing Crayfish Report prepared by Invert-Eco Pty Ltd (February 2021)

**APPENDIX E:** Warragul Burrowing Crayfish Translocation Proposal prepared by Invert-Eco (October 2022)

**APPENDIX F:** Dwarf Galaxias Targeted Investigation, prepared by Streamline Research (November 2022)

**APPENDIX G:** Waterway Management Plan prepared by Habitat Creations (October 2021)

**APPENDIX H:** Cultural Heritage Management Plan (CHMP) prepared by Tim Stone

**APPENDIX I:** Bushfire Risk Assessment prepared by BAL Assessments (April 2022)

**APPENDIX J:** Preliminary Tree Assessment prepared by Drouin Tree Services (May 2022)

**APPENDIX K:** Traffic Impact Assessment Report prepared by Transport & Traffic Solutions (December 2021)

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# 1 Introduction

## 1.1 Overview

This Planning Report has been prepared by Echelon Planning on behalf of Freeway Business Park Pty Ltd in support of a combined rezoning request and planning permit application (pursuant to Section 96A of the *Planning and Environment Act 1987*) for the land at 14-40 and 42-60 Wills Street and 98 King Street, Warragul (more formally Lot 1, 2, 3 and 4 PS901914) (the subject site; refer to **Figure 1**). The report provides an outline of the proposed amendment to the Baw Baw Planning Scheme, an assessment against the relevant Ministerial Directions, Planning Practice Notes and relevant Planning Provisions, and an assessment of the proposed subdivision of Lot 3 PS901914 comprising the site.



Site Context Plan



Figure 1. Site Context Plan





The **Planning Scheme Amendment (PSA)** request seeks to rezone the developable parts of the site that are currently in the Urban Floodway Zone (UFZ) to the Industrial 1 Zone (IN1Z) and apply a Design and Development Overlay (DDO--) with new bespoke schedule to the developable land. This rezoning will facilitate the following economic, environmental and social benefits:

- The development of the Freeway Business Park, including the provision of an extended area of industrial land available, which will provide local investment and employment opportunities.
- Improvements to the drainage of the site.
- Improvements to ecological values and provision of public access to a waterway.
- A planning approach that will ensure the site is developed in a coordinated manner regarding the lot layout, movement network, urban design outcomes, landscaping, interface treatments, and environmental outcomes.

The proposed PSA is supported and endorsed by technical assessments that consider the impact of the rezoning on issues including floodway management, flora and fauna, vegetation, bushfire risk, cultural heritage, transport and servicing requirements. These assessments are attached to this planning report and comprise the following:

- Stormwater Management Strategy prepared by Incitus Pty Ltd (November 2021), with additional advice memo (10 August 2022).
- Ecological (Flora and Fauna) Assessment prepared by Paul Kelly & Associates (April 2022)
- Engineering Servicing Report prepared by Taylor Miller Consulting (October 2020)
- Giant Gippsland Earthworm and Warragul Burrowing Crayfish Report prepared by Invert-Eco Pty Ltd (February 2021)
- Warragul Burrowing Crayfish Translocation Proposal (November 2022)
- Dwarf Galaxias Survey Prepared by Streamline Research (November 2022)
- Waterway Management Plan prepared by Habitat Creations (October 2021)
- Cultural Heritage Management Plan prepared by Tim Stone (October 2020)
- Bushfire Risk Assessment prepared by BAL Assessments (April 2022)
- Preliminary Tree Assessment prepared by Drouin Tree Services (May 2022)
- Traffic Impact Assessment Report prepared by Transport & Traffic Solutions (May 2022).

These assessments and their conclusions are considered in detail in Section 3.3 of this report.

Forming part of this Section 96A application, is a concurrent **Planning Permit Application** seeking the subdivision of Lot 3 PS901914 to achieve the following:

- A loop road of 15,964sqm through the site that provides efficient vehicle access and that separates the industrial lots from the proposed realigned waterway and the Princes Highway.
- A drainage reserve of 26,304sqm which incorporates the realigned waterway (non-developable land).
- A proposed lot layout, which provides 24 lots with a range of sizes from 662sqm to 6,050sqm to facilitate diverse commercial opportunities.
- Removal of native vegetation (one river red gum in the proposed drainage reserve).

The following documents are provided for this aspect of the proposal:

- Subdivision Concept Plan prepared by Advantage All (9 May 2022)
- Draft Plan of Subdivision PS909160L prepared by Linear Land Surveying (6 May 2022)
- Landscape Concept Plan prepared by Advantage All (4 May 2022).

Separate to this Section 96A request, planning permits will be sought to use and develop the developable land comprising the subject site once the land is rezoned to IN1Z and the DDO—is applied.

Existing permits and applications relevant to the subject site include:

- Proposed childcare centre, located on Lot 4 PS901914. A planning permit is currently being sought separately by Advantage All from Council for this application
- Proposed factoryettes located on Lot 1 PS901914. A planning permit is currently being sought by the landowner from Council for this application
- An existing industrial building located on Lot 2 PS901914 is subject to a current planning permit allowing expansion of this building (Planning Permit PLA03247/21).

## 1.2 Background to PSA Request

Advantage All have consulted with the West Gippsland Catchment Management Authority (WGCMCA) on the flood modelling for the site, and the authority has provided a letter stating that they are willing to support the rezoning and subsequent development of the land subject to the endorsement of a Waterway Management Plan and a Stormwater Management Plan, and the payment of a waterway offset. Further details can be found in the letter

from the WGCMA that is included with the Stormwater Management Strategy (November 2021) (refer to **Appendix A**).

Advantage All also provided Council with a draft version of the amendment documentation in early 2021, and Council provided its preliminary views in relation to the proposal. Based on the feedback (including an email from James Reid, Director Planning and Development, dated 10 May 2021), an amendment request was prepared and lodged with DELWP which addressed the matters raised including the site's environmental features and visual prominence from the freeway.

Through the Development Facilitation Program assistance from DELWP over the last year, additional Council and other stakeholder feedback has been received and incorporated into the current version of the proposal. This application is a revised version of what has been lodged previously with DELWP, with the use and development of the developable land omitted at DELWP's request. These use and built form components will now form part of a separate planning permit application with Council (once the PSA has been approved).

## 2 Site Context

### 2.1 The Site

The amendment applies to 14-40 and 42-60 Wills Street and 98 King Street, Warragul (subject site), which is land situated within a largely industrial area of Warragul, approximately 1km south-west of the city centre (refer **Figure 1**). The subject site is irregular in shape and has a frontage of approximately 325m to Wills Street, 11m to King Street and a total site area of 9.758ha. The site comprises four titles which are formally known as (refer to **Figure 2**):

- Lot 1 PS901914 (14-40 Wills Street, Warragul)
- Lot 2 PS901914 (14-40 Wills Street, Warragul)
- Lot 3 PS901914 (42-60 Wills Street, Warragul)
- Lot 4 PS901914 (98 King Street, Warragul).

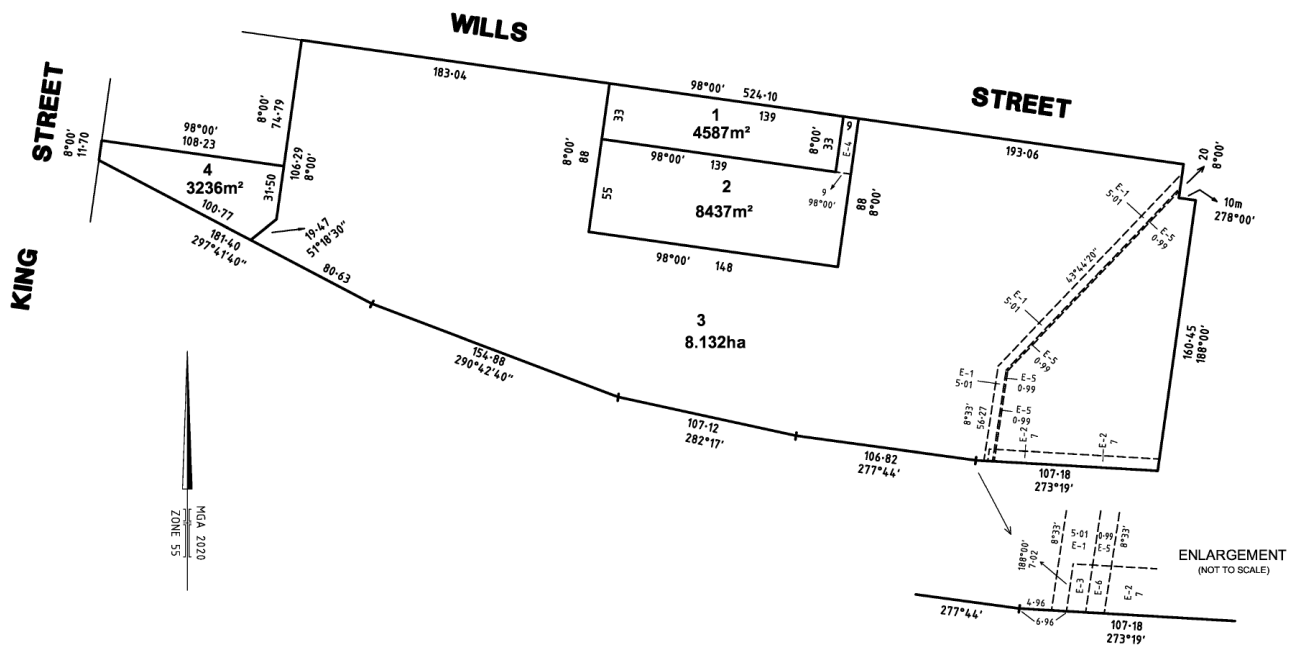


Figure 2. Existing Plan of Subdivision showing 4 titles comprising subject site



## Easements

Lot 2 PS901904 contains a 6m wide carriage easement (E-4) in favour of Lot 1.

Lot 3 PS901904 contains the following easements:

- 5.01m water easement (E-1) which applies diagonally across the site
- 7m wide gas easement (E-2) along the southern boundary
- 7.02m wide gas easements (E-3 and E-6) close to the southern boundary
- 0.99m ancillary pipeline easement (E-5) which applies diagonally across the site.

## Covenants

Two covenants apply relating to these above easements (Covenant J268855 and J917080). These covenants relate to the water and gas easements located in the eastern part of the site and are in favour of the Warragul Waterworks Trust and the Gas & Fuel Corporation.

Covenant J268855 requires the consent of the proprietor/trustee to erect on any part of the easement any building or structure or place therein any of the servient tenement to a greater depth of one foot. Covenant J917080 requires the consent of the proprietor/trustee/grantor to cultivate, dig or excavate to a depth greater than one foot or plant or permit to be planted any trees, shrubs on the easement, or excavate, drill, install, erect, or permit to be excavated, drilled, installed, or erected on or under the servient tenement or any part, any pit, well, foundation, pavement or other structure or installation.

Neither covenant would prevent the issue of a planning permit for the subdivision proposed as part of the amendment.

## Topography

The proposal includes the construction of road reserve within the easement, and while this is not prohibited by the covenants, the consent of the Warragul Waterworks Trust and the Gas & Fuel Corporation will need to be obtained. Additionally, the relocation of Hazel Creek will not interfere with the operation of either easement and the necessary protection measures will be implemented when construction is taking place.

The site slopes from the 115m above AHD high point on the northern boundary to approximately 108m above AHD on the southern boundary. Hazel Creek, a local watercourse, runs in a generally easterly direction through the site from the south-west. As noted in the Stormwater Management Strategy, Hazel Creek is currently overgrown with weeds and possesses little ecological value in its current state.

The site mostly contains cleared land previously used for pasture, as well as two industrial buildings, each with an access point from Wills Street and unsealed car parking and loading areas. The western building will be demolished to facilitate future development. The eastern building will be retained and has a planning permit to construct a new office extension. The existing building is approximately 14.5m high.

