

Agenda Report for Decision

Meeting Date: 13 October 2022

Item Name	Code Amendment Initiation Advice to the Minister for Planning – Proposal to Initiate the Sherwin Road Rural Living Code Amendment
Presenters	Nadia Gencarelli
Purpose of Report	Decision
Item Number	4.1
Strategic Plan Reference	4. Discharging Statutory Obligations
Work Plan Reference	4.2 Advise the Minister on Code Amendments
Confidentiality	Not Confidential (Release Delayed). To be released following final decision by the Minister for Planning on initiation of the Code Amendment. Anticipated by 11 November 2022
Related Decisions	N/A

Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

1. Approve the designation of this item as Not Confidential (Release Delayed), with the meeting papers for the item to be released following final decision by the Minister for Planning (the Minister) on initiation of the Code Amendment. Anticipated by 11 November 2022.
2. Recommend that the Proposal to Initiate the Sherwin Road Rural Living Code Amendment (**Attachment 1**), under section 73(2)(b)(vii) of the *Planning, Development and Infrastructure Act 2016* (the Act), not be supported on the grounds that it conflicts with the State Planning Policies and the Commission's Principles for Rural Living Development. In particular, the Proposal does not demonstrate the future 'need' for rural living, does not consider the equitable management of interface issues with conflicting land uses, and does not consider the land use capability and productivity of the land for primary production purposes.
3. Authorise the Chair of the Commission to write to the Minister advising him of the Commission's decision not to support the Proposal to Initiate the Sherwin Road Rural Living Code Amendment on the grounds provided in resolution 2 (**Attachment 2**), enclosing draft refusal letters to the Designated Entity and District Council of Grant for the Minister to sign (**Attachment 3**).

Background

Section 73(2)(b)(vii) of the Act provides that a proposal to amend the Planning and Design Code (the Code) may be initiated by a person who has an interest in the relevant land with the approval of the Minister, acting on the advice of the Commission, in relation to the following matters:

- Strategic assessment against the State Planning Policies and *The Limestone Coast Region Plan*.
- Any person or body that must be consulted by the Designated Entity, pursuant to section 73(6)(e) of the Act.
- Any investigations to be carried out or information to be obtained by the Designated Entity, in accordance with section 73(6)(f) of the Act.

The purpose of this report is therefore to provide the Commission with advice to be provided to the Minister in relation to the Proposal to Initiate submitted by Caroem Pty Ltd (care of Frank Brennan Consulting Services) (**Attachment 1**).

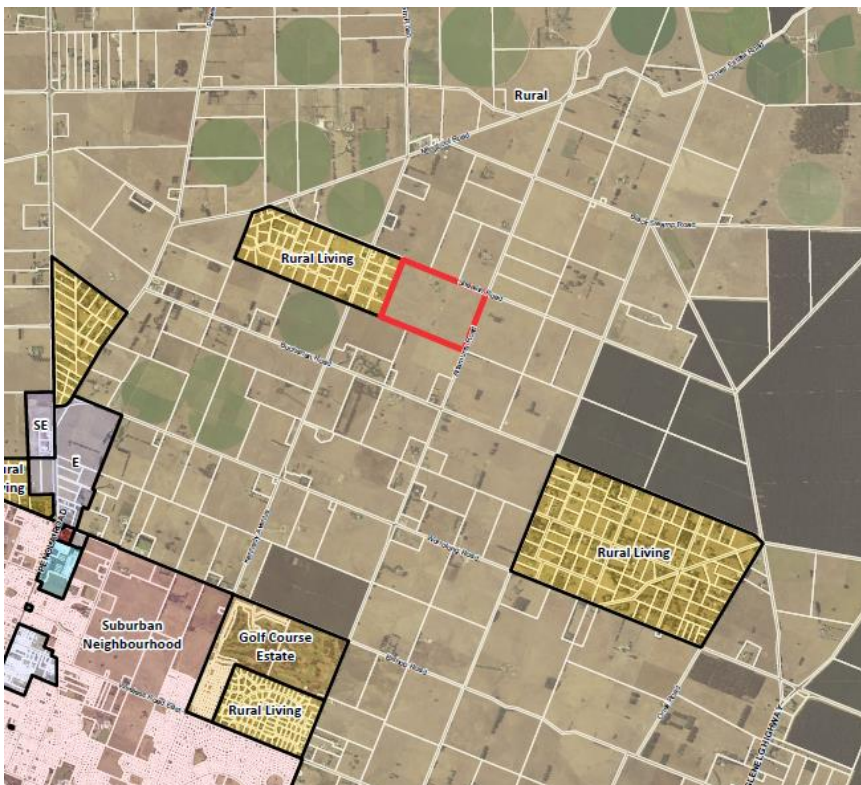
Procedural matters regarding the Commission's role are provided in **Attachments 4 and 5**.

Discussion

Scope of the Amendment

The Proposal seeks to rezone approximately 48 hectares of land from the Rural Zone to the Rural Living Zone in Mil-Lel. It has also been proposed to remove the Dwelling Excision Overlay, Limited Land Division Overlay and Minimum Dwelling Allotment Size Technical and Numeric Variation (TNV). The introduction of a Minimum Site Area TNV of 5,000 square metres is sought, which will enable subdivision of up to 70 allotments, and effectively triple the size of the existing Mil-Lel Rural Living Zone in terms of allotment numbers. The affected area is located in the District Council of Grant (the Council), on Boandik Country.

