

FINAL REPORT

Review of Restructure Overlays in the Mount Alexander Planning Scheme

Prepared for

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Prepared by

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1 Introduction

In March, 2007, Mount Alexander Shire Council commissioned Centrum Town Planning to undertake a preliminary review of the eleven Restructure Overlays in the Mount Alexander Planning Scheme.

The review was initiated to provide Council with a better understanding of the scope of the issues associated with the Restructure Overlays.

The project has the following specific objectives:

- to identify key land use planning issues and opportunities for each Restructure Overlay area;
- to identify the options available to Council in its role as a planning authority;
- to establish a list of actions for Council to undertake for each of the overlays; and
- to identify actions that can be undertaken in the short-term and those that are likely to require additional strategic investigations.

The project was undertaken in three phases.

Research Phase: this phase involved a review of cadastral and land ownership information provided by Council, historical planning scheme controls, current planning scheme controls and similar amendments and panel reports for other planning schemes and relevant VCAT decisions. Centrum Town Planning also conducted site visits to each of the overlay areas.

Consultation Phase: this phase involved consultation with relevant government authorities and discussions with Council's Environmental Health and Engineering Departments.

Issues and Options Stage: this phase involved identifying issues and options for each restructure overlay area.

This report presents an overview of the policy context for Restructure Overlays and the findings of the investigation for each overlay area. At the end of the report, a summary of recommendations is provided together with a list of recommended actions for Council.

2 Background

The Mount Alexander Planning Scheme contains eleven Restructure Overlays in the Schedule to Clause 45.05 (Restructure Overlay).

The purpose of the Restructure Overlay is to:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify old and inappropriate subdivisions which are to be restructured.*
- *To preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development.*

The overlays as listed in the schedule are as follows:

PS Map	Reference
Map 3	Pollard
Map 4	Walmer
Map 5	South Ravenswood
Map 10	Moolort
Map 11	Moolort
Map 14	Maldon North
Map 15	Maldon North
Map 18	Gower
Maps 19,21 & 23	Pennyweight Flat
Map 31	South Muckleford
Map 32	Tarilta

Clause 43.05 states that a permit must be in accordance with a restructure plan for the land listed in a schedule to this overlay. As no restructure plans have been prepared and referenced or incorporated in the Scheme, Council cannot issue planning permits for the areas.¹ This situation therefore presents a significant restriction on landowners.

With the exception of Pennyweight Flat, all of the overlays areas are zoned Farming Zone under the Mount Alexander Planning Scheme.

¹ This interpretation has been confirmed by VCAT in *Oliver v Greater Bendigo CC* (P2657 2006) and in several panel reports including the Panel & Advisory Committee Report for the Mount Alexander Planning Scheme (April 1998) and the Panel Report for the Greater Bendigo Planning Scheme Amendment C88 (October 2007).

2.1 VPP Panel Report

The Panel & Advisory Committee Report on the Mount Alexander Planning Scheme (1998) contains several references to Restructure Overlays.

The Panel's main comments are found on page 24 of the report, which states:

Restructure Overlays have been applied to some old subdivisions in rural areas. Restructure Plans have not been used. This is of particular concern as it appears to the Panel that the land is quarantined from development until the scheme is amended to include a restructure plan. Alternatively, to avoid the need for amending the scheme, consideration could be given to providing for single lot restructure plans for each area with provision in the plan for variation with a permit.

(Source: Panel & Advisory Committee Report on the Mount Alexander Planning Scheme, 1998, 24)

Unfortunately, there is no other discussion in the report about whether the overlays were translated from similar controls in the old planning schemes, or the criteria used to apply them to the new VPP scheme.

The suggested approach of single lot restructure plans has not been adopted by Council and no restructure plans have been prepared.

3 Policy Context

The Restructure Overlays currently apply to the land that is the subject of this study. Council therefore has no need to justify their application as part of any planning scheme amendment that arises from this investigation.

By means of background to this review, a summary of the policy context for the Restructure Overlay has been undertaken and is described below.

3.1 Ministerial Directions

Minister's Direction No. 6 (Rural Residential Development) states that in preparing an amendment which would have the effect of allowing rural residential development, a planning authority must demonstrate and show in the explanatory report that the proposed rural residential development:

- *Is consistent with the housing needs and settlement strategy of the area.*
- *Is supported by and supports sustainable and viable settlements and communities.*
- *Does not comprise the sustainable future use of existing natural resources, including productive agricultural land, water, mineral and energy resources.*
- *Protects existing visual and environmental qualities of the area, such as landscape, water quality, native vegetation, habitat and biodiversity.*
- *Avoids predictable adverse environmental processes and effects, such as flooding, erosion, landslip, salinity or wildfire.*
- *Can efficiently be serviced by social and physical infrastructure, at an acceptable and sustainable community cost.*

3.2 State Planning Policy

Clause 15 – Protection of catchments, waterways and groundwater

This Clause aims to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.

It states that planning and responsible authorities should ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and ground water resources, rivers, streams, wetlands, estuaries and marine environments.

It states that flood risk must be considered in the preparation of planning schemes and land use planning decisions to avoid intensifying the impacts of flooding through inappropriately located uses and developments.

Clause 17.05 – Agriculture

The objective of Clause 17.05 of the State Planning Policy Framework (Agriculture) is to *'ensure that the State's agricultural base is protected from the unplanned loss of high quality productive agricultural land due to permanent changes in land use and to enable protection of productive farmland which is of high quality and strategic significance in the local or regional context'*.

Clause 17.05 – 2, General implementation, indicates that where inappropriate subdivisions exist on land of high agricultural quality, priority should be given by planning authorities to their re-structure.

3.3 Municipal Strategic Statement

The MSS recognises that there is a need to minimise the potential environmental and amenity impacts between horticulture and dwellings in rural areas. It states that land use planning decisions should not reduce the potential for agricultural production.

The MSS expresses concern that productive agricultural land is being lost to non-agricultural uses, especially to rural living and low density residential development.

The MSS contains objectives to preserve broad area agriculture by maintaining rural land in large lots and discouraging the fragmentation and non-rural use of rural land.

It contains strategies to encourage consolidation of existing titles to maintain viability of farming and horticultural units. It does not, however, identify particular areas that need to be consolidated or refer to the Restructure Overlays in the Planning Scheme.

In respect of Rural Living development, the MSS recognises that this has been a key part of the landscape for many years. It identifies various issues associated with rural living, including land management issues, impact on landscape, environmental impacts and cost of infrastructure.

The objectives and strategies in the MSS for Rural Living are considered generally relevant as the primary aim of the Restructure Overlay is to reduce the environmental impact of dwellings. The objectives and strategies relating to settlement are to:

- *Reduce the number of small and inappropriately located lots in rural areas.*
- *Encourage rural living development that promotes efficient use of resources (eg. water, power and fuel).*
- *Discourage the use of existing old Crown allotments in the Rural Zone for rural living purposes.*
- *Avoid strip development along highways throughout the Shire.*

3.4 Local Planning Policies

There are no direct references to restructure plans within the Local Policies section of the LPPF. The most relevant policy is found at Clause 22.22 *Excisions, Construction of Housing and Re-subdivision of Land in the Farming and Rural Living Zones*.

The objective of the policy is to avoid the fragmentation of productive agricultural land through subdivision and small lot excisions. Whilst the title of the policy makes reference to the construction of housing, it contains little policy direction about how council should exercise its discretion when considering a permit application for a dwelling. Nevertheless, it is clear the intent of the policy is to limit the construction of dwellings on small crown allotments.

3.5 Farming Zone

All of the restructure plans in this amendment are covered by the Farming Zone. The purpose of the Farming Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To protect and enhance natural resources and the biodiversity of the area.*

All dwellings require approval for use and development in the Farming Zone unless the allotment is more than 40 hectares and is fully serviced. Applications for dwellings must be assessed against the following decision guidelines:

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

3.6 Mount Alexander Shire Rural Living Study

The Mount Alexander Rural Living Study (2006) is a reference document in Clause 21.05 of the Mount Alexander Planning Scheme.

The strategy sets out the direction for rural living development in the Shire in respect of where and how it is to take place, and under what conditions it should take place.

One of the objectives of the study was to “*recognise the need to, and the potential of, restructuring old and inappropriate subdivisions*” (p2).

With respect to the existing Restructure Overlays in the Scheme, the report recommends that:

- *Old and inappropriate subdivisions located in the Rural Zone in site and areas isolated from existing urban areas and townships and adequate road access and where the development of sites would compromise agriculture will not be supported for further development;*
- *The provisions in the planning scheme will include a requirement providing for one lot only to be developed for a dwelling where there is contiguous vacant land in separate lots.*
- *Old and inappropriate subdivisions located in sites and areas that can be readily accessed by towns or urban areas and where residential development will not compromise existing agricultural practices or the environmental condition of the area, the following requirements will apply. Existing lots or groups or lots can be developed for a dwelling where the following requirements can be met:*
 - *The lot on which the dwelling is located can contain all effluent on site*
 - *The lot is serviced by an all weather road to the satisfaction of the responsible authority;*
 - *The requirements of Clause 35.01–2 of the planning scheme can be satisfied.*

Source: Mount Alexander Rural Living Strategy (2006), p 52

The strategy contains a table titled “revised application of the Restructure Overlay” (Mount Alexander Rural Living Strategy, p53). The recommendations contained in this table are not entirely clear, but it appears to recommend that a single lot per landholding / tenement for all overlays apart from Muckleford South, provided that the requirements of Clause 35.01–2 can be met. In Muckleford South, it appears to recommend that all lots could be developed for a dwelling, provided the requirements of Clause 35.01–2 are met.

3.7 Conclusions

Whilst there are a number of general references in the Local Planning Policy Framework for protecting agricultural land and discouraging the development of old crown allotments, there are no references to restructure plans. The Rural Living Strategy contains some directions about Restructure Overlays, however, these provide Council with little practical assistance in preparing restructure plans.

There is an opportunity to strengthen the MSS by including references to restructure plans. There is also an opportunity to include specific policies in Clause 22.22 relating to development within Restructure Overlays. Alternatively, such policies could be included in the restructure plans if these are incorporated into the planning scheme.

4 Key Characteristics of the Overlay Areas

This table provides a summary of the key characteristics of each overlay area based on data provided by Council and compiled by Centrum Town Planning.