The site has varying topography affected by Hazel Creek and another minor watercourse in the west part of the site. The land slopes downward from north to south and undulates west to east across Wills Street. There is a river red gum tree in the south-western corner of the site and some roadside plantings on Wills Street with species that are not indigenous to Victoria (refer to the Biological Features plan from Appendix 1 of the Ecological (Flora and Fauna) Assessment (April 2022)) (**Appendix B**). No remnant patches of native vegetation or scattered trees were recorded.

As detailed in the Engineering Services Report prepared by Taylor Miller (July 2021) (refer **Appendix C**), there are existing electrical, gas, water, sewer and telecommunications services in close proximity to the site.

The primary vehicle access to the site is from Wills Street where there are currently two formed access points. The site also has frontage to King Street, where future vehicle access can be provided, and to the Princes Highway, where no future vehicle access will be possible.

## 2.2 The Surrounds

Land surrounding the site is characterised by under-utilised industrial zoned land, and includes the following:

- **North:** The site is bounded by Wills Street. Further north are a number of community and education facilities including a skills centre, a regional college and a church, and residential areas.
- **East:** The site is mostly bordered by cleared land previously used for pasture, as well as Howitt Street, which provides access to Warragul Town Centre.

- **South:** The site is bordered by vegetation and Hazel Creek, as well as the Princes Highway, and public open space further to the south. The Princes Highway verge includes mature tree planting between the highway and the subject site.
- **West:** The site adjoins existing developed industrial sites and is also bounded by King Street, and further west, several detached dwellings on large residential lots.



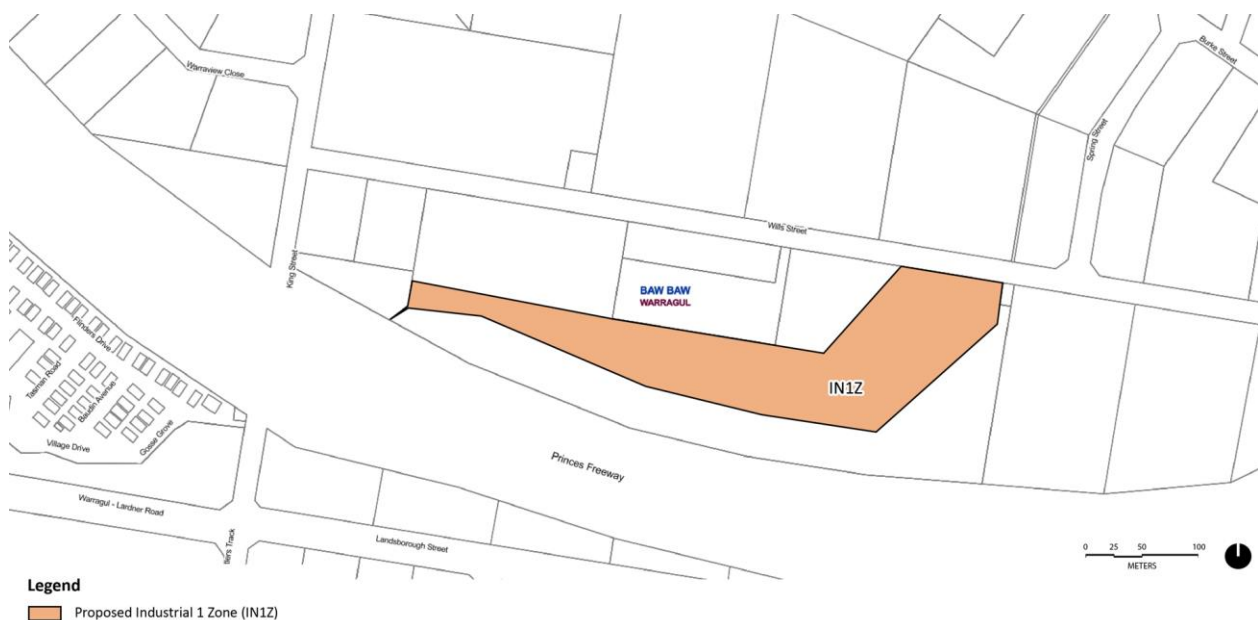
## 3 The Proposal

### 3.1 Planning Scheme Amendment

The S96A PSA proposal is to rezone approximately 2.89ha of the subject site from UFZ to IN1Z (refer to **Figure 3** below – Lots 3 and 4 PS901914 each contain land to be rezoned), and to apply the DDO with a bespoke schedule labelled “Freeway Business Park” to the developable land comprising the site (Lots 1-4 PS901914 each contain land to be affected by the new DDO--). The PSA will facilitate:

- The creation of additional industrial land within an existing industrial precinct near key transport and commercial uses, such as the Princes Highway, Warragul Railway station, and the town centre; and
- Improvements to the drainage of the site and public access to a realigned waterway.

The UFZ will continue to apply to the proposed re-aligned waterway and areas outside the subject site, including land immediately east of the site at 74-110 Wills Street as well as part of the reserve situated further south of the site on the south-western side of the Princes Highway.



**Figure 3.** Area proposed for rezoning to IN1Z

To enable the site to effectively function for future industrial uses and achieve the above improved drainage outcomes, it is proposed to transform Hazel Creek to a constructed waterway and realign it to be along the boundary of the Princes Highway.

Additionally, the site will also provide an 8m wide trapezoidal channel along its western boundary within Lot 3 to the drainage reserve, a split wetland straddling the aforementioned gas easement, and a clean-out of Hazel Creek on the neighbouring property to the east to remove overgrown weeds and improve water flows. This latter item has been agreed to by the adjoining landowner and WGMCA.

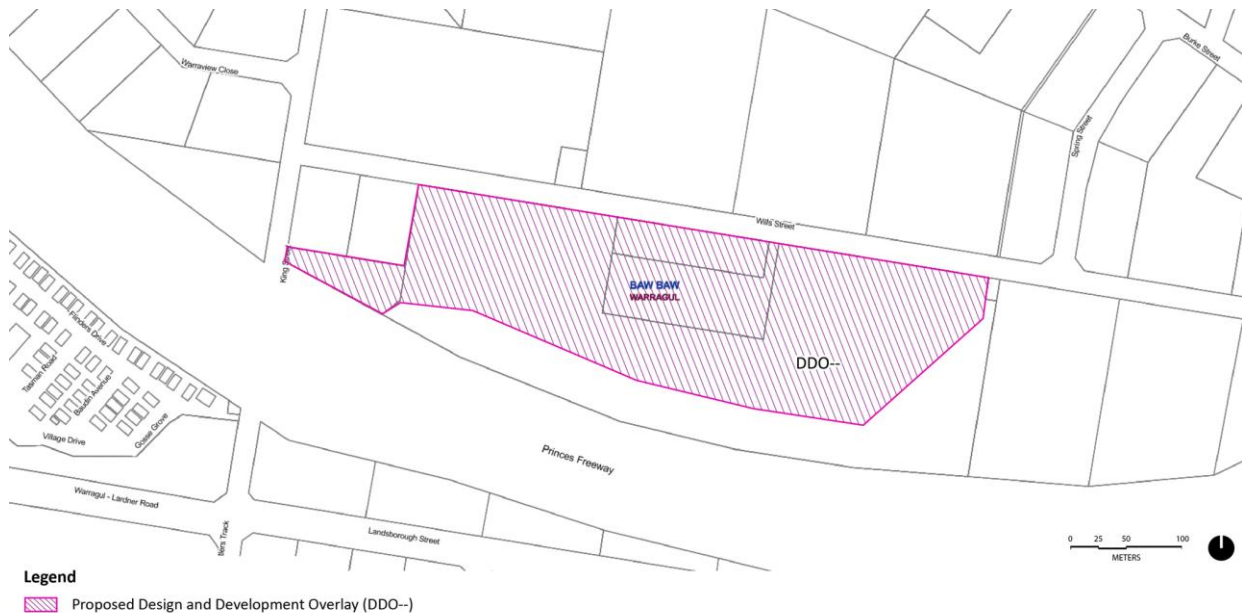
Through applying the **Design and Development Overlay (DDO)** (refer to **Figure 4** overleaf) with bespoke schedule "Freeway Business Park" to the developable land comprising the subject site, the proposed Section 96A PSA requires consideration of (refer to draft DDO schedule):

- Built form up to 15m on the two large lots in the centre of the site; one of these sites includes an existing 14.5m building that is to be retained.
- Built form up to 12m on the medium sized lots to the east of the existing 14.5m building; this part of the site is separated from the waterway and nearby residential land and so is less visually sensitive.
- Lower scale built form up to 10m on the smaller lots on the remainder of the site, providing a transition between the taller built form elements to the waterway and the residential land.
- The identification of a sensitive interface to the creek (and the highway beyond) where additional design treatments will need to be incorporated.
- The key pedestrian and cycle link through the site, and locations for pedestrian crossings.
- Design objectives:
  - *To ensure development of the Freeway Business Park is of high quality urban design and provides appropriate interface treatments to Hazel Creek, the Princes Freeway and residential areas.*
  - *To introduce high quality landscape treatment to the site that contributes positively to the overall character and amenity of the Freeway Business Park.*
  - *To facilitate public access to the new wetland.*
  - *To enhance environmental values biodiversity at the site including habitat for the Warragul Burrowing Crayfish, Dwarf Galaxias and other native species.*

- The following Buildings and works requirements:
  - *Building heights should respond to the building heights plan shown at Figure 1.*
  - *A landscaping strip must be provided along and within the frontage and along and within a side street boundary.*
  - *Trees or shrubs should be included as part of the landscaping treatment to the frontage of the lots.*
  - *Car parking should not be provided in the landscape setback area.*
  - *Sympathetic landscaping and screening should be provided for the side and rear of lots facing Hazel Creek, the Princes Highway, and residential areas.*
  - *Contemporary and creative architecture is encouraged in the design, built form, style and finishes. Articulated building facades should be provided.*
  - *A colour and materials palette should be adopted that responds to the wider landscape.*
  - *All structures on rooftops, including air conditioning units and fans, must be appropriately screened to address any visual amenity issues.*
  - *External storage areas and garbage receptacles must be screened and adequately distanced from sensitive uses.*
  - *All driveways and car parking areas at the front of the site must be constructed of an impervious all-weather seal coat such as concrete or bitumen and drained to the satisfaction of the responsible authority.*
  - *Signage should be integrated within the building design.*
  
- Decision guidelines to consider, as appropriate:
  - *The impact of the development on the amenity and streetscape of the area and particularly having regard to the proximity of Hazel Creek, the Princes Freeway, and residential areas.*
  - *The impact of the development on environmental values and biodiversity of the site.*
  - *The design and layout of the proposed development including setbacks from property boundaries.*
  - *The proposed landscape treatment.*
  - *The facilitation of public access to the new wetland.*
  - *The need to ensure that development or works are completed and maintained to a standard appropriate to the site's prominent location.*
  - *Signage shall be confined to simple, clear business identification signs on premises.*



- o Signage identifying the industrial precinct must contribute to the overall design and character of the industrial precinct.



**Figure 4.** Area proposed to be affected by the new DDO--

Consideration had previously been given to applying a Development Plan Overlay (DPO) to the site. Rather than take this approach, design objectives and building and works requirements have been inserted into the requested draft DDO schedule. Given that the development of individual lots will be applied for separately as new planning permit applications following approval of the PSA, it is considered that introducing a DPO is unnecessary.

## 3.2 Subdivision

Forming part of the S96A PSA request is a concurrent planning permit application to subdivide Lots 3 PS901914 of the subject site (refer to **Figure 5** below) to create:

- A loop road of 15,964sqm through the site that provides efficient vehicle access and that separates the industrial lots from the proposed realigned waterway and the Princes Highway.
- A drainage reserve of 26,304sqm which incorporates the realigned waterway.
- A proposed lot layout, which provides 24 lots with a range of sizes from 662sqm to 6,050sqm to facilitate diverse opportunities.
- Create, remove and amend easements (refer to draft Plan of Subdivision PS909160L).