The affected area and current zoning are shown in the figure below.



Planning and Design Code Zoning

The affected area is located within the Rural Zone.

The following Overlays apply to the land:

- Building Near Airfields
- Dwelling Excision
- Hazards (Bushfire - General Risk)
- Hazards (Flooding - Evidence Required)
- Limited Land Division
- Native Vegetation
- Prescribed Wells Area
- Water Protection Area.

Land surrounding the affected area is within Rural Zone and Rural Living Zone.

Detailed discussion is provided in the advice to the Minister in **Attachment 2**.

Advice to the Minister

The attached advice to the Minister sets out the statutory and procedural elements that must be considered as part of the initiation of a Code Amendment (**Attachment 2**).

The advice recommends that the Minister refuse the initiation of the Code Amendment for the following reasons.

Strategic considerations

The Proposal seeks to rezone land which is immediately adjacent to an existing Rural Living Zone in Mil-Lel, approximately six kilometres from the centre of Mount Gambier. In March 2020, Council undertook a Rural Living and Township Zone Boundaries Review and Master Plan which did not recommend extension of the Sherwin Road Rural Living Zone. The Proposal indicates that this area is now fully sold, and the proposed rezoning will meet demand for rural living land identified in the Review and Master Plan; however, no justification has been provided in relation to this.

Whilst Council has provided in-principle support, the Proposal conflicts with the State Planning Policies and the Commission's Principles for Rural Living Development (**Attachment 6**). In particular, the Proposal does not demonstrate the future 'need' for rural living, does not consider the equitable management of interface issues with conflicting rural land uses, and does not consider the land use capability and productivity of the land for primary production purposes. Given the Proposal would effectively triple the size of the existing township, further understanding of impacts on infrastructure and service delivery is also required. Recognising the significant areas of rural living land already identified within the broader Mount Gambier region, the appropriateness for rezoning the affected area could be considered and tested further through the regional planning process currently underway.

Further strategic considerations and discussion are provided in **Attachment 2**.

Attachments:

1. Proposal to Initiate the Sherwin Road Rural Living Code Amendment (#19176849).
2. State Planning Commission Advice to the Minister (#19177712).
3. Draft refusal letters to:
 - a) Caroem Pty Ltd (#19179388)
 - b) District Council of Grant (#19179396).
4. Procedural matters for the State Planning Commission (#19178016).
5. Process Flowchart – Code Amendments Initiated by Proponents (#19178023).
6. State Planning Commission's Principles for Rural Living Development (#19285256).

Prepared by: Belinda Monier

Endorsed by: Nadia Gencarelli

Date: 26 September 2022

**PROPOSAL TO INITIATE AN AMENDMENT TO THE
PLANNING & DESIGN CODE**

Sherwin Road Rural Living Code Amendment

On behalf of Caroem Pty Ltd

 _____ (Signature Required)

on behalf of Caroem Pty Ltd (*the Proponent*)

Date: 26 August 2022

This Proposal to Initiate document together with conditions specified by the Minister forms the basis for the preparation of a proposed amendment to the Planning and Design Code for the purpose of section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016*.

_____ (Signature Required)
MINISTER FOR PLANNING

Date:

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1. INTRODUCTION

The Proponent is proposing to initiate an amendment to the Planning and Design Code (the Code Amendment) as it relates to land located at *162 Sherwin Road, Mil-Lel* (the Affected Area).

The purpose of this Proposal to Initiate is to seek approval of the Minister for Planning (the Minister) to initiate the Code Amendment under section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016* (the Act).

The Proponent is the owner of the whole of the Affected Area. A certificate of title of the current ownership is included within the appendices.

This Proposal to Initiate details the scope, relevant strategic and policy considerations, nature of investigations to be carried out and information to be collected for the Code Amendment. It also details the timeframes to be followed in undertaking the Code Amendment, should this Proposal to Initiate be approved by the Minister.

The Proponent acknowledges that the Minister may specify conditions on approving this Proposal to Initiate, under section 73(5) of the Act. In the event of inconsistency between this Proposal to Initiate and any conditions specified by the Minister, the conditions will apply.

1.1. Designated Entity for Undertaking the Code Amendment

In accordance with section 73(4)(a) of the Act, the Proponent will be the Designated Entity responsible for undertaking the Code Amendment process. As a result:

- 1.1.1. The Proponent acknowledges that it will be responsible for undertaking the Code Amendment in accordance with the requirements of the Act.
- 1.1.2. The Proponent declares that it has not and does not intend to enter into an agreement with a third party for the recovery of costs incurred in relation to the Code Amendment under section 73(9) of the Act. If the Proponent does enter into such an agreement, the Proponent will notify the Department prior to finalising the Engagement Report under section 73(7).
- 1.1.3. The Proponent's contact person responsible for managing the Code Amendment and receiving all official documents relating to this Code Amendment is:
 - a) Frank Brennan, Principal Consultant (Frank Brennan Consulting Services)
 - b) frank@fbcs.com.au
 - c) 0418 838 152
- 1.1.4. The Proponent intends to undertake the Code Amendment by:
 - a) engaging Frank Brennan Consulting Services to provide the professional services required to undertake the Code Amendment.

The Proponent acknowledges that the Minister may, under section 73(4)(b) of the Act, determine that the Chief Executive of the Department will be the Designated Entity responsible for undertaking the Code Amendment. In this case, the Proponent acknowledges and agrees that they will be required to pay the reasonable costs of the Chief Executive in undertaking the Code Amendment.