Note that for the purposes of this report, the two Moolort overlays have been reduced to one and the Maldon North overlays have been titled A & B to more accurately describe the subject land.

PS Map Reference	Restructure Overlay	Area of RO ha)	Zone	Overlays	No. Allotments	Land holdings*	Landholders	Landholdings with Dwellings**	Median Allotment Size (m2)	Minimum Allotment Size (m2)
Map 3	Pollard	16	FZ	RO, ESO5 (Part), EMO (Part)	61	5	2	1	1,800	782
Map 4	Walmer	44	FZ	RO, LSIO (Part), ESO5 (Part)	74	27	27	0	1,221	891
Map 5	South Ravenswood	145	FZ	RO, DDO1 (Part), ESO5 (Part)	67	46	44	28	20,000	6,600
Maps 10&11	Moolort	95	FZ	RO, HO401 (Part)	3	3	1	0	31,900	28,700
Maps 13, 14 & 15	Maldon North (A)	41	FZ	RO, SLO1, EMO, HO81 (Part), WMO (Part)	66	16	11	5	3,916	358
Maps 4 & 15	Maldon North (B)	6	FZ	RO, SLO1	25	5	4	1	1,447	991
Map 18	Gower	4	FZ	RO, SLO1 (Part)	13	8	5	1	1,987	1,891
Map 19,21 &23	Pennyweight Flat	23	RCZ	RO, SLO2, HO993, DD04 (Part), LSIO (Part)	28	1	1	0	3,601	899
Map 31	South Muckleford	40	FZ, PCRZ	RO, ESO5 (Part), HO983 (Part)	125	25	12	4	2,022	1,071
Map 32	Tarilta	217	FZ	RO, WMO (Part), HO998 (Part)	150	36	8	5	3,582	263
TOTAL		630			612	172	118	43		

Notes

* The term "landholding" is used frequently throughout this report. It is defined as one or more contiguous lots in the same ownership (not separated by stream or unmade road reservation). This differs slightly from a 'tenement' as described in Clause 74, which states that lots adjoin each other if separate by a stream reserve, or unmade or unused government road or rail reserve. Some landowners have more than one landholding within the overlay area

** The number of landholdings with dwellings is an estimate only based on a review of aerial photography and site visits.

5 Consultation

5.1 Government Departments & Authorities

As part of the consultation phase of the project, letters were sent to government departments and authorities that have responsibility for land management, planning and development issues.

The letter sought feedback on issues and opportunities for each overlay area, as appropriate to each organisation's area of responsibility such as:

- environmental hazards or constraints such as slope, drainage, salinity, erosion or flooding;
- vegetation and fauna habitats or degraded waterways, gullies or ridgelines that need to be revegetated or rehabilitated;
- the availability of utility services, including sewerage, water, drainage, electricity, gas and telecommunications and any plans for extending these services;
- the potential impacts of residential development on surrounding land uses, especially agricultural uses and nearby public land;
- road safety issues and the need to construct or close roads;
- the impact of new dwellings on groundwater or water catchments;
- the potential impact of development on heritage assets or sites of Aboriginal significance.

Meetings were also held with the representatives of a number of the agencies including the Department of Sustainability & Environment, Department of Primary Industries, VicRoads and the North Central Catchment Management Authority.

A number of the authorities made general comments about land management and development issues in each of the overlay areas. These are summarised below:

Coliban Water

Coliban Water advises that five of the overlays are in the vicinity of the fully sewered townships of Castlemaine, Campbells Creek, Newstead and Maldon. The other six overlay areas are not in the vicinity of services townships.

They advise that water and sewerage services are not considered for areas in the Farming Zone unless specifically required by a landowner at their own expense. They have no concerns about the protection of potable water supply catchments or water supply assets that cannot be managed by existing planning provisions.

Country Fire Authority (North West Area – Region2);

The CFA generally requires that development should have suitable access for emergency vehicles and suitable water supply for fire fighting purposes.

They have no objection to development in Pollard, Walmer, South Ravenswood and Moolort. However, they express 'concerns' about the potential high wildfire risk in Maldon North A & B, Gower and Pennyweight Flat. The CFA (Region 2) did not comment on Tarilta and Muckleford South as these are located in a different fire region.

Department of Victorian Communities (Aboriginal Affairs Victoria);

Aboriginal Affairs Victoria (AAV) advises that any development in the Restructure Overlay area for Ravenswood South has the potential to impact on Aboriginal Cultural Heritage values or places. The places are artefact scatters and a scarred tree located in the Harcourt Ravenswood Rail Reserve. They advise that any proposed development should incorporate appropriate options for these identified values and that cultural heritage permits should be obtained if these values are likely to be harmed.

AAV advises that they hold no records for Aboriginal heritage values or places within the other overlay areas due to the fact that no known surveys have been undertaken.

Other Responses

The following authorities offered detailed comments about each overlay area.

- Department of Sustainability & Environment (Crown Land, Biodiversity, Parks Victoria, Department of Primary Industries & Planning);
- Goulburn Murray Water.
- Environment Protection Authority;
- North Central Catchment Management Authority, which provided flood maps only

A summary of the comments provided has been included in the relevant section of the report. DSE's Biodiversity Unit has provided detailed comments on native vegetation and threatened species that have not been included in this report.

5.2 Mount Alexander Shire Planning Unit

Discussions with officers in the town planning unit indicate that there is little pressure to develop land in any of the Restructure Overlay areas. The Planning Unit has received correspondence from one landowner who wishes to develop land in the Muckleford South overlay area.

Data relating the number of applications Council has received in the overlay areas was not readily available. Current and historic data on development was therefore not assessed as part of this study.

5.3 Mount Alexander Shire Environmental Health Department

Council's Environmental Health Department has advised that environmental hazards or constraints such as slope, drainage, salinity, erosion or flooding would need to be assessed as part of a Land Capability Assessment (LCA) for each overlay area to properly inform any planning scheme amendment or development proposal.

They advise that a LCA may not be required for allotments of over 10,000m², although this would depend on environmental features and constraints.

At present, the Environmental Health Department does not have the capacity to monitor the performance of septic tanks in the Shire. The Domestic Wastewater Management Plan has identified this as an action for the future and the Department intends to collate this information in the future.

5.4 Consultation with Geotechnical Consultants

Discussions were held with a local geotechnical consulting firm with experience in land capability assessments in Mount Alexander Shire. The purpose of the discussions was to ascertain the preferred approach to undertaking land capability assessments for the overlay areas on the basis that this information would be needed to inform the preparation of restructure plans.

These discussions indicated that there is a significant variation in landscape features between the overlay areas. These features, which include soil types and topography, means that the assessments would be likely to involve site inspections, desktop research and some soil testing.

5.5 Community Consultation

Consultation with the community was not undertaken as part of this study. The objectives of the investigation are to provide direction for Council's Planning Department in understanding the scope of the planning issues associated with the Restructure Overlays.

Consultation with landowners and the community will be an important part of any planning scheme amendment process that is undertaken by Council as a result of this study.

6 Pollard

Description of the Area

Pollard is located approximately 8 kilometres north west of Maldon township at the intersection of the Maldon–Shelbourne Road and Bradford Hills Road/Nicholson Street.

The area is characterised by gently undulating grazing land. Native vegetation exists along road reservations and along Bradford Creek. Scattered native trees exist on privately owned land.

The area is in the Loddon River catchment downstream of Laanecoorie Reservoir. The Bradford Creek runs in an along the north side of the overlay area and a tributary of the creek runs through the overlay area in a north south direction.

The Maldon–Shelbourne Road and Bradford Hills Road are sealed roads. Nicholson Street is a gravel road, which connects with four unmade road reservations on the south west side of the Maldon–Shelbourne Road. Two other road unmade road reservations exist in the overlay area: Mount Alexander Shire Council is responsible for all of the roads.

The area comprises 39 small parcels of unreserved Crown land to the south west of the Maldon–Shelbourne Road and a larger parcel of Crown land in the south of the overlay area. According to the DSE Crown land mapping database, these parcels have current grazing licenses. The remaining land is privately owned.

There is one landowner who owns all of the privately owned titles, with the exception of one allotment. This landowner holds grazing license for most of the Crown land parcels. There is one dwelling in the overlay area, on the north east side of Maldon–Shelbourne Road.

The Restructure Overlay area is shown on the following page.

Pollard Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities

- ***Environment Protection Authority:*** Pollard consists of a large number of small crown allotments, which are typically around 1,800 square metres in size. According to the EPA, there are significant risks associated with treating and retaining wastewater on allotments on this size. They recommend that further land capability work be undertaken to determine site suitability for on-site wastewater disposal.
- ***Goulburn Murray Water:*** Goulburn Murray Water advises that any development of the allotments would be severely constrained by the inability of the lots to set wastewater disposal areas at least 60 metres from waterways and areas of inundation. Goulburn Murray Water supports the development of a restructure plan to protect water quality.
- ***Department of Primary Industries:*** According to the Department of Primary Industries (DPI), surface water runoff in this area is not reliable due to the structure of the soils. Water supplies will therefore depend on roof runoff. DPI also advises that poor land capability is an issue in Pollard.
- ***Department of Sustainability & Environment (Crown land)*** According to the Department of Sustainability and Environment, the majority of the Crown land parcels are surplus to government requirements and restructuring these allotments would not have an impact on the current use of the area. DSE advises that the only area that would not appear suitable for restructuring is the water frontage in the north east area of the overlay along Bradford Creek. This area contains land that is available for public use.
- ***Department of Sustainability & Environment (Biodiversity)*** DSE's Biodiversity Unit supports consolidation of allotments to protect native vegetation and notes that the construction of crossovers to access lots could result in the loss of native vegetation.

Issues & Opportunities

- ***Flooding:*** Mapping provided by the North Central Catchment Management Authority indicates that most of the overlay area is subject to the 1 in 100 year flood, with the exception of land in the south west corner of the overlay. It is therefore likely that minimum floor levels would be required by the NCCMA for any new dwellings. Flooding is also likely to pose issues for on-site wastewater disposal.
- ***Native Vegetation:*** Most of the allotments and unmade road reservations in Pollard have been cleared and grazed, however, significant stands of vegetation exist along the constructed roads of Nicholson Street and the Maldon–Shelbourne Road. Consideration to impacts on this vegetation should occur as part of any restructure plan, including the construction of driveway crossovers.
- ***Reservation of Maldon–Shelbourne Road:*** The Maldon–Shelbourne Road runs through four allotments that are privately owned, however, no road reservation exists. This issue could pose an issue for the process of consolidating titles as part of a restructure plan and requires further investigation by Council's Engineering Department.