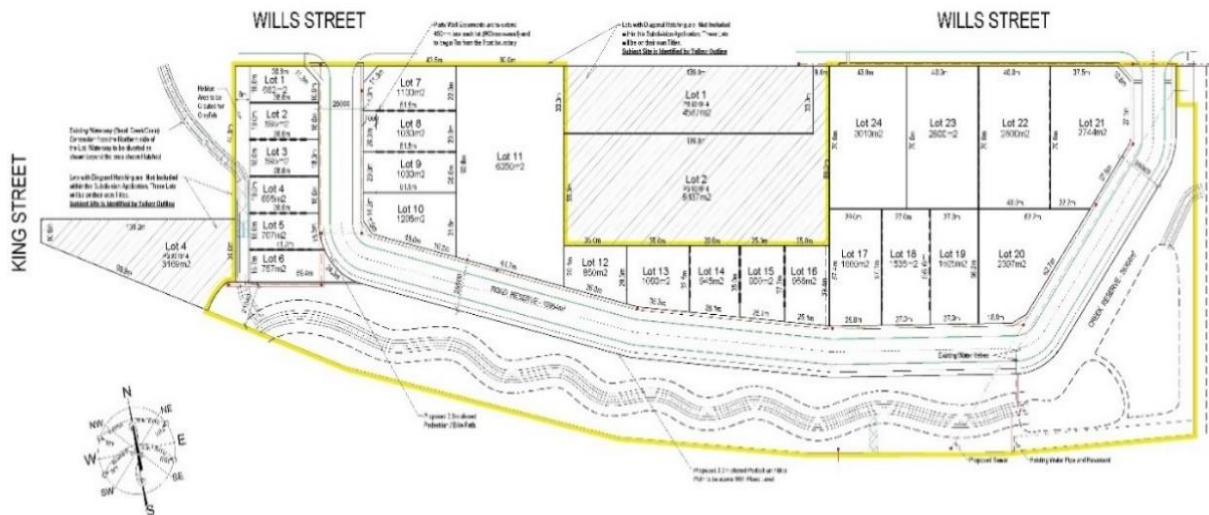


Figure 5: Subdivision Concept Plan (yellow boundary demarks Lot 3 PS901914)

### 3.3 Background Reports

An overview of the background reports, and how they have influenced the proposal, is provided as follows:

#### Stormwater Management Strategy prepared by Incitus Pty Ltd (November 2021) (Appendix A)

A Stormwater Management Strategy is a high-level document, which is required to demonstrate at application lodgement phase that the site can adequately manage the stormwater conveyed through the site as well as generated from the site. The strategy prepared for the proposal satisfactorily demonstrates that. Additional detail will be provided through the FLP phase of the project once the permit conditions are received. This level of detail fits with the FLP phase as it is specifically relating to the functional design of the stormwater assets. The Strategy prepared for the proposal:

- Identifies that realigning Hazel Creek will address the current flooding issues and enhance the creek values through the creation of a compound form profile waterway with appropriate vegetation and the potential to incorporate habitat.
- Identifies that an 8m wide trapezoidal channel should also be created along the western boundary to match the existing channel through the adjacent site at 10 Wills St.
- Identifies the minor and major drainage systems and stormwater quality treatment measures.

- Includes a referral letter and a letter of support from the West Gippsland Catchment Management Authority.
- The proposal responds by incorporating the drainage reserve designs prepared by Incitus.

**Ecological (Flora and Fauna) Assessment prepared by Paul Kelly & Associates (April 2022) (Appendix B)**

- The assessment recommends the following:
  - *The management recommendations for GGE and WBC of Invert Eco 2020, be adopted including a briefing of all project personnel as to the biological sensitivities of the site, prior to the commencement of works.*
  - *The proposed drainage reserve incorporates the proposed constructed wetland, online ponds and riffles (Appendix 3) and that the constructed wetland is designed in accordance with Invert Eco 2015.*
  - *Any approved Construction Management Plan for the site incorporate the Salvage and release Protocols for the accidental unearthing of Warragul Burrowing Crayfish (DELWP 2015) and Guidelines for the accidental unearthing of Giant Gippsland Earthworms (DSE 2014).*
  - *Landscaping and revegetation work utilises indigenous species of plants..*
- The assessment identifies that the single scattered tree - a River Red Gum - is to be removed for the remediation, upgrade and maintenance of the drainage reserve and to connect to the existing drainage infrastructure drainage upgrades, and provides a Native Vegetation Removal Report to address this. An offset requirement of 0.042 general habitat units has been calculated to offset the removal of the single tree proposed to be removed.
- It is recommended that permit conditions relating to Flora and Fauna, including the offset of the one native tree, be included on the subdivision planning permit to implement the report recommendations.

**Engineering Servicing Report prepared by Taylor Miller Consulting (July 2021) (Appendix C)**



- Identifies that the 25m road should be constructed in accordance with the current Council, VicRoads and Austroads standards as per the Infrastructure Design Manual (IDM), VicRoads and Austroads Publications.
- Identifies that the site can connect to nearby sewer, water, electricity, telecommunications and gas services.
- The proposal responds by including a 25m industrial street (refer to the Subdivision Concept Plan).

**Giant Gippsland Earthworm and Warragul Burrowing Crayfish Report prepared by Invert-Eco Pty Ltd (February 2021) (Appendix D)**

Giant Gippsland Earthworm (GGE)

- A single Giant Gippsland Earthworm (GGE) specimen was observed on the broader Wills Road Industrial Estate land. This was on Lot 2 PS901914 (shown dashed on the plan below, together with Lot 1). While part of this lot is proposed to be rezoned, this is a paper-based change only. This lot does not form part of Stage 1 that will be subject to works.
- Lot 2 PS901914 has been developed and the habitat for the GGE has been lost. The specimen was located in a small isolated area of the lot surrounded by disturbed land including hardstand. Future works associated with Stage 1 would not impact the land on Lot 2 PS901914 given that this lot has already been developed.
- The small area where the GGE was observed was unique to the site comprising of clay and relatively flat. The land surrounding generally has a greater slope and is wetter and so not a preferred GGE habitat. Hence why no other specimens were found. Therefore, the ability for translocation within the site would have been unlikely.
- Lot 2 PS901914 has been sold and is no longer under the control of the proponent of the PSA/stage 1 development. Given that lot 2 is developed and the amendment proposal is for paper-based changes to the lot only, our view is that the matters raised in regards to GGE are not relevant to the PSA or Stage 1 proposal.

Warragul Burrowing Crayfish (WBC)

- Evidence of Warragul Burrowing Crayfish (WBC) was identified in three main areas.
- The following recommendations are included:
  - *A WBC translocation plan must be developed to determine the methodology required to move the crayfish;*

- *The development of the wetland must follow the design outlined in Warragul Burrowing Crayfish Habitat Protection and Disturbance Mitigation for Planned Wetlands and Retardation Basins (Van Praagh 2015)*
- *A minimum five year monitoring plan must be developed and implemented.*
- *A site induction will ensure all personnel working on site are familiar with the rescue and release guidelines for the accidental unearthing of GGE or WBC See Attachment 2).*
- *Particular care should be taken around the excavation of the site supporting GGE. A spotter could be considered when works in this area are undertaken so that any GGE unearthed might be rescued and translocated to south of the property.*
- It is recommended that permit conditions relating to the WBC be included on the subdivision planning permit to implement the report recommendations.
- We suggest that no conditions are required relating to GGE.

**Warragul Burrowing Crayfish Translocation Proposal prepared by Invert-Eco Pty Ltd (November 2022) (Appendix E)**

- Provides a Translocation Plan/Program to be undertaken with collaboration and support from Baw Baw Shire Council and the West Gippsland Catchment Management Authority. Sets out the tasks and timeframes for the relocation of the crayfish to occur.
- Nominated a translocation site that is in the south-east corner of the subject site (land to be set aside for wetland and drainage purposes).
- Provides guidelines for translocation site habitat design.
- Provides guidelines for trapping, handling and releasing the crayfish.

The 2 key necessities for translocation of the WBC to occur is:

1. The establishment of the wetland; and
2. Weather conditions supporting translocation, which are usually ideal in late winter/spring/early summer. If translocation cannot occur this year (2023), it will need to occur at the same time next year. We can update the Gantt Chart supplied with the Translocation Program accordingly.

- It is recommended that permit conditions relating to the translocation of the WBC be included on the subdivision planning permit to implement the report recommendations.

**Dwarf Galaxias Targeted Investigation, prepared by Streamline Research (November 2022) (Appendix F)**

- 15 sites, both upstream and downstream of the Willis Street development, were surveyed in the Hazel Creek Catchment.
- The assessment concluded that:
  - *Hazel Creek on the Wills Street development property and on the adjoining property is in very poor ecological condition. There is no native riparian vegetation and the channel itself appears to have been graded. There is little aquatic vegetation on the substrate. The channel is trapezoidal, with angled banks and a flat homogeneous bottom which is suspected to have been shaped when the willows were removed.*
  - *The dwarf galaxias was not captured at any of the locations surveyed on Hazel Creek (only on a minor tributary upstream from the site) and given the poor ecological condition of the waterway and surrounds is unlikely to be present anywhere downstream of King Street, Warragul.*
  - *At present there is no instream habitat in Hazel Creek or the minor tributary within the Wills Street development property that is suitable for the dwarf galaxias.*
  - *At present there is no instream habitat in Hazel Creek or the minor tributary within the Wills Street development property that is suitable for the dwarf galaxias.*
  - *New habitats created at the site have the potential to provide improved habitat for the dwarf galaxias but also for GGE and WBC.*

**Waterway Management Plan prepared by Habitat Creations (October 2021) (Appendix G)**

- The Waterway Management Plan identifies pest plant management, WBC management, and the approach to the Hazel Creek realignment and constructed wetland landscaping including plant species schedules.
- The proposal responds by including the landscaping approach and plant species in the Landscaping Concept Plan.

**Cultural Heritage Management Plan (CHMP) prepared by Tim Stone (October 2020) (Appendix H)**

- The CHMP was approved by the Bunurong Land Council on 8 October 2020.
- In addition to the general conditions relating to adherence with the CHMP, induction protocols, and sensitive information protocols, there is a specific condition requiring “RAP and Heritage Advisor to inspect utilities trench during initial stage of industrial estate construction” in an identified “dig zone”.
- The proposal responds by acknowledging the CHMP will need to be followed when development works occur (noting that the permit would usually include a note to this effect).

**Bushfire Risk Assessment prepared by BAL Assessments (April 2022) (Appendix I)**

- Concludes that “the subject properties can be developed in a way that successfully meets the policies as detailed in the Planning Policy Framework (PPF) Clause 13.02”.
- Identifies that no defensible space is required apart from in the south-west corner where the following design features are required on Sites 6 and 7:
  - The southern boundary of Site 7 should include a 5m concrete wall that extends 3m past the front of the building followed by a 1.8m high Colourbond fence. This will act as a Radiant Heat Shield sufficient to allow a BAL-12.5.
  - The western boundary of Sites 6 and 7 should include a minimum 5m concrete wall on the boundary. This will act as a Radiant Heat Shield sufficient to allow a BAL-12.5.
- These recommended design features on Sites 6 and 7 (refer to the plans for Warehouses 5 and 6) have been adopted as part of the separate development buildings and works application that will be lodged with Council following approval of the PSA.