1.2. Rationale for the Code Amendment

The District Council of Grant area surrounds the City of Mount Gambier and is one of the regional growth centres in South Australia and areas around Mount Gambier are undergoing significant development and growing demand for residential and rural living development.

The population of the District Council of Grant has been projected to increase by 11.3% by 2036 and by 8.7% in the City of Mount Gambier by 2036. (DPTI "*Local Area Population Projections for South Australia, 2016 to 2036*")

The affected area represents 48.43 hectares of primary production land which is capable of accommodating some of the expected population growth.

The proponent seeks to change the zoning of the affected area from Rural Zone to Rural Living Zone, to adjust the minimum site area TNV and remove the Dwelling Excision Overlay and Limited Land Division Overlay.

Through discussion with the District Council of Grant it was determined that a minimum site area of 5,000 m² was considered appropriate given the site history and site suitability for servicing by on-site wastewater systems.

This proposed minimum site area would enable the affected area to be subdivided to create up to 70 rural living allotments and is considered not to be detrimental to the existing locality of Mil-Lel as the proposal would be seen as a complementary and natural extension to the rural living development located immediately adjoining the affected areas western boundary.

2. SCOPE OF THE CODE AMENDMENT

2.1. Affected Area

The proposal seeks to amend the Code for the Affected Area, being the land in Certificate of Title Volume 5996 Folio 108 within the area of the District Council of Grant as shown in the map in Attachment A.

2.2. Scope of Proposed Code Amendment

Site 1 – 162 Sherwin Road, Mil-Lel

<p>Current Policy</p>	<p>Zone:</p> <ul style="list-style-type: none"> • Rural <p>Overlays:</p> <ul style="list-style-type: none"> • Building Near Airfields • Dwelling Excision • Hazards (Bushfire - General Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Native Vegetation • Prescribed Wells Area • Water Protection Area <p>Technical and Numeric Variations</p> <ul style="list-style-type: none"> • Finished Ground and Floor Levels (Minimum finished ground level is 1.85m AHD; Minimum finished floor level is 2.1m AHD) • Minimum Dwelling Allotment Size (Minimum dwelling allotment size is 20 ha)
<p>Amendment Outline</p>	<p>This proposal seeks to alter the current zoning, TNVs and overlays.</p> <p>This proposal seeks a spatial alteration to the TNV for minimum site area which would result in a minimum site area of 5,000 m².</p> <p>This proposal seeks to remove the Dwelling Excision Overlay and Limited land Division Overlay.</p>
<p>Intended Policy</p>	<p>Zone:</p> <ul style="list-style-type: none"> • Rural Living <p>Overlays:</p> <ul style="list-style-type: none"> • Building Near Airfields • Hazards (Bushfire – General Risk) • Hazards (Flooding – Evidence Required) • Native Vegetation • Prescribed Wells Area • Water Protection Area <p>Technical and Numeric Variations:</p> <p>Minimum Site Area: 5,000 m²</p>

3. STRATEGIC PLANNING OUTCOMES

Proposed Code Amendments occur within a state, regional and local strategic setting, which includes:

- State Planning Policies (SPPs)
- Regional Plans
- Other relevant strategic documents.

3.1 Summary of Strategic Planning Outcomes

The proposal aligns with the following Strategic Planning Outcomes:

- State Planning Policy 1: Integrated Planning
 - SPP 1.1
 - SPP 1.2
 - SPP 1.6
- State Planning Policy 5: Climate Change
 - SPP 5.5
- State Planning Policy 6: Housing Supply and Diversity
 - SPP 6.2
 - SPP 6.4
 - SPP 6.10
 - SPP 6.11

3.2 Alignment with State Planning Policies

The State Planning Policies (SPPs) set out the State's overarching goals and requirements for the planning system. Under section 66(3)(f) of the Act, the Code must comply with any principle prescribed by an SPP.

State Planning Policy (SPP)	Code Amendment Alignment with SPPs
State Planning Policy: Integrated Planning	
1.1 <i>An adequate supply of land (well serviced by infrastructure) is available to accommodate housing and employment growth over the relevant forecast period.</i>	<p>The population of the District Council of Grant has been projected to increase by 11.3% by 2036 and by 8.7% in the City of Mount Gambier by 2036. (DPTI "Local Area Population Projections for South Australia, 2016 to 2036")</p> <p>The affected area represents 48.43 hectares of primary production land which is capable of accommodating some of the expected population growth and associated demand for land and housing.</p> <p>The alteration of the zoning of the affected area from Rural Zone to Rural Living Zone, adjustment to the minimum site area TNV and remove the Dwelling Excision Overlay and Limited land Division Overlay would enable up to 70 rural living allotments to be created.</p> <p>This proposal is considered appropriate given it is immediately adjoining an existing rural living zone with allotment sizes a minimum of 1.0 hectare.</p>