- **Zoning:** The Crown land along the Bradford Creek is zoned Public Conservation and Resource Zone (PCRZ) and the Restructure Overlay applies to this land. The application of the overlay may not be necessary and there may be an opportunity to remove the overlay as part of a planning scheme amendment. Further discussions with DSE would be required to determine whether this should be pursued.
- **Land Ownership:** The privately owned land in the overlay area is owned by only two landowners. This increases the likelihood that a restructure plan can be negotiated directly with landowners.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plans have been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option may be supported landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, government agencies such as the Environment Protection Authority and Goulburn Murray Water have expressed concerns regarding the capacity for the allotments to treat wastewater on site. For most of the allotments, the capacity to treat effluent is further compromised by the risk of flooding from the Creek.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

For these reasons, Options 2 and 3 are not recommended.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the entire Pollard Restructure Overlay area. The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

In Pollard, all of the privately owned allotments are subject to the 1 in 100 year flood event, so the potential for dwellings to be constructed on restructure lots appears to be limited. This would need to be confirmed through further land capability assessment work.

DSE has indicated that many of the small allotments are surplus to requirements. It therefore appears that there would be few problems associated with the consolidation of the 40 parcels of Crown land into one or more restructure lots.

In comparison to a number of the other overlay areas, there are only two private landowners who would be directly affected by the amendment. This is likely to reduce the time and resources involved in preparing a restructure plan.

As part of the preparation of the restructure plan, discussions between DSE and Council would need to take place to determine whether it is appropriate to retain or close the unmade road reservations of Barry Street, Williams Street, Stawell Street, Molesworth Street and Pyke Street.

Option 4 is the recommended option.

Conclusion

On balance, this option is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on old crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, it will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake land capability assessments for all privately owned allotments;
- Prepare a restructure plan for Pollard;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

7 Walmer

Description of the Area

Walmer is located approximately eight kilometres north east of Maldon on Fogartys Gap Road. The land is zoned Farming (FUZ).

The area is characterised by undulating grazing land and a mix of scattered trees and remnant patches of native vegetation. Muckleford Creek runs from the north to the south through the overlay area. The floodplain of the Creek to the north of the overlay area is well vegetated.

The Restructure Overlay area can be divided into two areas: the first is 'Walmer township', which comprises two clusters of small crown allotments arranged in a grid on the south side of Fogartys Gap Road. It is bounded to the south, east and west by unmade government roads.

This land is flat and low-lying with some scattered native trees and large thickets of blackberries. Some allotments contain sheds and forms of temporary accommodation. Most landholdings comprise of one or two allotments and most of the allotments are between 1,000 and 1,200 square metres in area. There are more than 20 landowners in the township.

The second area comprises land to the south and east of the township. The land to the east is comprised of one landholding of approximately 36 hectares, which is made up of a large number of allotments of varying sizes. This land appears to be fertile land that has been cleared, apart from stands of native vegetation around the creek. It is currently being used for grazing purposes. The land to the south of the township comprise two allotments of approximately two hectares each (CAs 13&14). Access to CA14 is via an unnamed road that is heavily vegetated.

It appears that there are no dwellings in the overlay area, although a number of dwellings exist on small landholdings to the west and south west of Walmer. The proximity of the land to Maldon and small size of the landholdings suggests that the wider area has developed over time as a small pocket of rural living development.

The Restructure Overlay area is shown on the following page.

Walmer Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities:

- ***Environment Protection Authority:*** Walmer consists of a large number of small crown allotments, which are typically around 1,000 square metres in size. According to the EPA, there are significant risks associated with treating and retaining wastewater on allotments on lots less than 10,000 square metres. They recommend that further land capability work be undertaken to determine site suitability for on-site wastewater disposal.
- ***Goulburn Murray Water:*** *The area is located in the water supply catchment of Cairn Curran Reservoir.* Goulburn Murray Water advises that many of the lots are too small to contain wastewater and many are subject to flooding. In order to protect the health of water supply catchments, Goulburn Murray Water supports the development of a restructure plan for the overlay area.

Goulburn Murray Water recommends that any restructure plan should ensure that vegetation along the creek is maintained. They also recommend a no building zone of at least 30 metres from the creek. It appears that only lots within the large 36 hectare landholding would be affected by this buffer requirement.

- ***Department of Primary Industries & Department of Sustainability & Environment***
The Department of Primary Industries had advised that poor land capability is an issue in the area. According to the Biodiversity Unit of the DSE the soils in the area are subject to water logging and salinity.

Issues & Opportunities:

- ***Flooding:*** Most of the land in the Restructure Overlay area is subject to the Land Subject to Inundation Overlay. Flood mapping provided by the North Central Catchment Management Authority (NCCMA) indicates that the 1 in 100 year flood level is fairly accurately mapped in the planning scheme, but some minor revisions are required. It is therefore likely that minimum floor levels would be required for any new dwellings in Walmer. Flooding is also likely to pose issue for the on-site disposal of wastewater.
- ***Road Access:*** Whilst most of the allotments in the township front an unmade road reservation, there are eight allotments that only have frontage to Fogartys Gap Road. The construction of a crossover for each allotment could raise safety issues along Fogartys Gap Road, although this requires further investigation by Council's Engineering Department.
- ***Extent of Overlay:*** Goulburn Murray Water has expressed concern that there are a number of small allotments to the south of the overlay that are not within the Restructure Overlay. This should be investigated as part of any review of the rural zones in the Shire.
- ***Road Access:*** Whilst most of the allotments in the township have frontage to unmade road reservations, there are eight allotments that only have frontage to Fogartys Gap Road. The construction of a crossover for each allotment could raise safety issues along Fogartys Gap Road, although this requires further investigation by Council's Engineering Department.

- ***Fragmented Land Ownership:*** Whilst many of the allotments are owned by one landowner, ownership of the small allotments within the township is particularly fragmented. This is likely to increase the complexity of any restructure planning process.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plans have been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option is likely to be supported by landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, government agencies such as the Environment Protection Authority and Goulburn Murray Water have expressed concerns regarding the capacity for the allotments to treat wastewater on site. For most of the allotments, the capacity to treat effluent is likely to be further compromised by the risk of flooding from the Creek as – other matters such as access points, effluent disposal envelopes and outbuildings.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the Walmer Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It would also provide the best tool to deal with other planning issues such as access points, effluent disposal envelopes and outbuildings.

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

In Walmer, the large number of landowners, together with small allotments sizes, flooding and other land capability issues, means that preparing the restructure plan is likely to require more time and resources Council than in other areas affected by the Restructure Overlay.

Option 4 is the recommended option.

Conclusion

On balance, Option 4 is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on old crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, the preparation of a restructure plan will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a detailed land capability assessment for Walmer;
- Prepare a restructure plan for Walmer;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

8 South Ravenswood

Description of the Area

The South Ravenswood Restructure Overlay is located approximately 12 kilometres north of Castlemaine. The overlay is bounded by the Calder Highway in the west and the Bendigo–Melbourne Railway in the east. The overlay extends for a distance of around four kilometres.

The area is characterised by undulating land that falls to the Bullock Creek, which runs through the centre of most of the overlay area. The land is generally cleared land, with some native vegetation, particularly along Bullock Creek.

The area comprises a mix of old crown allotments and a small number of lots created by plans of subdivision or consolidation. The allotments range in size from 6,600 square metres to 6 hectares. Most have an area of around two hectares.

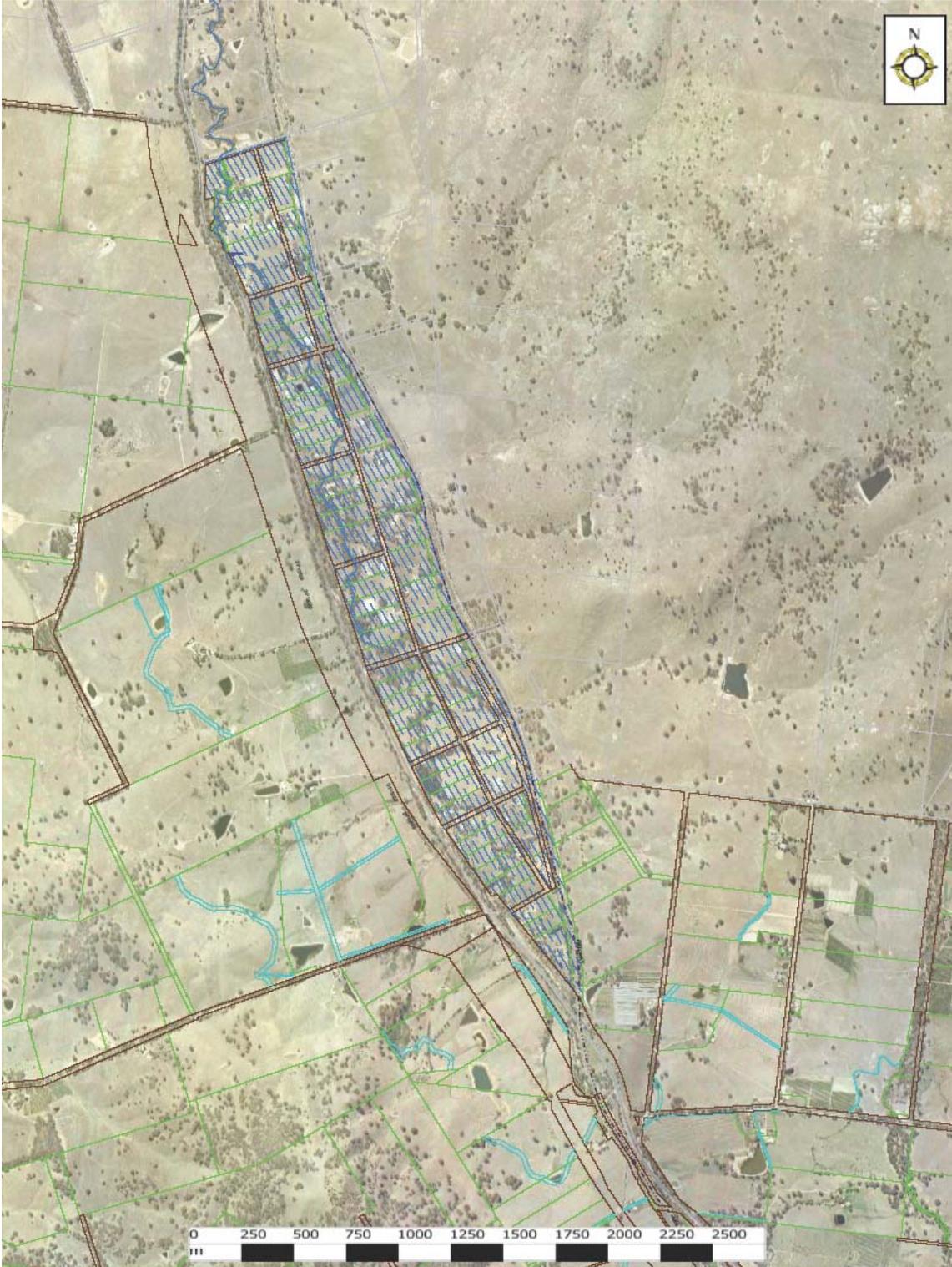
The allotments fronting the Calder Highway generally have access via a series of gravel service roads. Some of these allotments also have rear access via Dobles Lane, which is the primary access for a number of allotments in the east of the overlay area. Elsewhere, allotments front a mix of unmade and made government road reservations. Agricultural licences exist over a number of the road reservations.