**Preliminary Tree Assessment prepared by Drouin Tree Services (May 2022) (Appendix J)**

- Assesses trees on adjoining properties and road reserves.
- Identifies trees that may need to be removed for the proposed development.
- Identifies that the “TPZs of 3 trees (ID T11, T19 & T20) will be encroached by more than 10%, and/or including encroachment within the SRZ during the construction of the proposed new access roads and footpaths. This is considered a major encroachment (AS 4970 – 2009) and has the potential to significantly impact the health and structure of these trees. Additional controls and tree protection measures...must be implemented during the development process to ensure these trees remain viable.”



- The proposal responds by identifying that the planning permit should include permit conditions relating to these recommendations.

**Traffic Impact Assessment Report prepared by Transport & Traffic Solutions (December 2021) (Appendix K)**

- Identifies that the 27 lot business park development proposal “is adequate from a traffic engineering perspective because it does not have a detrimental impact on the existing road network adjacent to the site including the intersections of Howitt Street (C425)/ Burke Street and Burke Street Spring Street.”.
- Recommends that:
  - *The existing Wills Street 70km/h speed limit be reduced to 60km/h to match the existing posted speed limit on both Burke Street and King Street.*
  - *The proposed driveways providing access to the lots fronting Wills Street and King Street be constructed in accordance with the Infrastructure Design Manual, Standard Drawing No. 250.*
  - *The lower branches of the existing tree located to the west of the existing Lot 1 & 2 access point be trimmed back to ensure a clear view is obtained to and from the west of this access point.*
  - *A pedestrian crossing be provided at the western intersection across Wills Street and the Industrial Street to connect the internal street footpath network to the existing Wills Street footpath.*
  - *The 2.5 metre shared path located adjacent to Lots 2 to 7 be constructed at a 1.0 metre offset from the road reserve boundary.*
  - *A pedestrian crossing be provided at the eastern intersection across the industrial street including a shared path stub on the south side of Wills Street.*
- The proposal response by including the recommended shared path and pedestrian crossings.

## 4 Planning Provisions

This section outlines the planning provisions of the Baw Baw Planning Scheme that are relevant to the subject site. The relevant Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF) are addressed in Section 5.

### 4.1 Zoning

The subject site is currently in the Urban Floodway Zone (UFZ) and Industrial Zone 1 (IN1Z) pursuant to the Baw Baw Planning Scheme, as shown by **Figure 6** on page 21.

The proposal is to remove the UFZ from all developable land comprising the subject site and place this in the IN1Z (refer to **Figure 3** on Page 10).

The UFZ will remain only on the drainage reserve incorporating the realigned waterway.

Pursuant to Clause 37.03, the purpose of the **UFZ** is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.*
- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*
- *To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*

Most land uses are Section 3 prohibited uses in the **UFZ**, making it necessary to seek a rezoning to the **IN1Z** to facilitate use and development of the developable land comprising the site.

Pursuant to Clause 33.01, the purpose of the **IN1Z** is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.*

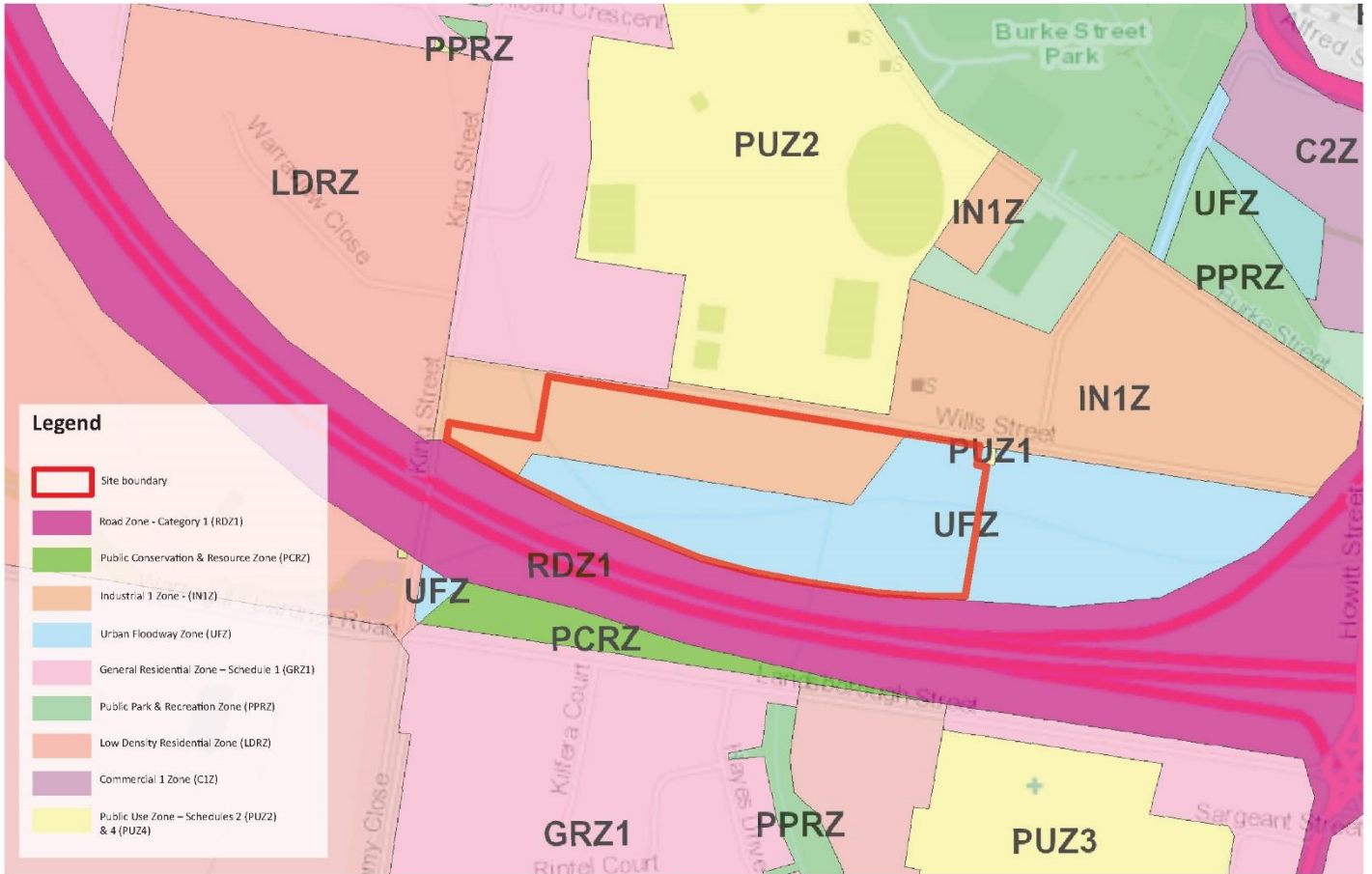
The INZ1 is the most appropriate zoning for the developable land forming the subject site. This is a logical inclusion given that the land in the northern part of the subject site is already in this zone, and the Freeway Business Park concept seeks to provide additional employment uses focusing on warehouses and industrial uses. The proposal will apply the IN1Z to land that is contiguous with existing INZ1 land and will be separated from other nearby land uses by roads (Wills Street and the Princes Highway).

For the subdivision and works associated with the subdivision, the permit triggers under the **IN1Z** are as follows:

- To subdivide land (pursuant to Clause 33.01-3).
- To construct or carry out works (pursuant to Clause 33.01-4).

For the subdivision and drainage/waterway works associated with the subdivision, the permit triggers under the **UFZ** are as follows:

- To subdivide land (pursuant to Clause 37.03-3).
- To construct or carry out works (pursuant to Clause 37.03-2).



**Zoning Plan**



*Figure 6. Zoning affecting the subject site (existing)*



## 4.2 Overlays

### 4.2.1 Existing Overlays to continue affect subject site

The site is subject to the following existing overlays that will continue to affect various parts of the subject site (refer to **Figures 7 to 11** on pages 26 to 29):

- Environmental Significance Overlay – Schedule 4 (ESO4), ‘Giant Gippsland Earthworm Habitat’ (refer **Figure 7**).
- Design and Development Overlay – Schedules 8 (DDO8), ‘Warragul Hospital Emergency Medical Services Helicopter Flight Path Protection (Inner Area)’ and 9 (DDO9), ‘Warragul Hospital Emergency Medical Services Helicopter Flight Path Protection (Outer Area)’ (refer **Figure 8**).
- Special Controls Overlay – Schedule 1 (SCO1) – This applies to the DDO8 and DDO9 land and identifies that land within the overlay is subject to the “Hospital Emergency Medical Services - Helicopter Flight Path Protection Areas Incorporated Document (June 2017)” (refer **Figure 9**).
- Floodway Overlay (FO) – a very small portion of the adjacent overlay on the property to the south crosses into the site (refer **Figure 10**)
- Land Subject to Inundation Overlay (LSIO) – a very small portion of the adjacent overlay on the property to the south crosses into the site (refer **Figure 10**).
- Development Contribution Plan Overlay – Schedule 1 (DCPO1) ‘Baw Baw Shire Development Contributions Plan’ (refer **Figure 11**).

Per Clause 42.01, the purpose of the **ESO** includes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*

Relevant objectives as at Clause 2.0 of the **ESO4** are:

- *To protect and maintain populations and habitat of Giant Gippsland Earthworm.*
- *To ensure that the type, density, design and layout of works or development avoids and/or minimises adverse impacts on individuals, colonies or the habitat requirements of the Giant Gippsland Earthworm.*

Pursuant to Clause 43.02, the purpose of the **DDO** includes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Per Clauses 1.0 and 2.0 of both the **DDO8** and the **DDO9**, relevant objectives include:

- *To ensure that the height of buildings and works do not encroach on the flight path areas associated with the Warragul Hospital helicopter landing site.*
- *To ensure that the height of development avoids creating a hazard to aircraft using the Warragul Hospital helicopter landing site.*

As at Clause 44.03, the purpose of the **FO** is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.*
- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*
- *To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.*
- *To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health*

As at Clause 44.04, the purpose of the **LSIO** is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.*

- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To minimise the potential flood risk to life, health and safety associated with development.*
- *To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*
- *To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.*

As at Clause 45.06, the purpose of the **DCPO** is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.*

**Schedule 1 to the DCPO** identifies areas within Warragul and Drouin where development contribution levies apply. The subject site is within areas 17a and 17b. The overlay includes levies for industry and business uses within these areas which would apply to the future development of the site. The rezoning will enable Council to collect more contributions as it will allow for additional floorspace to be developed on the site.

As at Clause 45.12, the purpose of the **SCO** is:

- *To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.*

For the planning permit application, the permit triggers under the relevant existing overlays are as follows:

#### Buildings and works

- To construct a building and construct or carry out works in an Environmental Significance Overlay (pursuant to Clause 42.01-2).

- To undertake new roadworks not associated with the maintenance of an existing road in the Environmental Significance Overlay (pursuant to Clause 3 of Schedule 4 of the Environmental Significance Overlay).
- To construct bicycle pathways and trails in the Environmental Significance Overlay (pursuant to Clause 42.01-2).
- To remove, destroy or lop any vegetation, including dead vegetation, in the Environmental Significance Overlay (pursuant to Clause 42.01-2).
- To carry out works in a Floodway Overlay (pursuant to Clause 44.03-1).
- To carry out works in a Land Subject to Inundation Overlay (pursuant to Clause 44.03-1)

#### Subdivision

- To subdivide land in the Environmental Significance Overlay (pursuant to Clause 42.01-2).
- To subdivide land in the Design and Development Overlay (pursuant to Clause 42.02-3) (DDO8, DDO9).

There is no permit trigger under the SCO1, as the proposal does not seek the construction of buildings greater than the DDO referral heights of 145.4m and 155.4m above AHD. The highest part of the site is 115m above AHD.