	<p>The alteration of the affected area's minimum site area TNV to a minimum of 5,000 m² would be compatible with the existing rural living development in the immediate locality.</p>
<p>1.2 <i>Provide an orderly sequence of land development that enables the cost-effective and timely delivery of infrastructure investment commensurate with the rate of future population growth.</i></p>	<p>As stated within State Planning Policy 1.1, Mount Gambier and the District Council of Grant areas are expected to experience increased growth up to 2036. The affected area is well positioned in respect to infrastructure, services and employment lands in Mount Gambier and in the locality around the Mount Gambier Airport.</p> <p>Existing electricity infrastructure is available on the affected area and is capable to be connected to future rural living allotments.</p> <p>Services, such as education, medical, retail and recreation, are available within Mount Gambier, along with employment lands (located within 5.0 kilometres from the affected area).</p>
<p>1.6 <i>Plan for strategic infrastructure that helps to shape the pattern of settlement in a way that enhances quality of life and supports long term sustainability.</i></p>	<p>This proposal is not in relation to land known to be required for strategic infrastructure, and thus does not present any negative impact on the State's strategic infrastructure.</p> <p>It can be expected through subdivision of the site that future residents will be able to support existing and future infrastructure.</p>
State Planning Policy 5: Climate Change	
<p>5.5 <i>Avoid development in hazard prone areas or, where unavoidable, ensure risks to people and property are mitigated to an acceptance or tolerable level through cost-effective measures.</i></p>	<p>162 Sherwin Road is located within a general bushfire risk area and is subject to Hazards (Bushfire – General Risk) Overlay.</p> <p>The proposal to facilitate reduced site areas is considered appropriate, as the Hazards (Bushfire – General Risk) Overlay seeks development, including land division, which responds to the general level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.</p> <p>The site is also located within a Hazards (Flooding – Evidence Required) Overlay which further seeks development to adopt a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.</p> <p>As both of these overlays are present, the reduction in site areas can be considered appropriate as any subsequent subdivision and development of the site from the proposed amendment would be required to appropriately address hazard mitigation.</p>

State Planning Policy 6: Housing Supply and Diversity	
<p>6.2 <i>The timely supply of land for housing that is integrated with, and connected to, the range of services, facilities, public transport and infrastructure needed to support liveable and walkable neighbourhoods.</i></p>	<p>The affected area is vacant, with the exception of rural outbuildings and structures, and is of a size which is capable of supporting some of the expected demand forecasted for Mount Gambier and the District Council of Grant to 2036.</p> <p>The site is located within a good proximity to social services, and has all necessary infrastructure required to support a liveable rural living neighbourhood.</p>
<p>6.4 <i>The growth of regional centres and towns within the existing footprint or outside towns where there is demonstrated demand and the land is serviced with infrastructure.</i></p>	<p>The affected area is located approximately 5.0 kilometres outside of the City of Mount Gambier boundaries and immediately adjoins an existing rural living zone that is fully developed for housing.</p> <p>The affected area is serviced with electricity and is capable of being serviced with on-site wastewater systems.</p> <p>The existing road infrastructure is capable of accommodating the additional traffic from the expansion of the rural living zone with Sherwin Road to be extended to Attamura Road.</p>
<p>6.10 <i>Limit the establishment of rural living allotments in areas that impact on the future expansion of townships and result in the inefficient delivery of infrastructure and social services.</i></p>	<p>The affected area is located approximately 5.0 kilometres outside of the City of Mount Gambier boundaries and immediately adjoins an existing rural living zone that is fully developed for housing.</p> <p>The rezoning of the affected area to rural living will not result in the inefficient delivery of infrastructure and social services.</p>
<p>6.11 <i>Residential development that does not fragment valuable primary production land, create land use conflicts or encroaches on sensitive environmental assets and places of high landscape value.</i></p>	<p>As the affected area is located immediately adjoining a rural living zone, the rezoning of the affected area as rural living will not fragment primary production land or create interface issues or impede the continued use of adjoining land for primary production activities.</p> <p>The affected area is not located in proximity to any sensitive environmental assets and places of high landscape value.</p>

3.3 Alignment with Regional Plans

As with the SPPs, the directions set out in Regional Plans provide the long-term vision as well as setting the spatial patterns for future development in a region. This includes consideration of land use integration, transport infrastructure and the public realm.

The Limestone Coast Region Plan (August 2011) volume of the Planning Strategy is relevant for this Code Amendment.

Regional Plan Identified Priorities or Targets	Code Amendment Alignment with Regional Plan
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<p>Principle 6 <i>Retain and strengthen the economic potential of the region's primary production land.</i></p>	<p>The rezoning of the affect land from rural to rural living is not expected to adversely impact on the region's economic capacity or adversely impact on the continued use of adjoining land for primary production activities.</p>
<p>Principle 13 <i>Provide residential land for a supply of diverse, affordable and sustainable housing to meet the needs of current and future residents and visitors.</i></p>	<p>The rezoning of the affected area to rural living purposes is considered to be appropriate to meet the expected population growth of Mount Gambier and the District Council of Grant to 2036 and the increased demand for land and housing.</p>

3.4 Alignment with Other Relevant Documents

Additional documents may relate to the broader land use intent within the scope of this proposed Code Amendment (or directly to the Affected Area) and therefore are identified for consideration in the preparation of the Code Amendment.

The following table identifies other documents relevant to the proposed Code Amendment:

Other Relevant Document	Code Amendment Alignment with Other Relevant Document
<p>District Council of Grant Strategic Management Plan 2020 - 2030</p>	<p>The District Council of Grant's Strategic Management Plan 2020-2030 has been developed to guide the region's aspirations, interests and priorities.</p> <p>The Plan is focused on five Strategic Goals –</p> <ol style="list-style-type: none"> 1. Develop Vibrant & Connected Coastal & Rural Communities. 2. Support a Prosperous Local Economy. 3. Retain & Enhance Our Natural & Built Environments. 4. Provide Quality Services & Infrastructure. 5. Lead & Engage with our Communities. <p>The Plan seeks to have a sustainable population supporting sustainable business and services and the rezoning of the affected area for rural living purposes will contribute to accommodating the expected population growth to 2036 and the associated demand for land and housing.</p> <ol style="list-style-type: none"> 6. The rezoning of the affected area for rural living purposes is considered to be in accord with the Plan's strategic goals – develop vibrant & connected coastal & rural communities and support a prosperous local economy.