Within the overlay area there are 67 allotments owned by 44 landholders, including various parcels of Crown land along the railway line. Approximately 40% of the allotments have been developed with dwellings and a number of others have been developed with sheds. This suggests that rural living has become the predominant land use in the area.

The land is zoned Farming Zone (FUZ) and the Design and Development Overlay (Schedule 1) applies to the front section of most of the allotments fronting the Calder Highway.

The Restructure Overlay area is shown on the following page.

South Ravenswood Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities

- ***Environment Protection Authority:*** The EPA has concerns about capability of the allotments to treat and retain wastewater in close proximity to Bullock Creek. In particular, they are concerned about the cumulative impact of wastewater discharges on the Creek. They recommend land capability assessments to guide this process. They also raise concerns about potential conflict between sensitive land uses and farming activities.
- ***Goulburn Murray Water:*** Goulburn Murray Water advises that the area is located in the Loddon River catchment. They note that, whilst, many of the allotments could be developed with dwellings, the 60 metre setback requirements present a constraint to the development of some of the allotments. They also raise concerns about the cumulative impact of development on water quality and support the consolidation of allotments with measures to avoid buildings near the creek and native vegetation.
- ***Department of Sustainability & Environment (Biodiversity):*** DSE has advised that salinity is an issue in the broader catchment area and that the further removal of native vegetation will exacerbate this problem.

Issues & Opportunities

- ***Flooding:*** Flood mapping provided by the North Central Catchment Management Authority (NCCMA) indicates that the 1 in 100 year flood level affects Bullock Creek. The area covered by the flood level ranges from approximately 100 to 250 metres around the creek and its tributaries.

Whilst the flood extents have not yet been reflected in the Land Subject to Inundation Overlay (LSIO), this is a relevant planning consideration and is likely to affect the on site disposal of wastewater. In particular, this is likely to be an issue for the several of the allotments that are substantially covered by the flood area.

- ***Access from Calder Highway:*** The status of the Calder Highway will change in the near future as the construction of the Calder Freeway is completed. The downgrading of the road's status will make the creation of access points to the allotments less problematic.
- ***Fire Access:*** Council's Engineering Department has advised that access to a number of the allotments in the overlay area is problematic for emergency services. In order to address this problem, Council is in discussions with the CFA regarding the construction of a gravel road between Dobles Lane and Red Gum Valley Road.
- ***Unmade Road Reservations:*** Most of the road reservations in the overlay area have not been constructed. There is an opportunity to determine the future role of these road reservations through the preparation of a restructure plan.
- ***Landholdings with Multiple Allotments:*** Whilst most landholdings in the overlay area contain only one allotment, 16 contain two or more allotments. There is a need to determine whether it is appropriate for each allotment within these landholdings to be developed for dwellings from a land capability point of view.

- ***Fragmented Landholdings:*** Several of the landholdings at the northern end of the overlay area contain allotments that are separated by government road reservations. There is a need to consider whether these allotments should be treated differently from contiguous allotments that are in the same ownership.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plan has been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

As part of this investigation, key planning issues relate to environmental impacts of wastewater on water quality in the Bullock Creek, the future of road reservations in the area and whether it is appropriate for landholdings with more than one allotment to be developed with multiple dwellings.

It is worth noting that the City of Greater Bendigo Planning Scheme has recently prepared Amendment C88. This amendment proposes to substantially reduce the area covered by a Restructure Overlay in Ravenswood, immediately to the north of Ravenswood South.

The justification for removing the overlay under C88 was that most of the allotments were created under plans of subdivision and most have been developed with dwellings. The report of the independent planning panel supported the reduction of the overlay².

Applying the same approach in Ravenswood South is, however, problematic as there are key differences between the areas considered under Greater Bendigo C88 and those in Mount Alexander Shire. These include the large number of vacant crown allotments, large number of unmade road reservations, proximity of the Bullock Creek and number of landowners with multiple landholdings.

The Ravenswood South overlay area is clearly developing as a rural living enclave within a Farming Zone. However, unless further strategic work on land capability and the farming zones determines otherwise, these options should not be pursued and a cautionary approach should be taken to resolving the planning issues in the area.

For these reasons, Options 2 or 3 are not recommended at this point in time.

² At the time of writing, this amendment had been adopted by Council but not approved by the Minister for Planning.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the Ravenswood South Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It would also provide the best tool to deal with other planning issues such as access points, effluent disposal envelopes and outbuildings.

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

In Ravenswood South there is an opportunity to create restructure lots that align with existing landholdings, with the potential for a single dwelling for each restructure lot. This approach would need to be verified by further land capability work.

Option 4 is the recommended option.

Conclusion

Unlike many of the other areas that have been investigated in this report, Ravenswood South contains larger allotments and an existing pattern of residential development. Nevertheless, there are sufficient planning issues to warrant the development of a restructure plan for the area.

On balance, Option 4 is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on small crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, the preparation of a restructure plan will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a land capability assessment for Ravenswood South
- Prepare a restructure plan for Ravenswood South;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

9 Moolort

Description of the Area

Moolort is located approximately fourteen kilometres west of Maldon on Baringhup Road. The land is generally flat land on volcanic plains. The land is generally cleared farming land.

Native vegetation exists in a small cluster of trees on the western boundary of the overlay area and a larger cluster of trees on the southern boundary. It appears that these areas are associated with wetlands and this is confirmed by information provided by the North Central Catchment Management Authority which indicates that the land is subject to the 1 in 100 year flood event.

The land is made up of three large allotments 12A2 (34 hectares), 12A1 (29 hectares) and 12B (32 hectares). These allotments are in single ownership. Allotment 12B is covered by a Heritage Overlay (HO401) which relate to the 'Deep Head Dumps'.

The surrounding land is characterised by cleared rural land. Allotments are of a similar size to those that make up the subject land.

The Restructure Overlay area is shown on the following page.

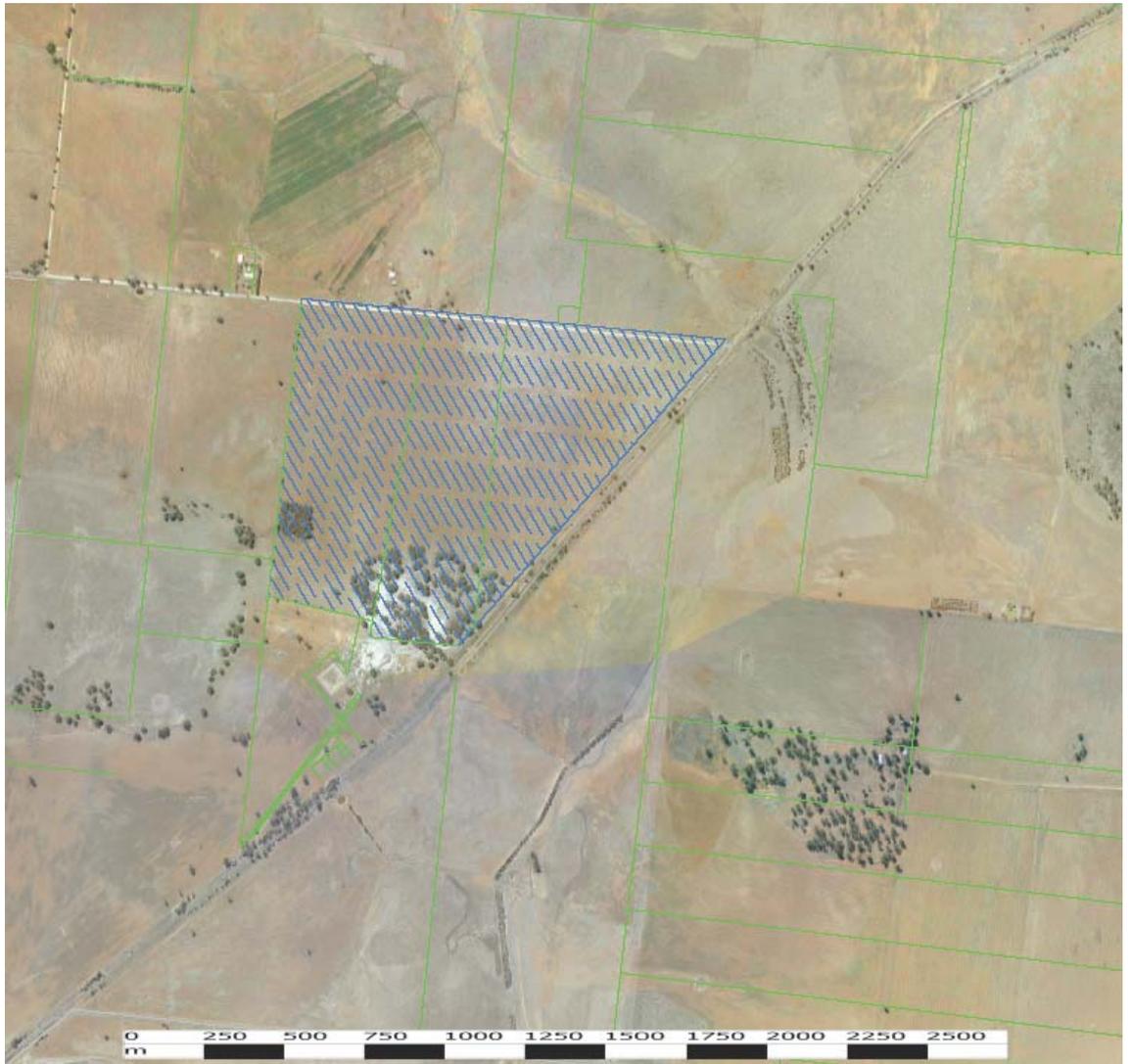
Issues & Opportunities

At the commencement of this study, the Map Mount Alexander Planning Scheme maps showed that the land had been subdivided into a large number of small allotments with a street network in a grid pattern. This plan of subdivision is numbered 4925 and was approved by Council in the 1970s.