#### **4.2.2 Proposed Design and Development Overlay -- to affect subject site**

The S96A amendment seeks to apply a Design and Development Overlay with a new bespoke schedule (Freeway Business Park) to the developable parts of the subject site (refer to **Figure 4** on Page 12). The proposed bespoke schedule to the Design and Development Overlay includes the following Design objectives:

- *To ensure development of the Freeway Business Park is of high quality urban design and provides appropriate interface treatments to Hazel Creek, the Princes Freeway and residential areas.*
- *To introduce high quality landscape treatment to the site that contributes positively to the overall character and amenity of the Freeway Business Park.*
- *To facilitate public access to the new wetland.*
- *To enhance environmental values biodiversity at the site including habitat for the Warragul Burrowing Crayfish, Dwarf Galaxias and other native species.*

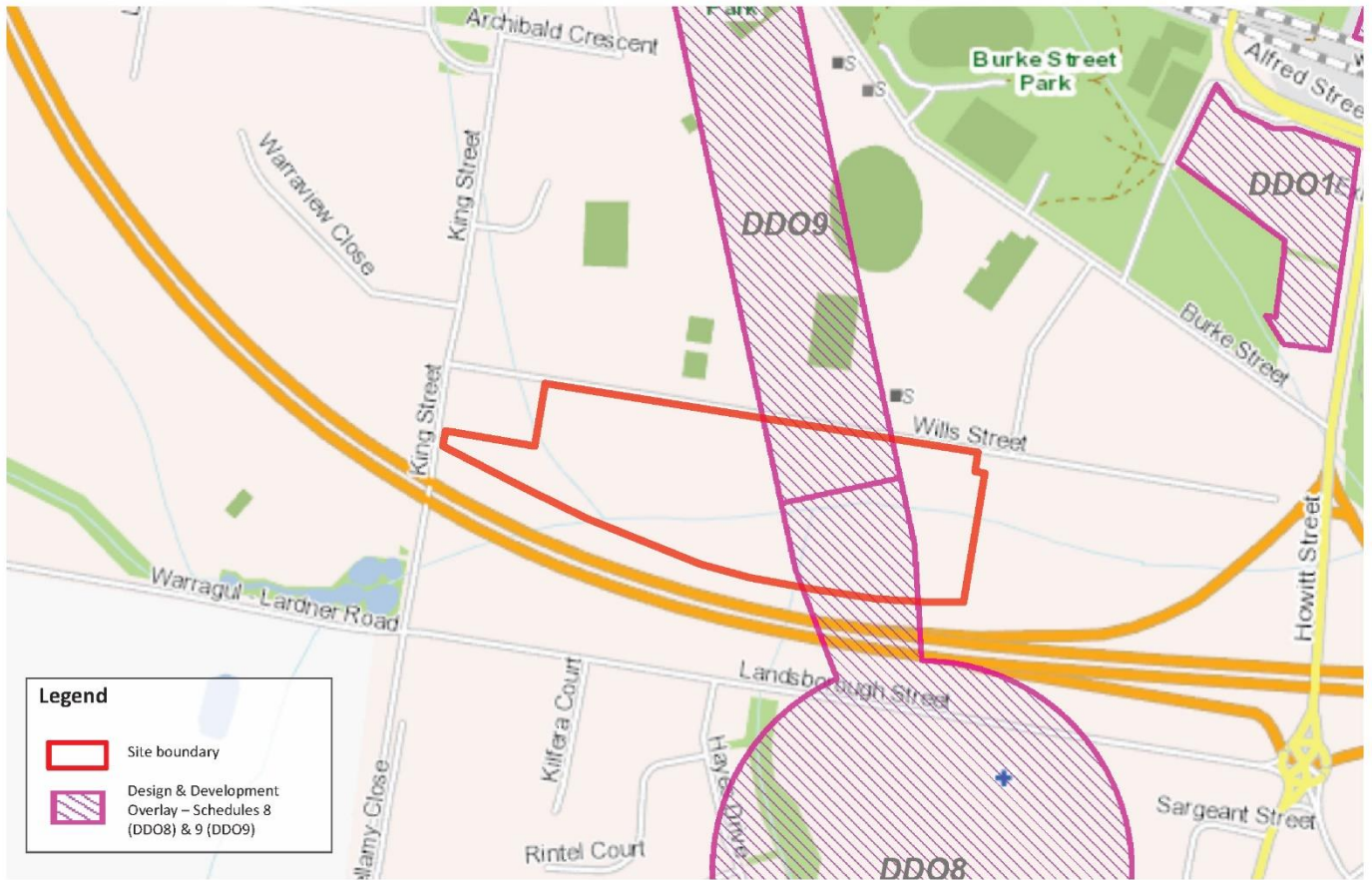
For the planning permit application combined with this amendment, the permit trigger under the proposed DDO-- is to subdivide land (pursuant to Clause 42.02-3).





**Overlays Plan – Environment & Landscape**

*Figure 7. Subject site in relation to ESO4*



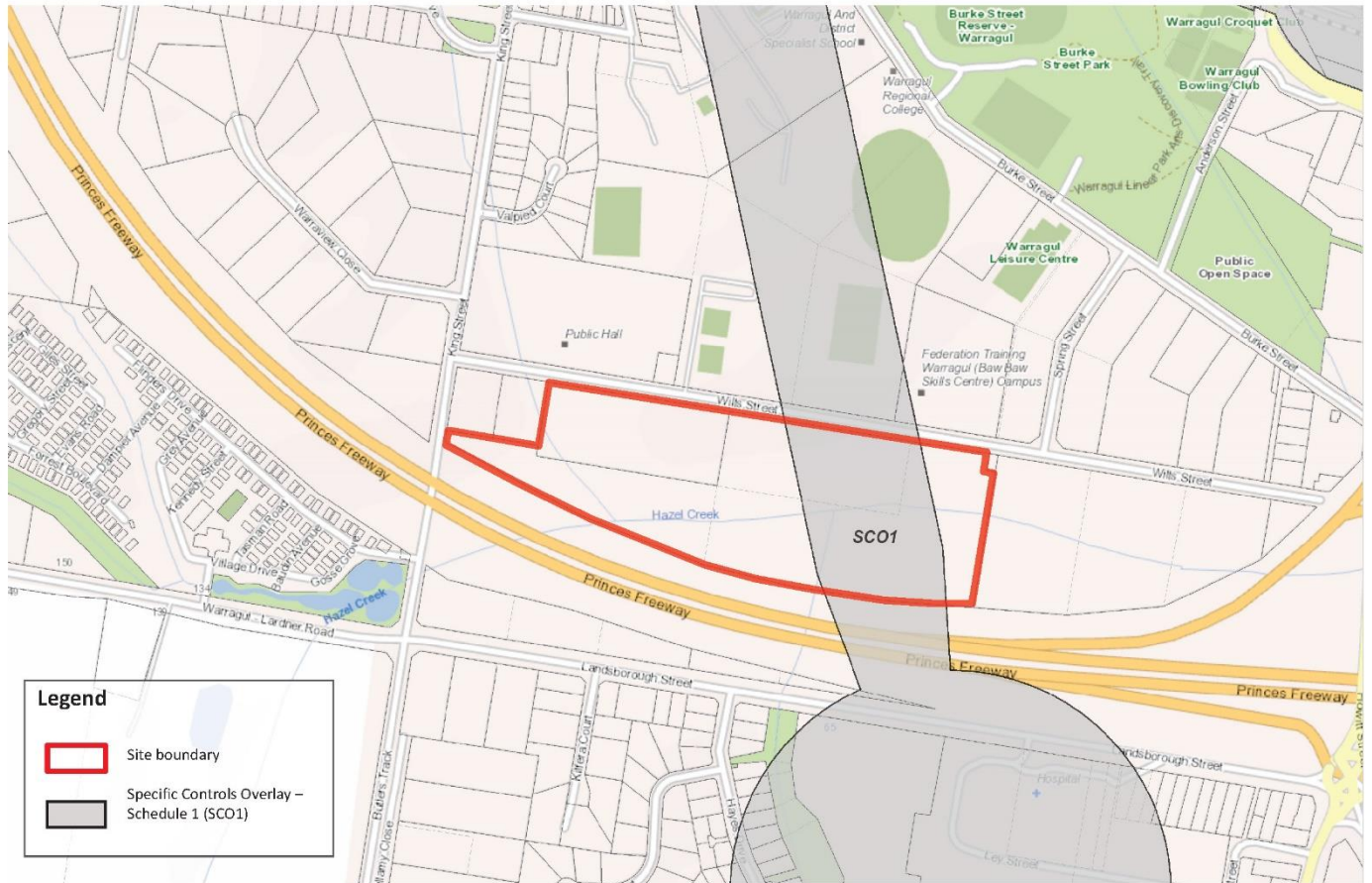
**Overlays Plan – Heritage & Built Form**