<p>District Council of Grant</p> <p>Rural Living and Township Zone Boundaries Review and Master Plan (March 2020)</p>	<p>The Review and Master Plan acknowledges small township communities and rural living land uses have been an important part of the fabric and character of the District Council of Grant area, particularly in those areas located in close proximity to the City of Mount Gambier.</p>
	<p>The Review and Master Plan proposed two extensions to the existing Rural Living Zone – one on the northern side of Eight Mile Creek Road between Racecourse Bay and Brown Bay and the other an area on the eastern side of the Worrolong Rural Living area.</p> <p>The Eight Mile Creek Road zone is a coastal location, while the Worrolong Rural Living area is to the north-east of Mount Gambier.</p> <p>In relation to the Sherwin Road Rural Living Zone the Master Plan stated –</p> <p><i>“Given the slow uptake and significant potential for further land division within the zone boundaries, no change to the existing extent of the zone is recommended, apart from a minor alteration to include the triangular allotment which has resulted from a road realignment.”</i></p> <p>It is noted the Sherwin Road Rural Living area is now fully developed with the majority of allotments sold ‘off the plan’ and there is no longer potential for further land division. This is contrary to the observation made in the Review and Master Plan.</p> <p>No Code amendments to implement the recommendations of the Review and Master Plan have been instigated.</p> <p>The proposed rezoning of the affected area for rural living purposes will meet the demand for rural living land identified in the Review and Master Plan.</p>

3. INVESTIGATIONS AND ENGAGEMENT

3.2. Investigations Already Undertaken

The table below identifies what investigations have already been undertaken in support of the proposed Code Amendment.

Investigation Undertaken	Summary of Scope of Investigations	Summary of Outcome or Recommendations
Water Supply	<p>There is no reticulated water supply available along Sherwin Road to service the affected area.</p> <p>A preliminary desktop review shows that suitable groundwater is available in this locality and would provide water for gardens, fire water and non-potable uses.</p>	<p>An investigation into the ability for a minimum 50 metre separation between groundwater bores and wastewater disposal areas to be maintained across all allotments will need to be undertaken.</p>
Wastewater	<p>An initial report has been commissioned to investigate the suitability of the affected area to be serviced with on-site wastewater systems and to assess the cumulative impacts of on-site wastewater systems.</p>	<p>The affected area is not connected to sewer infrastructure.</p> <p>The affected area is suitable to be serviced by on-site wastewater systems in accordance with the recommendations contained in the investigation report.</p>
Electricity	<p>A preliminary desktop review indicated that the site is connected to electricity infrastructure, with a high voltage transmission line running through the north- western corner of the site.</p>	<p>The affected area is connected to existing electricity infrastructure.</p> <p>An investigation will need to be completed by SA Power Networks to identify the expected demand generated from the proposed subdivision of the site and identify any potential infrastructure upgrades required and the undergrounding of the supply to all allotments.</p>
Site Contamination	<p>A Preliminary Site Investigation (PSI) in accordance with Planning SA Document, Practice Direction 14 – Site Contamination Assessment (2021) has been commissioned.</p>	<p>The PSI report included a ‘Site Contamination Declaration Form’ certifying the details of the investigation.</p> <p>The PSI report recommends further investigation in the form of a limited soil investigation is undertaken to determine the contamination status of the surface soils beneath the shearing shed (once demolished) due to the historical storage of chemicals.</p>

3.3. Further Investigations Proposed

In addition to the investigations already undertaken and identified above, the table below outlines what additional investigations that will be undertaken to support the Code Amendment.

Further Investigations Proposed	Explanation of how the further investigations propose to address an identified issue or question
Traffic Impact Report	Identify the impact of the proposed Code Amendment on the road network, noting it is proposed to – <ul style="list-style-type: none"> ▪ Seal Sherwin Road adjacent the Affected Area to Attamurra Road; and ▪ Construct a footpath and associated tree planting along Sherwin Road to the Mil-Lel Primary School.
Civil Servicing Report	Identify the impact of the proposed Code Amendment on existing service infrastructure and identify how the affected area will be serviced, along with stormwater management.
Groundwater Supply	Investigate the establishment of a groundwater bore on each new allotment so as to have a minimum 50 metre separation between groundwater bores and wastewater disposal areas.

3.4. Engagement Already Undertaken

In accordance with Practice Direction 2, the District Council of Grant has been consulted on this proposal. In summary, the following in-principle support provided by Council at their meeting held on 15 August 2022 (refer to Council's letter in Attachment C) -

- Council has indicated in-principle support for a landowner-initiated Code Amendment over the affected area;
- Council would expect the landowner to fund the Code Amendment process; and
- Council has indicated in-principle support for the rezoning of the affected area from a Rural Zone to a Rural Living Zone.

3.5. Further Engagement Proposed

In addition to the engagement already undertaken and identified above, the table below outlines what additional engagement will be undertaken to support the Code Amendment.