Further investigations by DSE confirmed that the subdivision had not been registered at the titles office. As a consequence, none of the allotments were ever created.

The comments provided by the authorities regarding Moolort were made prior to confirmation that the subdivision had not been registered. Whilst they provide some useful descriptions of the area, the comments have therefore not been included in the report.

Moolort Restructure Overlay



The Restructure Overlay area is hatched.

Discussion of Options

Clearly, the overlay has been applied in error on the basis that a large number of small allotments were created under plan of subdivision 4925.

Having regard to the fact that the three allotments that exist are similar in size to the crown allotments in the surrounding area, the removal of the overlay is considered to be the preferred Option. The other provisions of the Planning Scheme including the Farming Zone and Heritage Overlay will ensure that any use or development of the land is appropriate.

It is therefore considered that there is only one option available to Council, which is to remove the Restructure Overlay from the subject land.

Conclusion

The Restructure Overlay should be removed on the basis that the overlay should not apply to the land.

Recommendation

- Prepare a planning scheme amendment to remove the Restructure Overlay from Moolort.

10 Maldon North (A)

Description of the Area

The 'Maldon North (A)' Restructure Overlay is located at the northern end of Church Street approximately 1.2 kilometres north of the Maldon shopping district. The overlay area abuts the outer limits of the Maldon township area, which is zoned Residential 1 (R1Z).

The Restructure Overlay covers 41 hectares and is characterised by hills and gullies, with a mix of remnant bushland interspersed with tracts of cleared land. There are a number of waterways that run north-south into Peg Leg Gully which runs parallel to Peg Leg Gully Road.

The overlay can be divided into two areas. These are separated by vegetated Crown land that forms part of the Maldon Natural & Historic Interest Reserve.

The first area is located around Davies Lane, a gravel track that leads north and terminates in the Natural & Historic Interest Reserve. There are two other unmade road reservations that run north south through this area. The area comprises eight privately owned landholdings and four tracts of Crown land. Two of the landholdings have been developed with dwellings.

The second area is located on the west side of Bells Reef Road. This land is cleared, sloping land that contains scattered native vegetation. The area comprises three landholdings, two of which have been developed with dwellings. Crown Allotment 58 is covered by a Heritage Overlay (HO81). The citation in the schedule to the overlay relates to Rose Cottage, Cottage Road, Maldon.

In addition to the two areas described above, the overlay covers three allotments of Crown land that are fully encircled by the State Park and are zoned Farming (FUZ). These allotments are land locked and fully vegetated.

The land is zoned Farming (FUZ), apart from Crown land that is zoned Public Conservation & Resource Zone (PCRZ).

The Restructure Overlay area is shown on the following page.

Maldon North (A) Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities

- **Environment Protection Authority:** Maldon North (A) consists of a large number of small crown allotments, most of which are between 1,000 and 8,000 square metres in area. According to the EPA, sewerage is available within close proximity of the area and should be investigated as the “best practice option for collection, treatment and reuse of wastewater”.
- **Goulburn Murray Water:** Goulburn Murray Water advises that the area is located in the water supply catchment of Cairn Curran Reservoir. They note that Peg Leg Gully is a tributary of Porcupine Creek, which is a tributary of Muckleford Creek.

Goulburn Murray Water has suggested that providing reticulated sewerage could be investigated together with the possibility of rezoning the land to Rural Living or Low Density Residential.
- **DSE (Biodiversity) & Department of Primary Industries** advises that poor land capability is an issue in the area. According to the Biodiversity Unit of the DSE, erosion is a problem for the soils in the area.
- **Parks Victoria** recommends that any restructure plan should avoid creating demand for additional services. Their position is that services should be provided across adjacent freehold land so as to avoid impacts on Crown land. Parks Victoria’s position is that new land use or development in the overlay area would need to allow for fire protection works to be undertaken on freehold land and not Crown land.

Issues & Opportunities

- **Flooding:** Flood mapping provided by the North Central Catchment Management Authority (NCCMA) indicates that the 1 in 100 year flood level affects the drainage lines that run into Peg Leg Gully.

Whilst the flood extents have not yet been reflected in the Land Subject to Inundation Overlay (LSIO), this is a relevant planning consideration and is likely to affect the on site disposal of wastewater. In particular, this could be an issue for allotments known as 2005 & 2006 that are substantially covered by the flood area..

- **Reticulated Sewerage:** The EPA and Goulburn Murray Water suggest that reticulate sewerage should be investigated. Clearly, reticulated sewerage is preferred from an environmental perspective. It does, however, raise major strategic planning issues that are outside the scope of this report and should be investigated and addressed as part of the rural zones review.

It is noted that, at present, such a proposal does not have strategic support in the Maldon Framework Plan at Clause 21.03 of the MSS as the land is located outside the township boundary. Providing reticulated sewerage to the land would also conflict with many of the objectives of the Farming Zone and the purpose of the Restructure Overlay

- **Access Points & Native Vegetation:** Allotments 35 to 50 are located on the west side of an unmade road reservation in the first overlay area. The road appears to contain native vegetation and much of this would be lost if the road were constructed to give access to one or more of these allotments.
- **Services & Native Vegetation:** Further consultation with servicing authorities is needed to determine whether this would present an issue for development on any existing landholdings. This consultation should occur during the preparation of the restructure plan.

Generally, Parks Victoria supports the consolidation of small lots in the area and requires consideration of off-site impacts associated with residential development such as the spread of weed plants and animals, noise and access.

- **Fire Protection Works:** The recommendation by Parks Victoria that fire protection works should be undertaken on private land is likely to present a constraint to the development of existing small allotments that abut Crown land such as crown allotments 25,32A, 34 & 35
- **Land Ownership** Whilst the overlay area consists of a large number of small allotments, most of these are held in much larger landholdings. With the exception of allotments 2005&2006, there is an opportunity to investigate restructure lots that align with existing landholdings, subject to the completion of further land capability work.
- **Isolated Parcels of Crown Land:** It is unclear as to why the three isolated parcels of Crown land have not been consolidated with the surrounding Crown land. If this occurs prior to any planning scheme amendment, it may be appropriate to remove the Restructure Overlay from these parcels of land.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plan has been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option is likely to be supported by landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, key issues relate to the capacity for the allotments to treat wastewater on site, potential loss of native vegetation along road reserves and the impact of residential development on the state park in terms of fire buffers, weeds, animals and access for services.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

For these reasons, Options 2 and 3 are not recommended.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the Maldon North (A) Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It could also guide other matters such as access points, effluent disposal envelopes and outbuildings.

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

In Maldon North (A), however, they may be an opportunity to prepare restructure lots that align with existing landholdings, with the potential for a single dwelling for each lot. This would be subject to detailed land capability work.

Option 4 is the recommended option.

Conclusion

On balance, Option 4 is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on small crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, the preparation of a restructure plan will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a detailed flora and fauna assessment for Maldon North (A)
- Undertake a detailed land capability assessment for Maldon North (A);
- Prepare a restructure plan for Maldon North (A);
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

11 Maldon North (B)

Description of the Area

The “Maldon North (B)” Restructure Overlay is located approximately 2 kilometres east of the Maldon shopping district and the Bendigo–Maldon Road.

The area is characterised by gently undulating grazing land. The land is zoned Farming Zone (FUZ) and the Significant Landscape Overlay (SLO1) applies to the area covered by the Restructure Overlay.

The overlay applies to six hectares of land in two separate precincts.

The first precinct is located on the corner of Lewis Road and Bendigo Maldon Road. The land consists of nine adjoining allotments in single ownership. Allotment 7 has been developed with a dwelling. The remaining allotments contain a dam and are used for grazing purposes.

The second precinct is located on the east side of Bendigo–Maldon road. It contains two private landholdings; one of 13 small cleared allotments and the other containing two large allotments that are well vegetated.

In the northern part of the overlay area there is a triangular small triangular parcel of Crown land that contains native vegetation.

In the surrounding area, historic mine workings exist on the Maldon Historic and Cultural Features Reserve on the west side of Bendigo–Maldon Road. There are two recreation reserves between the two precincts.

The Restructure Overlay area is shown on the following page.

Maldon North (B) Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities

- **Environment Protection Authority:** Maldon North (B) consists of a large number of small crown allotments, most of which are between 1,000 and 8,000 square metres in area. The on-site disposal of wastewater is likely to be a significant issue for residential development on the smaller allotments.
- **Goulburn Murray Water:** Goulburn Murray Water advises that the area is located in the water supply catchment of Cairn Curran Reservoir. They also note that Porcupine Creek runs alongside the Bendigo–Maldon Road and that the small size of the allotments will severely constrain wastewater management.
- **Department of Primary Industries:** The Department of Primary Industries had advised that poor land capability is an issue in the area.
- **Department of Sustainability & Environment (Biodiversity Unit):** DSE has advised that the vegetation on allotments 16A, 16C and 15C is likely to be a remnant patch and would support the consolidation of allotments, particularly lots 16C and 15C where trees are present.

Issues & Opportunities

- **Flooding:** Flood mapping provided by the North Central Catchment Management Authority (NCCMA) indicates that the 1 in 100 year flood level affects Porcupine Creek and significant portions of all of the allotments in the northern precinct. The maps indicate that the frontages of the allotments in the southern precinct may also be affected by the 1 in 100 year flood level.