*Figure 8. Subject site in relation to DDO8 & DDO9.*



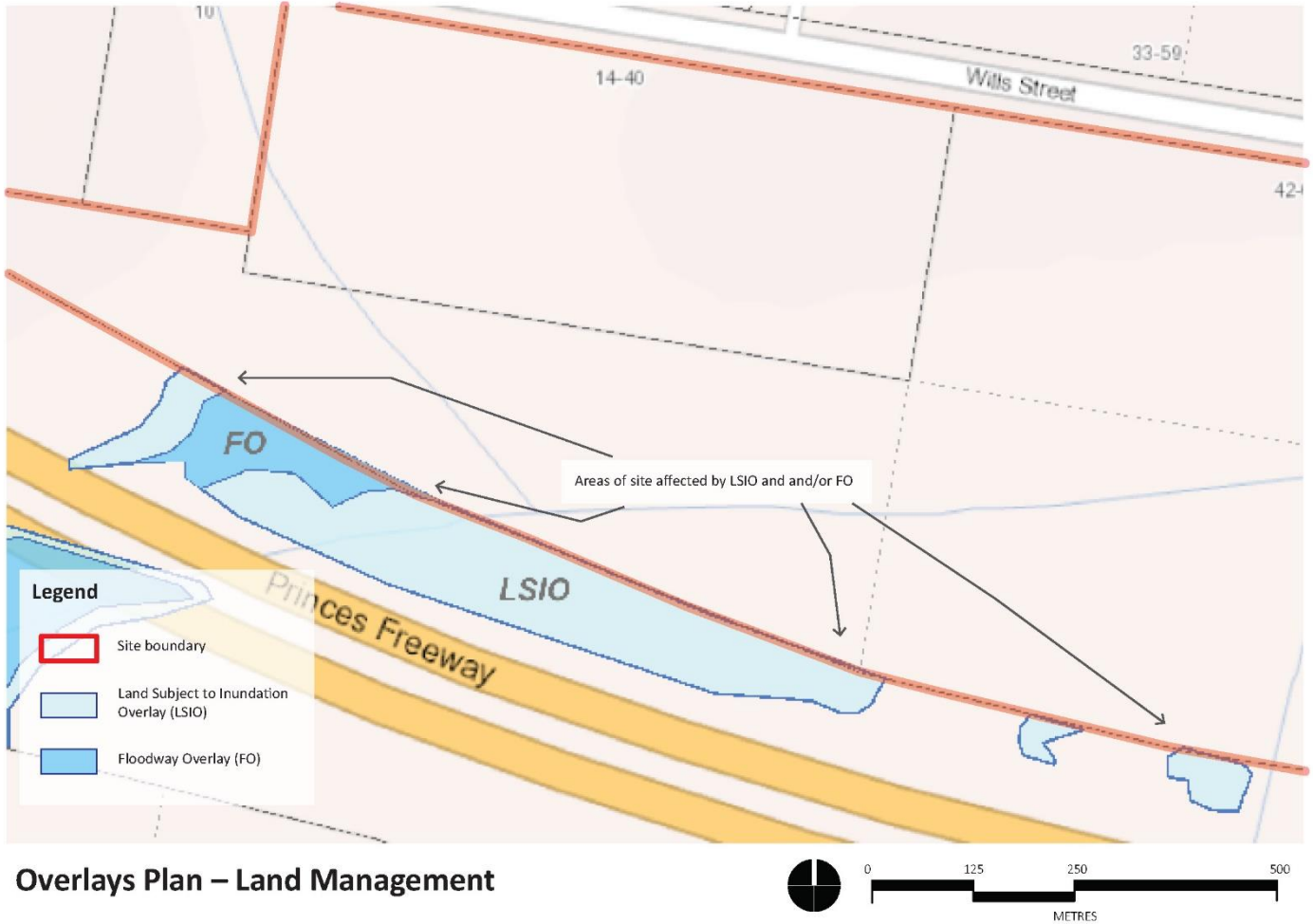




**Overlays Plan – Other**



*Figure 9. Subject site in relation to SCO1*



**Overlays Plan – Land Management**

*Figure 10. Subject site in relation to FO and LSIO*





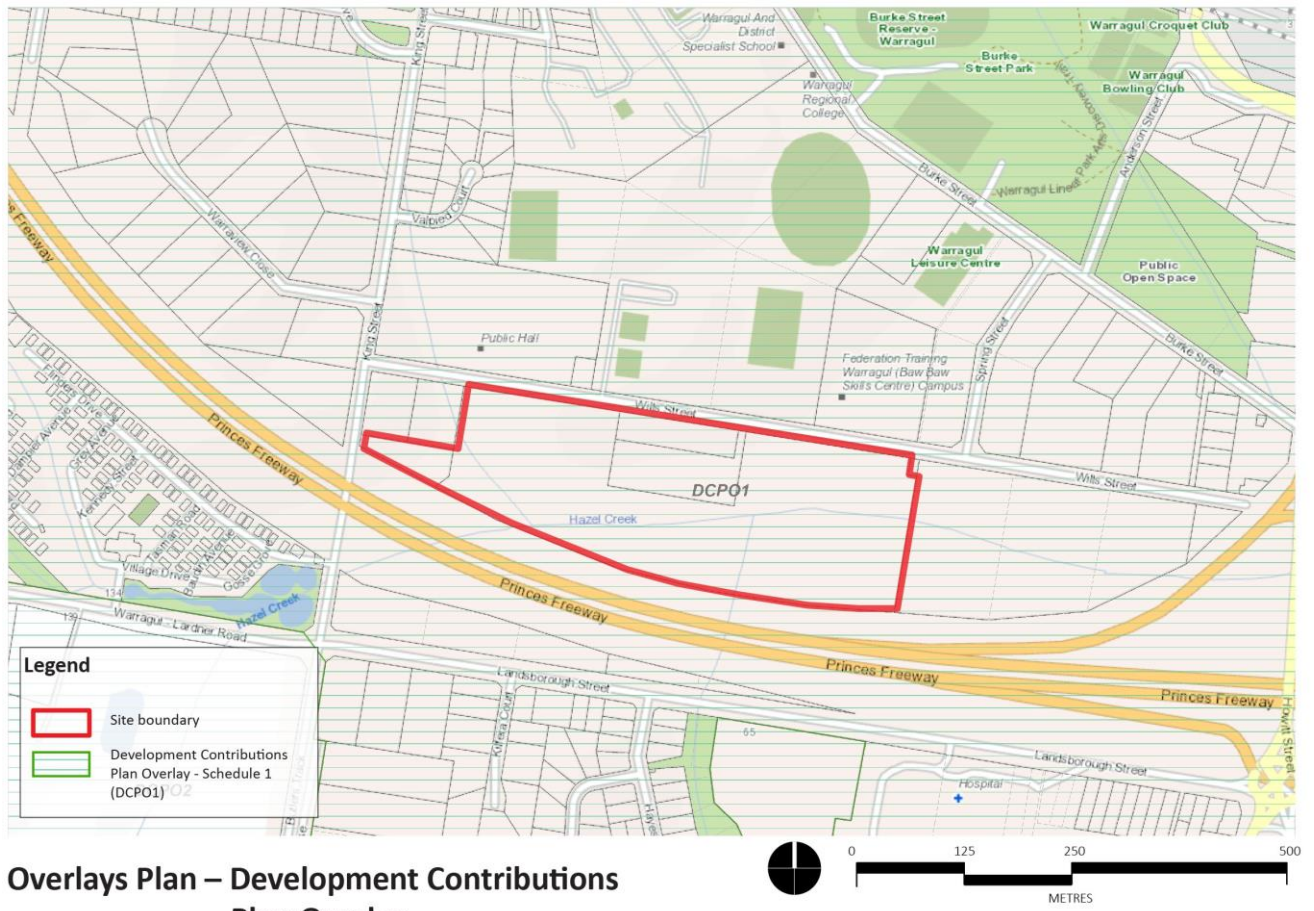


Figure 11. Subject site in relation to DCPO

### 4.3 Particular Provisions

In consideration of the Particular Provisions of the Baw Baw planning scheme, a planning permit will be required under:

- **Clause 52.02 (Easements, Restrictions and Reserves)** to amend the easements and restrictions.
- **Clause 52.17 (Native Vegetation)** to remove, destroy or lop native vegetation (pursuant to Clause 51.17-1): One native tree is to be removed – a river red gum.
- **Clause 52.29 (Land Adjacent to the Principal Road Network)** to subdivide land adjacent to a road in a Transport 2 Zone.

The Stormwater Management Plan prepared for the PSA addresses the requirements of **Clause 53.18 (Stormwater Management in Urban Development)**.

## 5 Policy Context

### 5.1 Planning Policy Framework

The Planning Policy Framework seeks to guide development in a manner which benefits local communities and the wider region.

The following State and Regional Planning Policies are relevant to the proposal:

- Clause 11.01-1S – Settlement
- Clause 11.01-1R – Settlement – Gippsland
- Clause 11.01-1L-02 – Main towns – High growth
- Clause 11.02-1S – Supply of urban land
- Clause 11.03-6S – Regional and local places
- Clause 12.01-1S – Protection of biodiversity
- Clause 12.01-1L – Protection of Baw Baw’s biodiversity
- Clause 12.01-2S – Native vegetation management
- Clause 12.03-1S – Rivers, corridors, waterways, lakes, and wetlands
- Clause 13.01-1S – Natural hazards and climate change
- Clause 13.02-1S – Bushfire planning
- Clause 13.01-1S – Floodplain management
- Clause 13.07-1S – Land use compatibility
- Clause 14.02-1S – Catchment planning and management
- Clause 15.01-1S – Urban design
- Clause 15.01-6L – Design for Baw Baw’s rural areas
- Clause 15.01-3S – Subdivision design
- Clause 15.01-2S – Energy and resource efficiency
- Clause 15.03-2S – Aboriginal Cultural Heritage
- Clause 17.01-1S – Diversified Economy
- Clause 17.01-1L – Baw Baw’s Economy
- Clause 17.02-1S – Business
- Clause 17.02-1R – Commercial centres – Gippsland

- Clause 17.03-1S – Industrial land supply
- Clause 17.03-1S – Industrial land supply – Gippsland
- Clause 18.01-1S – Land use and transport integration

The key policies and strategies that emerge out of these include:

- *To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements (Clause 11.01-1S).*
- *Provide for development and investment opportunities along existing and planned transport infrastructure (Clause 11.01-1S).*
- *Support new urban growth fronts in regional centres where natural hazards and environmental risks can be avoided or managed (Clause 11.01-1R).*
- *Support Warragul as one of the primary centres (along with Drouin) for commercial development and service industry in Baw Baw (Clause 11.01-1L-02).*
- *To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses (Clause 11.02-1S).*
- *Consider the distinctive characteristics and needs of regional and local places in planning for future land use and development (Clause 11.03-6S).*
- *Strategically plan for the protection and conservation of Victoria’s important areas of biodiversity (Clause 12.01-1S).*
- *Encourage protection of habitat for native fauna with an emphasis on threatened species, habitats and communities (Clause 12.01-1L).*
- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation (Clause 12.01-2S).*
- *Protect the environmental, cultural and landscape values of all water bodies and wetlands (Clause 12.03-1S).*
- *Consider the risks associated with climate change in planning and management decision making processes (Clause 13.01-1S).*
- *Ensure planning controls allow for risk mitigation or risk adaptation strategies to be implemented (Clause 13.01-1S).*
- *To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritizes the protection of human life (Clause 13.02-1S).*
- *To assist the protection of:*
  - *Life, property and community infrastructure from flood hazard.*



- *The natural flood carrying capacity of rivers, streams and floodways.*
- *The flood storage function of floodplains and waterways. Floodplain areas of environmental significance or of importance to river health (Clause 13.03-1S).*
- *Identify land affected by flooding, including land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority in planning schemes (Clause 13.03-1S).*
- *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects (Clause 13.07-1S).*
- *Directing land uses to appropriate locations (Clause 13.07-1S).*
- *To assist the protection and restoration of catchments, water bodies, groundwaters and the marine environment (Clause 14.02-1S).*
- *Consider the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments (Clause 14.02-1S).*
- *Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:*
  - *Maintain the natural drainage function, stream habitat and wildlife corridors and landscape values,*
  - *Minimise erosion of stream banks and verges, and*
  - *Reduce polluted surface runoff from adjacent land uses (Clause 14.02-1S).*
- *Undertake measures to minimise the quantity and retard the flow of stormwater from developed areas (Clause 14.02-1S).*
- *Require appropriate measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins (Clause 14.02-1S).*
- *Ensure planning is coordinated with the activities of catchment management authorities (Clause 14.02-1S).*
- *Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate (Clause 15.01-1S).*
- *Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness (Clause 15.01-1S).*
- *Ensure the interface between the private and public realm protects and enhances personal safety (Clause 15.01-1S).*
- *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport (Clause 15.01-1S).*
- *Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm (Clause 15.01-1S).*

- *Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads (Clause 15.01-1S).*
- *Promote good urban design along and abutting transport corridors (Clause 15.01-1S).*
- *To achieve building design outcomes that contribute positively to the local context and enhance the public realm (Clause 15.01-1S).*
- *Discourage buildings being located in visually prominent positions particularly on ridgelines and hilltops (Clause 15.01-6L).*
- *Encourage buildings to visually blend into the landscape (Clause 15.01-6L).*
- *Minimise the height of buildings and encourage the use of non-reflective exterior materials in muted tones (Clause 15.01-6L)*
- *Encourage preservation of view corridors from vantage points within urban areas and from Princes Highway (Clause 15.01-6L).*
- *To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions (Clause 15.02-1S).*
- *To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods (Clause 15.01-3S).*
- *To ensure the protection and conservation of places of Aboriginal cultural heritage significance (Clause 15.03-2S).*
- *Protect and strengthen existing and planned employment areas and plan for new employment areas (Clause 17.01-1S).*
- *Support rural economies to grow and diversify (Clause 17.01-1S).*
- *Establish and maintain a strong, dynamic and future ready economy and employment base building on the Shire's competitive advantages for agriculture, timber, value-adding industries, tourism and land suitable for large scale business parks (Clause 17.01-1L).*
- *Plan for an adequate supply of commercial land in appropriate locations (Clause 17.02-1S).*
- *Provide an adequate supply of industrial land in appropriate locations including sufficient stocks of large sites for strategic investment (Clause 17.03-1S).*
- *Identify land for industrial development in urban growth areas where:*
  - *Good access for employees, freight and road transport is available.*
  - *Appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses.*
- *Protect and carefully plan existing industrial areas to, where possible, facilitate further industrial development (Clause 17.03-1S).*

- *Facilitate the release of additional industrial zoned land in towns including Warragul, Leongatha, Sale, Lakes Entrance, Paynesville and Mallacoota (Clause 17.03-1R).*
- *Plan land use and development to protect existing transport infrastructure from encroachment or detriment that would impact on the current or future function of the asset (Clause 18.01-1S).*
- *Locate major government and private sector investments in regional cities and centres on major transport corridors to maximise the access and mobility of communities (Clause 18.01-1S).*

## 5.2 Relevant Strategic Documents

### **Baw Baw 2050 Community Vision (Baw Baw Shire, 2011)**

This strategy is a community vision developed out of extensive community consultation in 2010, and was finished and adopted by the Shire in 2011. Under the direction of 'Building Prosperity' a key strategy is:

- *6.2 Commercial and industrial sectors are developed.*

### **Economic Development Strategy 2018-2021 (Baw Baw Shire, 2017)**

This strategy addresses several economic considerations facing the municipality, including increasing growth and its history of manufacturing. The strategy links to the *Council Plan 2017-2021* objective of a 'Thriving Economy' (*Supporting innovative, thriving and sustainable local business and industry providing local employment*) and reinforces the importance of the Shire's industrial land for attracting new investment and managing growth.