Further Engagement Proposed	Explanation of how the further engagement propose to address an identified issue or question
Notification and meeting with Neighbouring Landowners	Identify the potential impact of the proposed Code Amendment on the neighbouring land.
Notification with State and Federal Members of Parliament	Notify Mr Troy Bell, State Member for Mount Gambier, and Mr Tony Pasin, Federal Member for Barker of the proposal.
Notification and meeting with the District Council of Grant	Discuss the proposed Code Amendment with District Council of Grant.
Notification and meeting with the CFS	Identify the potential impact of bushfire on the proposed Code Amendment.
Notification and meeting with utility providers	Identify the potential impact of the proposed Code Amendment on utility infrastructure.

4. CODE AMENDMENT PROCESS

4.2. Engagement Plan

The Code Amendment process will occur in accordance with the Community Engagement Charter and Practice Direction 2 – Consultation on the Preparation or Amendment of a Designated Instrument.

The Designated Entity will prepare an Engagement Plan prior to the commencement of engagement on the proposed Code Amendment. The Engagement Plan will include the following mandatory consultation requirements (which may be in addition to the engagement outlined in this Proposal to Initiate):

- the Local Government Association must be notified in writing of the proposed Code Amendment;
- if the Code Amendment has a specific impact on 1 or more particular pieces of land in a particular zone or subzone (rather than more generally), the Designated Entity must take reasonable steps to give a notice in accordance with Regulation 20 of the *Planning, Development and Infrastructure (General) Regulations 2017*, to:
 - the owners or occupiers of the land; and
 - owners or occupiers of each piece of adjacent land;
- consultation must also occur with any person or body specified by the State Planning Commission under section 73(6)(e) of the Act.

4.3. Engagement Report

Once engagement on the Code Amendment is complete, the Designated Entity will prepare an Engagement Report under section 73(7) of the Act.

The Designated Entity must ensure that a copy of the Engagement Report is furnished on the Minister and also published on the SA Planning Portal. This will occur in accordance with Practice Direction 2.

The Engagement Plan and the Engagement Report will also be considered by the State Planning Commission during the final stages of the Code Amendment process. The Commission will provide a report to the Environment, Resources and Development Committee of Parliament under section 74(3) of the Act.

The Commission's report will provide information about the reason for the Code Amendment, the consultation undertaken on the Code Amendment and any other information considered relevant by the Commission.

4.4. Code Amendment Timetable

The Proponent (where it is also the Designated Entity) commits to undertaking the Code Amendment in line with the timeframe outlined in Attachment B.

If a timeframe is exceeded (or expected to be exceeded) the Proponent agrees to provide an amended timetable to the Department with an explanation of the delay, for approval by the Minister of an extension of time for the Code Amendment.