Whilst the flood extents have not yet been reflected in the Land Subject to Inundation Overlay (LSIO), this is a relevant planning consideration and is likely to affect the on site disposal of wastewater. In particular, this is likely to be an issue for the allotments described above that are substantially covered by the flood area.

- **Access Points:** The creation of new access points for the allotments to the Bendigo–Maldon Road is likely to present a traffic safety issue along this road. This would require further investigation by Council during the preparation of a restructure plan.
- **Native Vegetation:** Further investigation is required to determine the conservation significance of this vegetation. This should occur during the preparation of a restructure plan.
- **Land Ownership** Whilst the overlay area consists of a large number of small allotments, there are only two landowners who own four landholdings. There is an opportunity to investigate restructure lots that align with existing landholdings, subject to the completion of further land capability work.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plan has been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option is likely to be supported by landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, key issues relate to the capacity for the allotments to treat wastewater on site, potential loss of native vegetation on several of the allotments and potential issues with creating new access points to the Bendigo–Maldon Road.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

For these reasons, Options 2 and 3 are not recommended.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the Maldon North (B) Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It could also guide other matters such as access points, effluent disposal envelopes and outbuildings.

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

This option is likely to generate significant resistance from landowners if they wish to develop dwellings on existing small allotments and whose expectations about doing so are removed by the restructure plan.

In Maldon North (B), however, there may be an opportunity to prepare restructure lots that align with existing landholdings, with the potential for a single dwelling for each lot. This would be subject to further land capability work.

Option 4 is the recommended option.

Conclusion

On balance, Option 4 is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on small crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, the preparation of a restructure plan will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a land capability assessment for Maldon North (B);
- Prepare a restructure plan for Maldon North (B);
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

12 Gower

Description of the Area

Gower is located approximately 10 kilometres north west of Castlemaine on the Castlemaine–Maldon Road, east of Pullmans Road. The land is zoned Farming (FUZ).

The Restructure Overlay covers a relatively small area on fronting both sides of the Castlemaine–Maldon Road. This road is zoned Road Zone Category 1 (RDZ1) and is under the management of VicRoads.

The area to the north of the Castlemaine–Maldon road consists of five crown allotments (CAs 18–22) that are approximately 2,000 square metre in size. These allotments contain native vegetation and are encircled on three sides by vegetated Crown land that forms part of the Maldon Historic Features Reserve.

Crown Allotment 22 is mapped on the department's Crown land mapping as being part of the Maldon Historic Features Reserve. Crown Allotment 21 is in private ownership and has been developed with a dwelling. Allotments 18–20 are in single landholding and contain a dam that is located on a drainage line. This drainage line runs into Back Creek, which is located just to the south of the overlay area. Back Creek is lined by large native trees and runs into Muckleford Creek.

The area to the south side of Castlemaine Maldon Road consists of eight crown allotments (CAs 1–8) that are approximately 4,000 square metres in size. The allotments have been cleared of vegetation and appear to have been grazed in the past. Each of the allotments is privately owned, apart from allotment 5A, which is Crown land. The land slopes to Back Creek. These allotments are affected by the Significant Landscape Overlay (SLO1).

Large native trees exist in the road reservation long both sides of the Castlemaine Maldon Road. A gravel service road extends west from Crown Allotment 4 and connects the main road with Pullmans Road.

The Restructure Overlay area is shown on the following page.

Gower Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities

- ***Environment Protection Authority:*** Gower consists of small crown allotments that are between 2,000 and 4,000 square metres in size. According to the EPA, there are significant risks associated with treating and retaining wastewater on allotments on lots less than 10,000 square metres. They recommend that further land capability work be undertaken to determine site suitability for on-site wastewater disposal.
- ***Goulburn Murray Water:*** advises that the area is located in the water supply catchment of Cairn Curran Reservoir. Goulburn Murray Water recommends that no further development should occur on the north side of the Castlemaine–Maldon Road due to the existing dwelling, dam and drainage line. They also advise that the development of allotments 5A,6–8 would be severely constrained due to the proximity of Back Creek, however, they suggest that may be possible to locate on dwelling on the allotments 1–4 if they were consolidated.
- ***The Department of Primary Industries*** advises that poor land capability is an issue in the area.
- ***DSE (Crown Land)*** advises that Crown Allotment 5A, which is Crown land, is surplus to requirements. Subject to the appropriate statutory disposal process, there may be an opportunity for the allotment to be incorporated into a restructure lot.
- ***DSE (Biodiversity):*** According to the Biodiversity Unit of the DSE the soils in the area are subject to water logging and salinity. DSE is concerned about the potential impact that new access points may have on native vegetation along the Maldon–Castlemaine Road. DSE notes that the road reservation appears to be fully vegetated and the removal of vegetation is likely to be required to create crossovers and for safe sight lines.

Issues & Opportunities

- ***Flooding:*** Flood mapping provided by the North Central Catchment Management Authority (NCCMA) indicates that the 1 in 100 year flood level affects the drainage line that runs into Back Creek. This drainage line affects Allotments 7,8,18 and 19.

Whilst the flood extents have not yet been reflected in the Land Subject to Inundation Overlay (LSIO), this is a relevant planning consideration and could present an issue for the on site disposal of wastewater. The application of the LSIO should occur as part of a separate planning scheme amendment process.

- ***Fragmented Land Ownership:*** Whilst allotments 1–4 do not appear to be affected by flooding and are free of native vegetation, the land is owned by three landowners. This is likely to increase the complexity of any restructure planning process.
- ***Significant Landscape Overlay:*** The Significant Landscape Overlay (SLO1) applies to southern part of the overlay area. The overlay relates to the 'Maldon Landscape Area' and covers most of the land within Maldon and the rural areas surrounding the township.

The overlay aims to prevent the destruction of significant tracts of bushland or trees and to encourage development that does not detract from the value of the landscape due to its siting, height, or general appearance.

Therefore, there is an additional degree of sensitivity associated with any development of these allotments. Whilst any development would need to be considered on its merits, it may be difficult to demonstrate how the construction of multiple dwellings on the small allotments in a rural setting can achieve the objectives of the overlay.

- ***Access Points & Road Safety:*** The creation of new access points to the Castlemaine–Maldon Road will require the approval of VicRoads as a statutory referral authority. Discussions with VicRoads indicate that they would seek to minimise the number of access points along the road. Their preference would be for joint access points to service dwelling on restructure lots. In order to ensure that access points are properly planned, it may be appropriate to incorporate VicRoad’s requirements into the restructure plan.
- ***Application of Restructure Overlay:*** As part of any planning scheme amendment, further discussions should take place with DSE to determine whether the overlay should be removed from Crown Allotment 22 (Crown land).

In addition, Goulburn Murray Water has noted that there is a series of crown allotments further to the east on the Castlemaine–Maldon Road that is not affected by the Restructure Overlay but appears to share similar characteristics with the Gower overlay area. This matter should be investigated as part of the review of the rural zones in the Shire.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plan has been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option is likely to be supported by landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, government agencies such as the Environment Protection Authority and Goulburn Murray Water have expressed concerns regarding the capacity for the allotments to treat wastewater on site. For most of the allotments, the capacity to treat effluent is likely to be further compromised by the risk of flooding along the drainage line that runs through the Restructure Overlay area. Generally, poor land capability is an issue in the area.

In respect of native vegetation, DSE is concerned that the development of new access points along the Castlemaine–Maldon Road would result in the loss of native vegetation.

In respect of fire risk, the Country Fire Authority has expressed concerns about potential high wildfire risk in the area.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

For these reasons, Options 2 and 3 are not recommended.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the Gower Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It could also guide other matters such as access points, effluent disposal envelopes and outbuildings. Consideration would also need to be given to the objectives of the Significant Landscape Overlay (SLO1).

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

This option is likely to generate significant resistance from landowners who wish to develop dwellings on small allotments and whose expectations about doing so are removed by the restructure plan.

Option 4 is the recommended option.

Conclusion

On balance, Option 4 is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on small crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, the preparation of a restructure plan will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a detailed land capability assessment for Gower;
- Prepare a restructure plan for Gower;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

13 Pennyweight Flat

Description of the Area

Pennyweight Flat is located approximately one kilometre east of the Castlemaine CBD on Happy Valley Road.

The land is characterised by undulating land and gullies. The gullies are associated with Forest Creek, which runs along the southern boundary of the overlay area, and Moonlight Creek, which runs adjacent to the western boundary of the overlay area.

The land is generally cleared, however, native vegetation exists along the creeks. Some of this vegetation is regrowth and a revegetation program has been undertaken in several areas.

The overlay area is made up of 28 allotments that range from 800 square metres to 8,000 square metres in area. A single large allotment of 11 hectares exists in the centre of the overlay area. All allotments are in single ownership. The land is zoned Rural Conservation Zone (RUZ).

The overlay area is part of a heritage precinct that contains the Pennyweight Flat Cemetery. This site, which is located to the east of the Restructure Overlay, is of historic significance at the National, State and Local levels.

At the local level, much of the Restructure Overlay area is covered by the Heritage Overlay (HO993) which relates to the Pennyweight Flat cemetery environs. Schedule 2 to the Significant Landscape Overlay (SLO2) covers the entire overlay area. This overlay aims to protect significant landscapes, vegetation and creeks around Castlemaine.

The Design and Development Overlay (DDO4) applies to most of the RO area, with the exception of a series of allotments fronting Happy Valley Road. This overlay aims to protect the cultural and natural heritage of Pennyweight Flat and the Cemetery. In particular, its policies relate to new development and it allows for consultation with DSE and Heritage Victoria.

The Restructure Overlay area is shown on the following page.

Pennyweight Flat Restructure Overlay



The Restructure Overlay area is hatched.

Issues & Opportunities

This Restructure Overlay area and the wider Pennyweight Flat precinct has an extensive planning history, having been the subject of various applications, appeals and planning scheme amendment requests since the 1980s.

In 2005, Council completed the Happy Valley/Moonlight Flat Strategic Plan to provide directions for the future planning and development of the area. The planning controls that apply to the site, including the Restructure Overlay, were recommendations of the Plan. These were introduced through Planning Scheme Amendment C25, which was gazetted in February, 2007.

The Plan contains recommendations that housing for Precinct 2 (the overlay area), be limited to a single location on elevated land to the north east of the Precinct, south of Happy Valley Road (Happy Valley/Moonlight Flat Strategic Plan, p39). The proposed location of this dwelling is shown on Plan 10 (Happy Valley Road Structure Plan). It is to be located in the north east of the overlay area.