### **Baw Baw Economic Development Land Use Strategy (future)**

Council is currently in the process of preparing the Baw Baw Economic Development Land Use Strategy, with an Issues and Options Paper released for public feedback in May 2022. The paper (p. 34) identifies that "Under current zoning, the Warragul industrial precinct incorporates no substantive zoned land parcels to support future expansion" and that "A lack of land will inevitably deter investment and local employment growth". It also identifies that 42-60 Wills Street "has been identified for industrial purposes. This land represents a logical expansion of existing industrial uses and will provide the opportunity for a highway based industrial precinct with the potential to attract new logistics and automotive use".

### 5.3 Ministerial Directions

**Ministerial Direction No.11 – Strategic Assessment of Amendments (dated 18 October 2013, most recent amendment gazetted 30 July 2018)**

The purpose of this Direction is to ensure a comprehensive strategic evaluation of an amendment and the outcomes it produces. In preparing an amendment, a planning authority must evaluate and include in the explanatory report a discussion about how the amendment addresses the following strategic considerations:

- Why is an amendment required?
- How does the amendment implement the objectives of planning in Victoria?
- How does the amendment address any environmental effects, social and economic effects?
- How does the amendment address any relevant bushfire risk?
- Does the amendment comply with the requirements of any other Minister’s Direction applicable to the amendment?
- How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?
- If the planning scheme includes a Local Planning Policy Framework, how does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?
- If the planning scheme includes a Municipal Planning Strategy, how does the amendment support or implement the Municipal Planning Strategy?
- Does the amendment make proper use of the Victoria Planning Provisions?
- How does the amendment address the views of any relevant agency?
- Does the amendment address the requirements of the Transport Integration Act 2010?

The planning authority must also assess the impact of the new planning provision on the resource and administration costs of the responsible authority. A response to the above strategic considerations is provided in Section 6.



**Direction No. 15 - The Planning Scheme Amendment Process**

The purpose of this Direction is to set times for completing steps in the PSA process. This Direction applies to the Minister for Planning, the Secretary to the Department, Panels appointed under Part 8 of the Planning and Environment Act 1987, and all planning authorities in Victoria.

## 5.4 Planning Practice Notes

**Planning Practice Note 46 – Strategic Assessment Guidelines (August 2018)**

This planning practice note sets out further detail on the strategic considerations listed in Ministerial Direction 11 (refer to Section 5.3 above).

## 6 Assessment of the Planning Scheme Amendment

### 6.1 Introduction

The following sections provide an assessment of the proposal against the requirements of the Planning Practice Note 46: Strategic Assessment Guidelines for Preparing and Evaluating Planning Scheme Amendments.

### 6.2 Why is the amendment required?

The amendment is required to facilitate:

- The development of the Freeway Business Park, including the provision of an extended area of industrial land available, which will provide local investment and employment opportunities.
- Improvements to the drainage on the site.
- Public access to the waterway.
- A planning approach that will ensure the site is developed in a coordinated manner in regards to the lot layout, movement network, urban design outcomes, landscaping, interface treatments, and environmental outcomes.

In order to allow the site to effectively function for future industrial uses and achieve the above improved drainage outcomes, it is also proposed to transform Hazel Creek to a constructed waterway, realigned along the boundary of the Princes Freeway. The site will also provide an 8m wide trapezoidal channel along its western boundary within Lot 3 to the drainage reserve, a split wetland straddling the aforementioned gas easement, and a clean-out of Hazel Creek to remove overgrown weeds and improve water flows.

The amendment will assist in addressing the need for additional industrial land in Warragul stated in the issues and options paper for the Baw Baw Economic Development Land Use Strategy, which identifies that there are currently no substantive zoned land parcels to support future expansion. The paper also identifies the subject site as a location for expanded industrial uses.

The amendment is additionally in keeping with relevant State and local strategies and their visions for industry, natural ecosystems, and regional planning, as follows:

- The amendment allows the further consolidation of industrial land and future uses, in line with strategy 6.2 of the *Baw Baw 2050 Community Vision*.
- The amendment addresses the need to accommodate the Shire's future growth as identified within the *Economic Development Strategy 2018-2021*. The rezoning will ensure that Warragul is able to attract new business and investment in an ideal central location close to the town centre, existing transportation links, and surrounding industrial and commercial uses.

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

Section 4(1) of the *Planning and Environment Act 1987* states the relevant objectives of planning in Victoria. The amendment implements these objectives as follows:

a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*

The rezoning of the land and single-stage subdivision will allow for the industrial development of the site to proceed in a coordinated and orderly manner, in accordance with the relevant state and local policy directions for Warragul.

b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*

The amendment has considered natural and man-made resources and responded appropriately. A range of environmental assessments have been undertaken, including a flora and fauna assessment, Giant Gippsland Earthworm and Dwarf Galaxias study and a Warragul Burrowing Crayfish Warragul Burrowing Crayfish Translocation Strategy that will ensure that the impacts of future use and development upon the site's environmental values and biodiversity are minimised.

*c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*

The additional industrial land and improved accessibility to the waterway will provide a pleasant, efficient and safe working, living and recreational environment for both current and future workers and visitors to the area.

*d) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*

The proposal will allow for the orderly provision and coordination of services on site, and makes efficient use of existing infrastructure services.

*f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*

The amendment will enable the future development of the site in a coordinated and orderly manner.

*g) to balance the present and future interests of all Victorians;*

The amendment will facilitate development in a strategically and physically advantageous location and ensure that the economic needs of Warragul and Baw Baw Shire are met.

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

### **Environmental**

Hazel Creek is currently overgrown with weeds and possesses little value in its current state. The proposed help to ensure that improvements are made to the waterway (including through revegetation with native species) and that the site's environmental features are considered during the development of the site.

The proposal seeks to create new habitat areas for the Warragul Burrowing Crayfish and Dwarf Galaxias taking an innovative approach that will serve as a demonstration project for Council.



The ecological assessment undertaken for the proposal identify that it is not practical to retain the very small area of identified Giant Gippsland Earthworm habitat on the site which only contains one earthworm.

#### **Social**

The amendment will result in a net community benefit by providing public access to Hazel Creek and improving the overall amenity of the subject site.

#### **Economic**

The amendment will create additional industrial land in line with State and local policy directions for Warragul, as well as local investment and employment opportunities.

### **6.5 Does the amendment address any relevant bushfire risk?**

The land is not affected by the Bushfire Management Overlay; however, part of the land is within a Bushfire Prone Area. As per the Bushfire Risk Assessment, the development can successfully reduce the bushfire risk on a landscape scale and a local scale to an acceptable level.

### **6.6 Does the amendment comply with the requirements of any other Minister's Direction applicable to the amendment?**

The amendment has been assessed against and is consistent with the strategic considerations of Ministerial Direction - The Form and Content of Planning Schemes and Ministerial Direction No. 11 - Strategic Assessment of Amendments.

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

In line with Clauses 11.01-1S, 11.01-1R, 11.02-1S, and 17.02-1S the amendment provides for a modest increase of flat industrial land in an advantageous location close to existing transportation networks and infrastructure,

promoting development and investment within an area of a key regional town in which natural hazards and environmental risks can be appropriately managed.

Further, consistent with Clauses 13.07-1S, the proposal directs additional industrial land to a highly appropriate location which will safeguard community amenity.

The technical assessments submitted in support of the proposed PSA provide details of how the objectives of Clauses 11.03-6S, 12.01-1S, 12.01-2S, 12.03-1S, 13.01-1S are met. The Giant Gippsland Earthworm (GGE) & Warragul Borrowing Crayfish (WBC) report prepared by Invert-Eco finds, for example, that the impacts of the amendment and future industrial development of the site on habitat loss can be appropriately mitigated via recommended design requirements.

The Warragul Burrowing Crayfish Translocation Proposal (October 2022) provides a Translocation Plan/Program to be undertaken with collaboration and support from Baw Baw Shire Council and the West Gippsland Catchment Management Authority. Further, it:

- Sets out the tasks and timeframes for the relocation of the crayfish to occur.
- Nominates a translocation site that is in the south-east corner of the subject site (land to be set aside for wetland and drainage purposes).
- Provides guidelines for translocation site habitat design.
- Provides guidelines for trapping, handling and releasing the crayfish.
- Provides a minimum five year monitoring regime.

The Dwarf Galaxias Targeted Investigation prepared by Streamline Research states that “(a)lthough the dwarf galaxias was not captured in this investigation, there is potential for the species to benefit from the Wills Street development” and “(w)ith the right characteristics the newly created habitats may allow for the future establishment of dwarf galaxias, extending the existing range of the species in the Hazel Creek catchment”.

The Ecology report by Paul Kelly & Associates finds that, overall, “the vegetation and habitat quality of the subject site is low and is dominated by cleared agricultural land and buildings”. The majority of the site’s native vegetation for example, has been considerably modified by historic clearing, grazing and subsequent weed invasion. Further, vegetation of the roadside of Wills Street adjoining the site is planted and as such its removal does not require a permit pursuant to Clause 52.17-7. Again, this shows that environmental benefits should arise from the PSA and particularly through the creation of the drainage reserve and re-aligned waterway.

The proposal will not decrease the subject site's bushfire resilience in response to **Clause 13.02-1S**. Future construction and development on site will be in compliance with the relevant building regulations.

The PSA will not cause any adverse impacts to surrounding properties as a result of the rezoning or the proposed transformation of Hazel Creek to a constructed waterway, in line with Clause 13.03-1S and 14.02-1S.

As noted in the Flood Modelling Report prepared by Incitus, the transformation to a constructed waterway will provide capacity to contain the 1% AEP flood flows that the site is currently subject to, providing flood free land for development. Further, the proposal will enhance the values associated with the waterway and downstream water quality through facilitating a compound form profile waterway with appropriate vegetation and the potential to incorporate habitat value.

Freeway Business Park Pty Ltd have sought the input of WGCMA, as noted in Sections 1.1 and 3 of this report, to ensure appropriate catchment management and coordination. WGCMA have indicated that they are willing to support the proposed PSA and transformation of Hazel Creek, subject to conditions set out in their written response (refer to the Stormwater Management Strategy for these).

The proposed DDO Schedule includes consideration of subdivision, design and sustainability outcomes to accord with Clauses 15.01-1S, 15.01-3S and 15.01-2S. The amendment also recognises the importance of the Princes Freeway frontage from a design perspective and a safety and efficiency perspective (Clause 18.01-1S) as it does not seek direct access to the highway. It also locates a major private sector investment in a regional city on a major transport corridor to maximise the access and mobility of the Warragul community as per Clause 18.01-1S.

The proposal is compliant with Clause 15.03-2S. As found in the CHMP prepared by Tim Stone, no Aboriginal cultural heritage has been identified in the activity area, and in accordance with Section 61 of the Aboriginal Heritage Act 2006, the proposed PSA will not harm Aboriginal cultural heritage in any way.