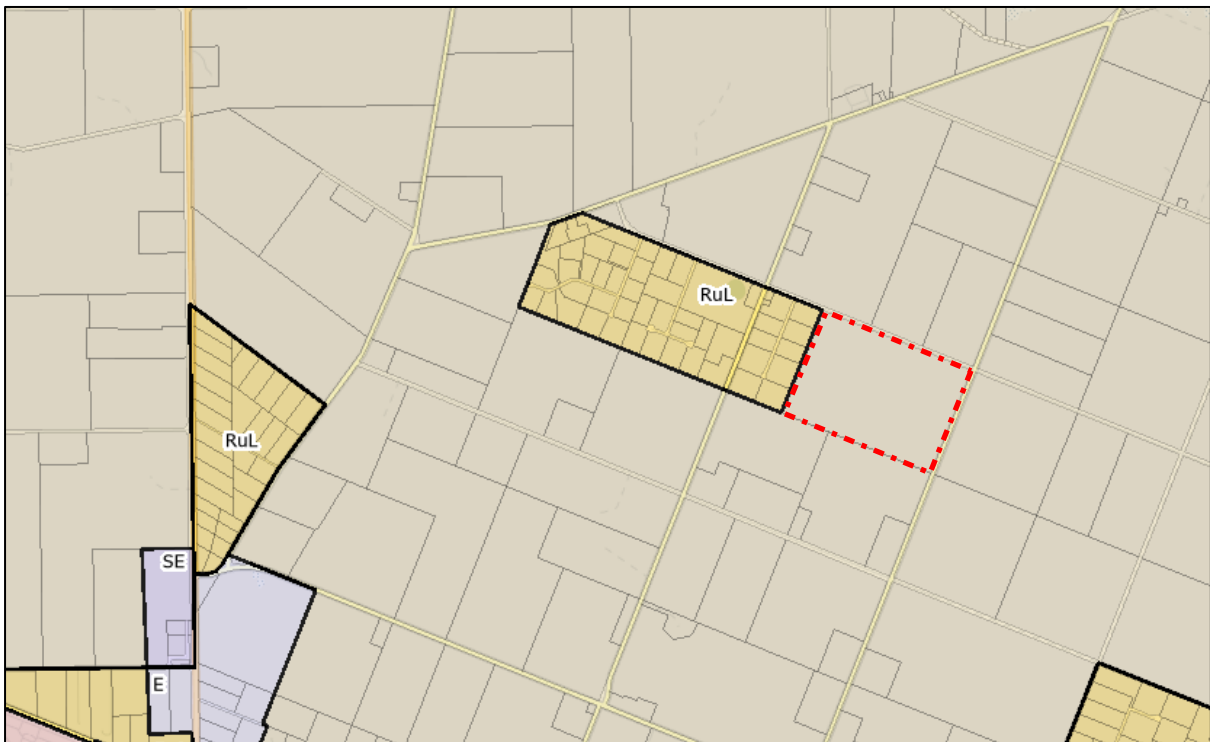
ATTACHMENT A Maps of Affected Area

Figure 1 – Affected Area

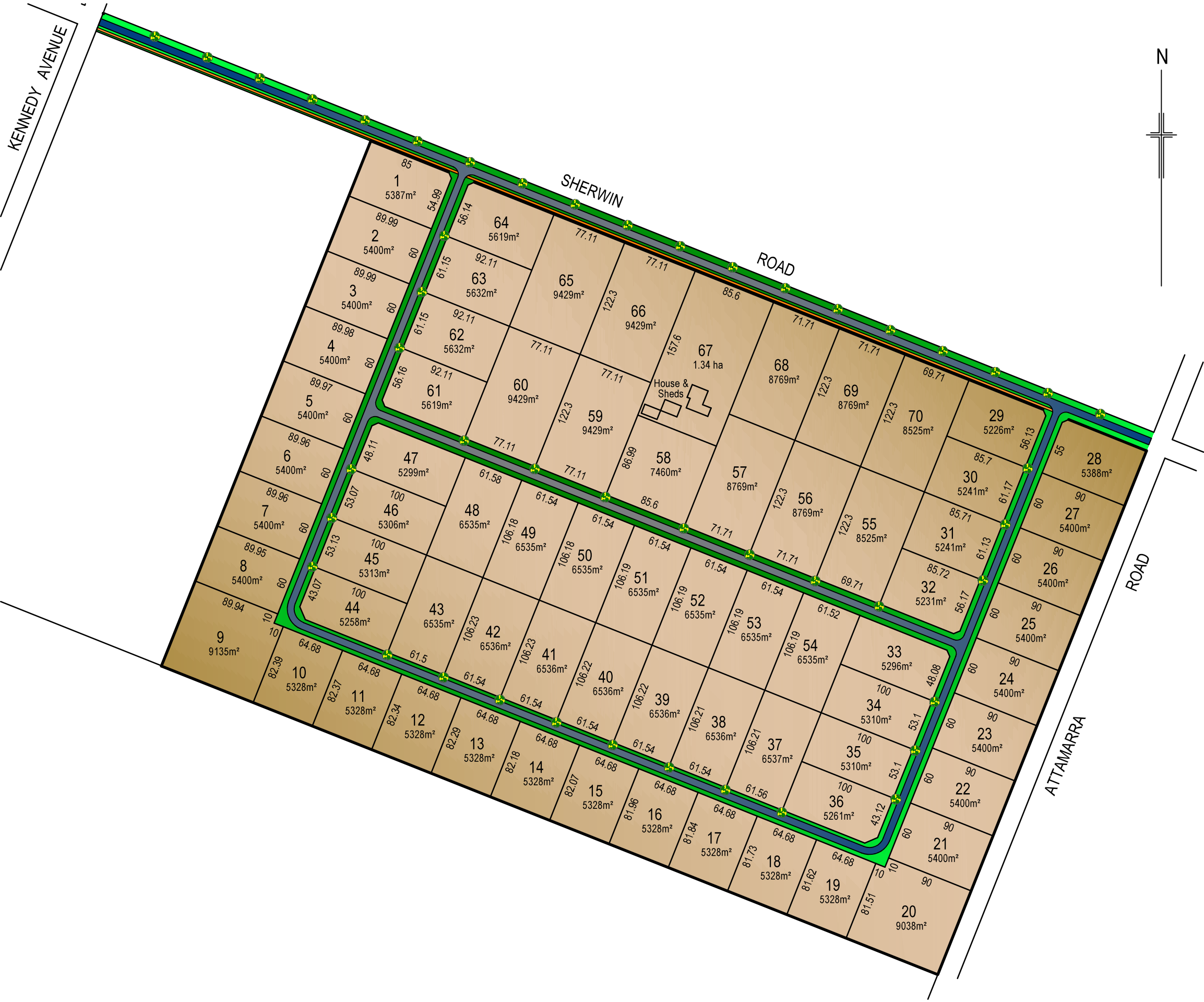


 Affected Area

Figure 2 - Current Zoning (Code Version 2022.10 - dated 9 June 2022)



 Affected Area



**PROPOSED LAND
DIVISION PLAN**

ALLOTMENT 2 IN DP 75367
HUNDRED OF GAMBIER
IN THE AREA NAMED
MIL-LEL

DISTRICT COUNCIL OF GRANT

MAP REF. XXXXXX	DEV. NO.
TITLE REF: CT 5182/500	ZONING
TITLE SYSTEM REAL PROPERTY ACT	
SCALE	METRES
0	80 160 240

- WARNING NOTES:
1. This plan was prepared for the specific use of the Cameron Lock client for the purpose of lodging a Development Application for proposed Land Division under the Development Act, 1993, and for no other purpose.
 2. The dimensions, areas and allotments shown are subject to confirmation by field survey and also the approval of the relevant planning authority.
 3. Users of this plan should note that any pending or future amendments to the Development Plan could affect the proposal's compliance with those provisions and hence influence the outcome of a Development Application.
 4. The dimensions shown on the plan should not be relied upon for any financial dealings in the land nor accurate positioning or setting out of construction works as they are subject to confirmation and approval as noted in point 2.
 5. Cameron Lock does not warrant that the plan will be approved by the relevant planning authority as such approval is outside our control.
 6. Cameron Lock does not accept liability for the loss or damage of other persons who do not use the plan within the limitations intended.
- I acknowledge the above notes and authorise Cameron Lock Surveying to lodge this plan for Development Approval under the Development Act, 1993.