The plan requires that an application for a single dwelling must show a building envelope and be accompanied by a land capability assessment indicating proposed effluent fields.

Whilst it is not clearly stated in the plan, it is clearly implied that all allotments in the overlay area would be consolidated into a single allotment as a condition of any planning permit for the dwelling.

Discussion of Options

The Happy Valley/Moonlight Flat Structure Plan provides the strategic direction for the development of housing in Pennyweight Flat.

In this case, the Plan provides strategic support for a single dwelling in the overlay area. Removing or reducing the area of the overlay would conflict with the policies in the Planning Scheme that were introduced to provide statutory weight the study.

Similarly, a decision to not proceeding with the preparation of a restructure plan would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plan has been prepared. This would unreasonably prevent the issue of a permit for a dwelling that has a level of strategic support in the Planning Scheme.

The preferred option is to prepare a restructure plan with a single restructure lot in accordance with the Structure Plan.

It is noted that the dwelling would need to be assessed against the other provisions of the Planning Scheme, including the Rural Conservation Zone, Significant Landscape Overlay, Design and Development Overlay and Heritage Overlay.

Conclusion

In accordance with the recommendations of the Structure Plan for the area, Council should proceed with the preparation of a restructure plan.

Recommendations

- Prepare a restructure plan for Pennyweight Flat;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

14 Muckleford South

Description of the Area

Muckleford South is located approximately 8 kilometres south west of Castlemaine on the Pyrenees Highway. The Muckleford Creek runs from the north to the south through the overlay area.

The area is characterised by gently undulating grazing land that has been cleared of native vegetation. The native vegetation that exists is mainly located along the Creek and along used and unused road reservations. Native vegetation also exists on freehold land in the south western and south eastern part of the overlay area. Some of the trees in the overlay area are of a significant age and size.

The Pyrenees Highway is zoned Road Zone Category 1 (RDZ1) and is under the management of VicRoads. Within the overlay area, the government road reservations are configured in a grid pattern with reservations running in an east–west and north–south direction. The overlay area is bounded by Symes Road/Brown Street in the west, Windham Street in the north, Cathcart Street in the South and Muckleford–Yapeen Road (Simpson Street) in the east. Symes Road and Simpson Street and part of Burgoyne Street are gravel roads. All of the other roads are unmade.

The area comprises 125 crown allotments in 25 landholdings owned by 12 landowners. Landholdings vary significantly in size. Most are in the order of 1 hectare, although a number are less than 2,000 square metres.

Two parcels of Crown land exist on the north side of Cathcart Street. These are zoned Farming (FUZ). There is a Public Hall and Recreation Reserve on the south side of Burgoyne Street. This reserve is zoned Public Conservation and Resource Zone (PCRZ). It contains a historic former state school building and a sports ground. The state school is covered by a Heritage Overlay (HO983). Crown land zoned PCRZ also exists along the Creek.

The pattern of land ownership is mixed. Whilst some landowners own multiple allotments that make up an entire 'block' bounded by government roads, there are four landowners who own single isolated allotments. There are four dwellings in the overlay area.

The Restructure Overlay area is shown on the following page.

Muckleford South Restructure Overlay



The Restructure Overlay area is hatched.

Comments from Authorities

- **Environment Protection Authority:** Muckleford South consists of a large number of small crown allotments, which are typically around 2,000 square metres in size. According to the EPA, there are significant risks associated with treating and retaining wastewater on allotments on lots less than 10,000 square metres. They recommend that further land capability work be undertaken to determine site suitability for on-site wastewater disposal.
- **Goulburn Murray Water:** *The area is located in the water supply catchment of Cairn Curran Reservoir.* Goulburn Murray Water advises that many of the lots are small in the context of an unsewered area and many are subject to flooding. They express concern about the existing dwelling density of 1 per 10 hectares. In order to protect the health of water supply catchments, Goulburn Murray Water supports the development of a restructure plan for the overlay area.

Goulburn Murray Water recommends that any restructure plan should ensure that vegetation along the creek is maintained. They also recommend a no building zone of at least 30 metres from the creek.

- **DSE (Biodiversity)** The Biodiversity Unit of the Department of Sustainability and Environment (DSE) has advised that a number of threatened species are likely to occur within the overlay area.
- **DSE (Crown land):** DSE has advised that the Crown land adjoining the water frontage is not suitable for restructuring. They have also advised that the other Crown land is suitable for restructuring.
- **Department of Primary Industries:** The Department of Primary Industries had advised that poor land capability is an issue in the area. According to the Biodiversity Unit of the DSE the soils in the area are subject to water logging and salinity.

Issues & Opportunities

- **Native Vegetation:** The reservations of all the unmade government roads contain some native trees. If any of the roads were to be constructed, there is a possibility that trees would need to be removed, although this would be subject to a further detailed investigation and design work.

The lack of native vegetation on private landholdings means that dwellings could be developed without significant impacts on native vegetation. Again, this would be subject to detailed investigation for each landholding/restructure lot taking into account other factors such as the location of effluent disposal envelopes.

- **Flooding:** Flood mapping provided by the North Central Catchment Management Authority indicates that the area around the Muckleford Creek is subject to the 1 in 100 year flood event. This area is variable in width but is up to 300 metres wide in the southern section of the overlay area.

The 1 in 100 year flood event also affects two drainage lines that run into the Creek. These run along the Pyrenees Highway to the east of the Creek and along Burgoyne Street to the west of the creek.

It is noted that, whilst the 1 in 100 year flood affects most of the landholdings to some extent, it substantially covers only two landholdings. These are located between Vaughan Street and the Creek. It is therefore likely that minimum floor levels would be required for any new dwellings. Flooding is also likely to pose issues for on-site wastewater disposal.

- **Road Access:** VicRoads has advised that direct access to the Pyrenees Highway for new dwellings will be discouraged and that access should be via the local road network. As the existing network of government roads is largely unmade, landowners would need to construct all-weather roads to provide proper access to the dwellings. The standard of road construction would be determined by Council's Engineering Department.

As part of any restructure plan, there is an opportunity to investigate the construction of Markham Street, which could provide access to a number of the landholdings. VicRoads have advised that the intersection of the Highway and Markham Street could be constructed without compromising vehicle sight lines along the Highway.

- **Consolidation of Crown land:** There may be an opportunity to consolidate the two parcels of Crown land with the private land to the north to create larger restructure lot. Further discussions with DSE would be required to confirm whether the land is surplus to requirements and obtain information about the statutory process for the disposal of Crown land.
- **Zoning:** The Crown land along the Muckleford Creek is zoned Public Conservation and Resource Zone (PCRZ) and the Restructure Overlay applies to this land. The application of the overlay may not be necessary and there may be an opportunity to remove the overlay as part of any planning scheme amendment. Further discussions with DSE would be required to determine whether this should be pursued.
- **No Building Zone:** Goulburn Murray Water recommends a no building zone of at least 30 metres from the Creek. It appears that there is only one landholding where the development of a dwelling would be seriously compromised by this buffer requirement. This landholding is located between the Creek and Nolan Street.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plans have been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option may be supported by some landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, government agencies such as the Environment Protection Authority and Goulburn Murray Water have expressed concerns regarding the capacity for the allotments to treat wastewater on site. For some of the allotments, the capacity to treat effluent is likely to be further compromised by the risk of flooding from the Creek as identified by the North Central Catchment Management Authority.

The construction of dwellings within the overlay area would also be likely affect native vegetation. New roads would need to be constructed to provide access to much of the land within the overlay area and scattered trees exist in these reservations. New roads would also pose a maintenance liability for Council.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

For these reasons, Options 2 and 3 are not recommended.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the entire Muckleford South Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It could also guide other matters such as access points, effluent disposal envelopes and outbuildings.

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

This option is likely to generate resistance from landowners who wish to develop dwellings on small allotments and whose perceived right to develop the allotment is removed. In Muckleford South, however, most of the landowners own multiple allotments in contiguous landholdings. There is potential for these landholdings to become restructure lots, subject to the findings of a detailed land capability assessment.

Option 4 is the recommended option.

Conclusion

On balance, Option 4 considered to be the preferred option because it furthers the objectives of the State and Local Planning policy Frameworks, which aim to discourage the development of dwellings on old crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, it will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a detailed land capability assessment for Muckleford South;
- Prepare a restructure plan for Muckleford South;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

15 Tarilta

Description of the Area

The Tarilta Restructure Overlay is located approximately 10 kilometres south of Castlemaine between the townships of Guildford and Vaughan.

The overlay covers an area of approximately 217 hectares, making it the largest Restructure Overlay area. The eastern half of the overlay covers Crown land that is part of the Castlemaine Diggings National Heritage Park. The western half covers a valley that is characterised by cleared grazing land. The Tarilta Creek runs through the valley.

There are two roads that give access to the valley, one from Vaughan in the east and the other from Guildford in the west. There is a network of unmade government road reservations that exist in the overlay area.

The area consists of 150 allotments owned by 8 landowners. Most of the small crown allotments are clustered around the Tarilta Road that runs through the valley. To the east, a series of well vegetated allotments adjoins the National Heritage Park. All of the privately owned land is zoned Farming Zone (FUZ). Small sections of land in the north of the overlay area are affected by the Wildfire Management Overlay (WMO).

In addition, there are several parcels of Crown land along the creek and adjoining the Castlemaine Diggings National Heritage Park. Most of the Crown land is zoned Public Conservation and Resource Zone (PCRZ).

The Heritage Overlay (HO998) applies to the Castlemaine Diggings National Heritage Park. This land is also listed on the Victorian Heritage Register (H2047)

It is estimated that there are five dwellings within the overlay area. Two appear to be associated with farms that operate in the area.

The Restructure Overlay area is shown on the following page.



The Restructure Overlay area is hatched.

Comments from Authorities

- **Environment Protection Authority:** Tarilta consists of a large number of small crown allotments, most of which are less than 4,000 square metres in area. The EPA advises on-site disposal of wastewater is likely to be a significant issue for residential development on the smaller allotments.
- **Goulburn Murray Water:** Goulburn Murray Water advises that the area is located in the water supply catchment of Cairn Curran Reservoir. They note that the land is affected by Tarilta Creek and its tributaries. Goulburn Murray Water would support the development of a restructure plan with the provision for maintenance of vegetation along the creek and a no building zone of at least 30 metres.
- **Department of Primary Industries:** The Department of Primary Industries had advised that poor land capability is an issue in the area.