The proposed PSA responds to Clauses 17.01-1S, 17.02-1R, 17.03-1S, and 17.03-1R in complementing and facilitating future development of adjacent industrial land, supporting the business and economic development growth intentions for Warragul, and in presenting an opportunity to develop the land in a way that will achieve sensitive habitat and catchment management whilst enabling improved future urban design and landscaping outcomes.

Additionally, as noted in the Engineering Services Report prepared by Taylor Miller, the site is easily able to connect to electrical, gas, water, sewer and telecommunications services, providing for the efficient use of existing infrastructure.

## 6.8 If the planning scheme includes a Local Planning Policy Framework, how does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The proposal is consistent with the Baw Baw Municipal Strategic Statement, particularly the relevant policy directions of Clauses 11.01-1L-02, 12.01-1L, 15.01-6L, 15.01-6L, 15.01-6L, 15.01-6L, 17.01-1L. This is achieved through the following:

- The rezoning supports the economic development strategies for Warragul and will facilitate its role as an identified sustainable high growth settlement.
- The proposal enables increased employment and consolidation of industry within the township boundaries and within an advantageous location close to the town centre, key infrastructure and existing transportation networks.
- The proposal responds to and will sensitively manage the environmental characteristics of the site and the surrounding area. As noted above, the proposal is endorsed by the relevant catchment authority for the area and is supported by the attached technical assessments. Recommendations and conditions provided by these assessments will ensure that new uses and development upon the land will continue to recognise the site's natural resources, values, and biodiversity.
- The proposal supports the Princes Freeway as an efficient transport facility by positively addressing and not seeking direct access to this key transport route.
- The proposal improves public access to a place of interest, being Hazel Creek, where no such access is currently available.



## 6.9 If the planning scheme includes a Municipal Planning Strategy, how does the amendment support or implement the Municipal Planning Strategy?

The proposal is consistent to Baw Baw's Municipal Planning Strategy through:

- Protecting the Shire's natural attributes including its native animal species.
- Directing the majority of growth to Warragal.
- Supporting innovative, thriving and sustainable local business and industry providing local employment.
- Supporting business investment and diversification of the Baw Baw economy
- Protecting and managing the environment in a sustainable manner taking into account the impacts of climate change and extreme events.
- Working with the community and stakeholders to manage the Shire's environment and biodiversity values.

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

The amendment makes proper use of the Victorian Planning Provisions. The INZ1 is the most appropriate zoning for the developable land comprising the subject site given that the land within the northern part of the subject site is already in this zone, and the Freeway Business Park concept seeks to provide additional employment uses focusing on warehouses and industry uses. It is a logical extension of the existing zoning pattern to land that is wholly contiguous with existing INZ1 land, and will be separated from other nearby land uses by roads (Wills St and the Princes Highway).

Applying the Design and Development Overlay (DDO) with bespoke schedule "Freeway Business Park" to the developable land comprising the site will provide an appropriate control for the future development of the site through:

- Introducing high quality landscape treatment to the site that contributes positively to the overall character and amenity of the Freeway Business Park.
- Enhance environmental values biodiversity at the site including habitat for the Warragul Burrowing Crayfish, Dwarf Galaxias and other native species.
- Limiting building heights and providing a transition between the taller built form elements to the waterway and the residential land.

- Identifying the sensitive interface to the creek (and the highway beyond) where additional design treatments will need to be incorporated.
- Providing buildings and works requires requirements that will promote high quality design and improved appearance of individual site developments and the industrial site as a whole, when observed from within and from external vantages including Hazel creek, the residential area to the north and Princes Highway.

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

The amendment incorporates feedback received to date from the Baw Baw Shire Council, West Gippsland Catchment Management Authority, Department of Environment, Land, Water and Planning (DELWP), and Department of Transport (DoT). Conditions and recommendations put forward by the latter have been integrated into this revised application.

### 6.12 Does the amendment address the requirements of the Transport Integration Act 2010?

The proposal is in keeping with the transport system objectives of the *Transport Integration Act 2010* in facilitating social and economic opportunities and minimising harm to the natural environment.

The amendment will have no significant impacts on the transport system given direct access to the Princes Highway will not be created. The site is also within walking distance from the Warragul Railway Station and town centre.

## 7 Assessment of the Planning Permit Application

### 7.1 Subdivision

The subdivision will facilitate the creation of 24 industrial lots, the access road into the site, and a drainage reserve for the realigned waterway that will be vested in Council. The subdivision will be created in one stage.

One of the key reasons for undertaking the entire subdivision as part of this application is to create the loop road, which needs to be designed and constructed as one element. The subdivision will also create lots for the Stage 1 sites where buildings are also to be constructed, and will also create lots for the remaining land to enable the planning and installation of services to each lot when the loop road is created.

The subdivision provides for a diversity of lot sizes to facilitate a range of opportunities for businesses to be located with the Freeway Business Park.

As set out in Section 4 above, a permit is required to subdivide land in the Industrial 1 Zone, the Urban Floodway Zone, the Environmental Significance Overlay (with the relevant schedule relating to the GGE), the Design and Development Overlay and adjacent to a road in Transport 2 Zone. When assessed against the purpose and decision guidelines of the relevant planning scheme clauses and the relevant planning policies, the proposal achieves compliance as follows:

- It considers the natural and landscape values of land by creating a business park with a frontage road between the lots and the waterway to ensure development faces and positively responds to the waterway.
- It provides for the drainage strategy for the site identified in the Stormwater Management Strategy.
- It provides for a diverse neighbourhood through the provision of a range of industrial lot sizes, and will provide additional industrial lots within Warragul where there is currently a very limited supply of industrial land.
- It encourages a new streetscape character through the construction of the 25m industrial street and associated street tree planting.
- It provides for landscape treatments in the public realm, being the drainage reserve and the streetscape.
- It provides for a positive interface with the Princes Highway by providing a vegetated buffer between the industrial uses and the road corridor through placement of the Hazel Creek realignment.

- It will not impact on the functioning of Princes Freeway as no direct access is sought.
- Conditions relating to the protocols for the accidental unearthing of GGEs can be included to address the ecological advice.
- The lot design has considered the provision of off-street parking; refer to the Site Plan (**Figure 1**).

## 7.2 Buildings and Works

When assessed against the purpose and decision guidelines of the relevant planning scheme clauses and the relevant planning policies, the proposal achieves compliance as follows (noting that the permit triggers are for new roadworks and the creation of bicycle trails within an ESO, and works within a FO and LSIO):

- The impact of the works on the GGE (being the subject of ESO4) has been assessed by the ecologists and deemed to be a situation where the application of accidental unearthing protocols are appropriate.
- Impacts to the Dwarf Galaxias and Warragul Burrowing Crayfish species are expected to be positive through improving the ecological values of Hazel Creek.
- Only very small portions of the site are within the FO and LSIO, and this is where works are proposed to realign the waterway to address flooding impacts.

## 7.3 Environmental Considerations

The environmental-related permit triggers are as follows:

- Remove, destroy or lop any vegetation, including dead vegetation, in the Environmental Significance Overlay.
- To remove, destroy or lop native vegetation under Clause 52.17 (Native Vegetation).

The impact of the works (including vegetation removal) on the GGE (being the subject of ESO4) has been assessed by the project's ecologist and deemed to be a situation where the application of accidental unearthing protocols is appropriate.

### Clause 52.17 – Native Vegetation

Pursuant to Clause 52.17 Native Vegetation, a permit is required to remove, destroy or lop native vegetation. The definition of "native vegetation" is those species that are native to Victoria.



The proposal to remove the single river red gum is supported by purpose of Clause 52.17 and the '*Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017)*'. The proposal ensures no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation through responding appropriately to the following three step approach:

1. Avoid the removal, destruction or lopping of native vegetation.
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

The proposal avoids and minimises removal of native vegetation. Only one native tree is proposed to be removed from the site. All other native vegetation has been avoided and will be retained. This is an appropriate outcome given the size of the site.

The one tree proposed to be removed – a river red gum tree in the south-west area of site – is required for the proposed drainage upgrades and environmental works as follows:

- There is a need to provide additional and protected habitat for the Warragul Burrowing Crayfish behind lots 2-7 on the western edge of the site.
- This drain / habitat will need to connect to the existing drainage infrastructure.
- This drain on the southern boundary will also be realigned and enhanced with respect to available habitat.
- Its removal will also assist with addressing bushfire risk.
- The ecological assessment provides a Native Vegetation Removal Report to address this.

Through the proposed replanting works shown of the Landscape Concept Plan and the proposed environmental works that will create new habitat for native species, the proposal will ensure no net loss to biodiversity. The Ecology Report prepared in support of the amendment (refer p.20 of report) assesses that an offset requirement of 0.042 general habitat units will be required to offset the removal.

The proposal presents an opportunity to create new habitat through the construction of the drainage infrastructure, including wetland system. At present there is no instream habitat in Hazel Creek or the minor tributary within the Wills Street development property that is suitable for the dwarf galaxias. New habitats created at the site have the potential to provide improved habitat for the Dwarf Galaxias but also for GGE and WBC.

## 8 Conclusion

Freeway Business Park Pty Ltd have engaged Echelon Planning to prepare a S96A request under the *Planning and Environment Act 1987* to amend the Baw Baw Planning Scheme in respect to Lots 1-4 PS901914 (subject site), to:

- Remove the Urban Floodway Zone (UFZ) from all developable land comprising the subject site.
- Retain the UFZ only on the proposed drainage reserve incorporating the realigned waterway.
- Apply the Industrial 1 Zone (IN1Z) to all developable land comprising the subject site.
- Apply the Design and Development Overlay - Schedule -- (DDO--) to all developable land comprising the subject site.
- Retain all existing planning overlays affecting the land.

The concurrent planning permit application seeks to subdivide Lot 3 PS901914, including associated works to support the subdivision, to achieve the following:

- A loop road through the site that provides efficient vehicle access and separates the industrial lots from the proposed realigned waterway and the Princes Highway.
- Share pathway.
- A drainage reserve of which incorporates the realigned waterway.
- A proposed lot layout, which provides 24 lots with a range of sizes from 662sqm to 6,050sqm to facilitate diverse commercial opportunities.
- Create, remove and amend easements.
- Remove native vegetation (one river red gum tree).

The proposal will facilitate:

- The development of the Freeway Business Park, including the provision of an extended area of industrial land available, which will provide local investment and employment opportunities.
- Improvements to the drainage on the site and creation of habitat for native fauna.
- Public access to the waterway.
- A planning approach that will ensure the site is developed in a coordinated manner in regards to the lot layout, movement network, urban design outcomes, landscaping, interface treatments, and environmental outcomes.

Echelon Planning has undertaken a detailed review of relevant planning policies, controls and strategies to justify this amendment request and planning permit application. The proposed combined amendment and subdivision is supported by the planning assessment framework, will result in positive environmental, social and economic impacts, and will result in a net community benefit.

Having regard to the detailed strategic justification outlined in this report, it is respectfully requested that the Minister for Planning consider this proposed Section 96A PSA favourably.

**APPENDIX A: Stormwater Management Strategy (November 2021)**



**APPENDIX B: Ecological (Flora and Fauna) Assessment (April 2022)**



**APPENDIX D:** Giant Gippsland Earthworm and Warragul Burrowing Crayfish Report prepared by Invert-Eco Pty Ltd  
(February 2021)

**APPENDIX E: Warragul Burrowing Crayfish Translocation Proposal (November 2022)**



**APPENDIX F: Dwarf Galaxias Survey Prepared by Streamline Research (October 2022)**



**APPENDIX H:** Cultural Heritage Management Plan (CHMP) prepared by Tim Stone



**APPENDIX J: Preliminary Tree Assessment prepared by Drouin Tree Services (May 2022)**