Issues & Opportunities

- **Flooding:** Flood mapping provided by the North Central Catchment Management Authority (NCCMA) indicates that the 1 in 100 year flood level affects an area up to 200 metres wide around the Tarilta Creek. Its tributaries would also be affected by this level.

Whilst the flood extents have not yet been reflected in the Land Subject to Inundation Overlay (LSIO), this is a relevant planning consideration and is likely to affect the on site disposal of wastewater. In particular, this is likely to be an issue for a series of small allotments in the south west corner of the overlay area.

- **Agricultural Land:** Much of the land in the overlay area appears to be used in association with two farms. The development of small allotments would result in the permanent loss of this land for agricultural purposes and could result in conflict between land farming operations and dwellings, contrary to the objectives of the Farming Zone.
- **Native Vegetation:** The privately owned allotments adjoining the National Heritage Park are well vegetated. This significance of this vegetation is likely to be elevated by its direct connections with the Park. Any residential development on these allotments would require the removal of vegetation.
- **Land Ownership** Whilst the overlay area consists of a large number of small allotments, much of the land is owned by two landowners. This may facilitate with the consolidation of many of the small allotments. There is an opportunity to investigate restructure lots that align with existing landholdings on the allotments that adjoining the National Heritage Park.
- **Access to Existing Dwellings:** It appears that two existing dwellings that adjoin the National Heritage Park gain access to the land through the Park. It is unclear as to whether this is an issue for DSE or the relevant land manager. This would require further investigation as part of a restructure plan.

Discussion of Options

Option 1: No Change

Option 1 would result in a continuation of the current situation in which Council cannot issue planning permits as no restructure plan has been prepared. This would result in significant uncertainty for landowners who require a permit to use or develop their land.

Maintaining the current situation is not considered to be acceptable for Council having regard to the objectives of planning in Victorian and duties of Responsible Authorities as set out in the Planning & Environment Act (1987).

Option 1 is therefore not recommended.

Options 2 & 3: Remove or reduce the overlay

This option would require a planning scheme amendment.

Whilst this option is likely to be supported by landowners who wish to construct dwellings on individual allotments or sell allotments for this purpose, the research undertaken indicates that there are a number of substantive planning reasons why this option should not be pursued.

From a policy point of view, removing or reducing the overlay would be contrary to State and Local planning policies which discourage the development of dwellings on small crown allotments for a variety of planning reasons. The basis for these policies is to avoid adverse impacts on productive agricultural land, catchment health, native vegetation and fauna habitats. These policies also aim to minimise the costs to the community of providing services and infrastructure to non urban areas.

As part of this investigation, key issues relate to the capacity for the allotments to treat wastewater on site, the loss of agricultural land and the potential loss of native vegetation on well vegetated allotments.

For these reasons, it is anticipated that Council would have difficulty in justifying these options as part of a planning scheme amendment process. This process requires Councils to consider State and Local Planning Policy Framework and the views of authorities, amongst other matters.

For these reasons, Options 2 and 3 are not recommended.

Option 4: Prepare a restructure plan

This option would involve the preparation of a restructure plan for the Tarilta Restructure Overlay area. The plan would include detailed information about how the land is to be consolidated and where dwellings should be located. It could also guide other matters such as access points, effluent disposal envelopes and outbuildings.

The plan would be given statutory effect by incorporating it into the Planning Scheme through a planning scheme amendment.

This option is likely to generate significant resistance from landowners if they wish to develop dwellings on existing small allotments and whose expectations about doing so are removed by the restructure plan.

In Tarilta, however, there may be an opportunity to prepare restructure lots that align with existing landholdings, with the potential for a single dwelling for each lot. This would be subject to further land capability work.

Option 4 is the recommended option.

Conclusion

On balance, Option 4 is considered to be the preferred option because it furthers the objectives of the State and Local Planning policy frameworks, which aim to discourage the development of dwellings on small crown allotments. It also furthers the purpose of the Restructure Overlay, which is to “*preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development*”.

Importantly, the preparation of a restructure plan will allow Council to issue planning permits that are in accordance with the plan. This will give a level of certainty to landowners about how they can use and develop their land, noting that proposals will still need to be assessed against the other provisions in the Planning Scheme. It will also enable proper consideration of all planning related issues in a planning scheme amendment process in full consultation with the community.

Recommendations

- Undertake a land capability assessment for Tarilta;
- Prepare a restructure plan for Tarilta;
- Prepare a planning scheme amendment to incorporate the restructure plan into the Mount Alexander Planning Scheme.

16 Conclusion

This study aimed to identify key land use planning issues and opportunities for each Restructure Overlay area and provide direction for Council as a planning authority.

Through an analysis of the scheme, site visits and discussions with authorities and other stakeholders, this study has found that the overlays vary considerably in respect of size, configuration of allotments, land ownership patterns and land use.

This study has confirmed that the main planning issues relate to maintaining the Farming Zone for agriculture and the capacity to dispose of wastewater on small allotments. Two areas in particular, Walmer and Gower, are likely to present particular challenges for the restructure process as the allotments are very small and land ownership is fragmented.

Other key planning issues that will need to be considered in preparing restructure plans relate to native vegetation, road access, the close proximity of Crown land and national parks and the risk of flooding from creeks and waterways. On the whole, the authorities contacted as part of this study supported the consolidation of allotments through restructure plans.

Preparing restructure plans is a particularly challenging planning task as it often removes the perceived right of landowners to develop every allotment with a dwelling. In Mount Alexander's case, the task will be likely to require considerable time and resources due to the large areas covered by the Restructure Overlays.

17 Summary of Recommendations

The following table provides a summary of the key recommendations of this study

Restructure Overlay	Recommendations
Pollard	<ul style="list-style-type: none"> ▪ Undertake land capability assessments for all privately owned allotments; ▪ Prepare a restructure plan. ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
Walmer	<ul style="list-style-type: none"> ▪ Undertake a detailed land capability assessment; ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
South Ravenswood	<ul style="list-style-type: none"> ▪ Undertake a land capability assessment; ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
Moolort	<ul style="list-style-type: none"> ▪ Prepare a planning scheme amendment to remove the Restructure Overlay.
Maldon North (A)	<ul style="list-style-type: none"> ▪ Undertake a detailed flora and fauna assessment; ▪ Undertake a detailed land capability assessment; ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
Maldon North (B)	<ul style="list-style-type: none"> ▪ Undertake a land capability assessment; ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
Gower	<ul style="list-style-type: none"> ▪ Undertake a detailed land capability assessment; ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.

Restructure Overlay	Recommendations
Pennyweight Flat	<ul style="list-style-type: none"> ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
South Muckleford	<ul style="list-style-type: none"> ▪ Undertake a detailed land capability assessment ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.
Tarilta	<ul style="list-style-type: none"> ▪ Undertake a land capability assessment ▪ Prepare a restructure plan; ▪ Prepare a planning scheme amendment to incorporate the restructure plan into the Planning Scheme.

17.2 Actions for Council

One of the objectives of this study was to provide a series of actions for Council to commence its work on restructure plans. The following comments provide a possible approach. The timing of these actions may change as further investigations are carried out or if development pressure arises in a particular area.

Short Term Actions

The recommendations for Moolort, Tarilta and Pennyweight Flat could be pursued immediately with little further work required by Council.

At this time, Council may wish to commence discussions with landowners in areas where ownership is not significantly fragmented or where there are a small number of landowners. These areas include Gower, Pollard, Maldon North (A) and Maldon North (B).

The aim of these discussions would be to discuss possible restructure plans and resolve issues directly with landowners prior to the commencement of a planning scheme amendment process.

If these discussions are constructive, a restructure planning process could be commenced immediately. If the discussions indicate that there is likely to be strong opposition from landowners, Council should undertake more detailed land capability assessments to inform the restructure planning process.

Medium Term Actions

The preparation of a restructure plan for South Muckleford is likely to be more problematic given that land ownership is fragmented and there are several very small landholdings in these areas. The restructure plan for Ravenswood South is also likely to be problematic given that 16 landowners own multiple allotments.

Longer Term Actions

Walmer is likely to be the most difficult restructure plan to prepare given the highly fragmented land ownership and small landholdings. Unless Council receives applications to use or develop land, the restructure plan for this area is considered to be a longer term prospect. This plan will be informed to a large degree by the outcomes of the other restructure plan processes.

17.3 Recommendations for preparing restructure plans

Prior to preparing any restructure plans, Council should:

- carry out title searches to verify land ownership information;
- commence a program to monitor the performance of existing septic tanks in the Restructure Overlay areas to assist in the preparation of the restructure plans;
- further investigate the options for undertaking land capability assessment work for the overlay areas. Depending on the scope of the assessment work that is undertaken, there may be an opportunity for this work to be used in other strategic studies such as the Rural Zones Review;
- undertake a flora and fauna study for Restructure Overlays where native vegetation is likely to be an issue such as Maldon North (A) in consultation with DSE's Biodiversity Unit;
- prepare a consultation program to ensure that landowners are fully informed about the restructure planning process;
- consider different ways of demonstrating its commitment to restructuring areas, which could include small in-kind contributions such as waiving application fees for the plans of consolidation more significant financial contributions

17.4 Recommendations for Planning Scheme Amendments

As part of any planning scheme amendment relating to restructure plans, Council should:

- amend the MSS to make reference to restructure plans and that restructure planning represents further strategic work for Council;
- amend the existing schedule to the Restructure Overlay to address shortcomings in the schedule, namely map references that are incomplete (Maldon North) and place names that are listed twice in the schedule (Maldon North and Moolort);
- consider the preferred way in which restructure plans should be incorporated into the Planning Scheme. The Panel's report for Amendment C88 to the Greater Bendigo Planning Scheme contains a useful discussion about the options available to Council;
- consider including specific policies in Clause 22.22 relating to development within Restructure Overlays. Alternatively, such policies could be included in the restructure plans if these are incorporated into the Planning Scheme;
- undertake further research into the origin of the Restructure Overlays and whether there were similar restrictions in the old planning schemes. This information will be useful to provide the historical context for the amendment in an explanatory report or at a panel hearing.