Date : _____

No.	REVISION	DRAWN	DATE	APP.
1	Authorised for Issue	MLC	20/06/22	MLC

DRAWING NUMBER SHEET SIZE REVISION
28036-01 A3 1
 SHEET 1 OF 1



ATTACHMENT B
Timetable for Code Amendment by Proponent

Step	Responsibility	Timeframe
Approval of the Proposal to Initiate		
Review of Proposal to Initiate to confirm all mandatory requirements are met (timeframe will be put on hold if further information is required). Referral to the Minister to request advice from the Commission	AGD	2 weeks (Includes lodgement and allocation + referral to Government Agencies within the first week)
Minister requests advice from the Commission.	Minister	2 weeks
Referral to Government Agencies for comment (where necessary)	AGD and Relevant Government Agencies	+ 2 weeks
Consideration of Proposal to Initiate and advice to the Minister	Commission (Delegate)	3 weeks
	Commission	+ 3 weeks
Proposal to Initiate agreed to by the Minister	Minister	2 weeks
Preparation of the Code Amendment		
Engagement Plan Prepared. Investigations conducted; Code Amendment Report prepared The Drafting instructions and draft mapping provided to AGD	Designated Entity	4 weeks
AGD prepares Amendment Instructions and Mapping and provides to Council for consultation purposes	AGD	1 week
Preparation of Materials for Consultation	Designated Entity	2 weeks
Engagement on the Code Amendment		
Code Amendment Report released for public consultation in accordance with the Community Engagement Charter and the prepared Community Engagement Plan	Designated Entity	4 weeks
Consideration of Engagement and Finalisation of Amendments		
Submissions summarised; Amended drafting instructions provided, Engagement Report prepared and lodged with AGD	Designated Entity	2 weeks
Assess the amendment and engagement. Prepare report to the Commission or delegate <i>Timeframe will be put on hold if further information is required, or if there are unresolved issues</i>	AGD	2 weeks
Consideration of Advice	Commission (Delegate)	2 weeks (Includes 1 week to process through Minister's office)
	Commission	+ 3 weeks
Step	Responsibility	Timeframe
Decision Process		
Minister considers the Code Amendment Report and the Engagement Report and makes decision	Minister	3 weeks
Go- Live- Publish on the PlanSA Portal	AGD	2-4 weeks
Referral of approved Code Amendment to ERDC	AGD	8 weeks

ATTACHMENT C
District Council of Grant's
Letter of In-principle Support

Ref: 3.71.7/37

19 August 2022

Mr Frank Brennan
Email: frank@fbc.com.au



Principal Office
324 Commercial Street West, Mount Gambier
PO Box 724, Mount Gambier SA 5290
Telephone (08) 8721 0444
Facsimile (08) 8721 0410
Email info@dcgrant.sa.gov.au
Website www.dccgrant.sa.gov.au

Branch Office
5 Charles Street
Port MacDonnell SA 5291

Dear Frank

Re: **CONFIDENTIAL – Planning and Design Code, Sherwin Road**

Thankyou for your correspondence to Council regarding the Planning and Design Code, Sherwin Road.

Council at its meeting of 15 August 2022 resolved:

RESOLUTION 22241

Moved: Cr Bain
Seconded: Cr Duncan

That Council:

1. Receive and note Council report Planning and Design Code - Sherwin Road Rural Living Code Amendment as presented on 15 August 2022.
2. Advise Frank Brennan Consulting Services the following:
 - (a) Council provides 'in-principle' support for the draft landowner-initiated Code Amendment over the affected area;
 - (b) Council confirms that it expects the landowner to fund the Code Amendment process;
 - (c) Council provides 'in-principle' support for the rezoning of the affected area from a Rural Zone to a Rural Living Zone, subject to advice from Government Agencies, and considering comments from the general public through the community engagement process; and,
 - (d) Council would seek to review and comment on the final Code Amendment prior to any decision by the Minister for Planning.

CARRIED

Council is pleased to provide in-principle support for a code amendment and would be happy to respond to Departmental enquiries.

Thankyou.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Darryl Whicker", is written over a faint, light-colored signature line.

Darryl Whicker
CHIEF EXECUTIVE OFFICER



TO: MINISTER FOR PLANNING

RE: PROPOSAL TO INITIATE THE SHERWIN ROAD RURAL LIVING CODE AMENDMENT BY CAROEM PTY LTD – FOR INITIATION

PURPOSE

To recommend that you refuse the Proposal to Initiate the Sherwin Road Rural Living Code Amendment (the Proposal).

BACKGROUND

Section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016* (the Act) provides:

73 – Preparation and amendment

(2) A proposal to amend a designated instrument may be initiated by—

(b) with the approval of the Minister, acting on the advice of the Commission—

(vii) in relation to the Planning and Design Code or a design standard— a person who has an interest in land and who is seeking to alter the way in which the Planning and Design Code or a design standard affects that land.

Caroem Pty Ltd (the Proponent) (care of Frank Brennan Consulting Services) has lodged a Proposal to Initiate the Sherwin Road Rural Living Code Amendment to amend the Planning and Design Code (the Code) as it relates to the affected area (**Attachment 1**).

The State Planning Commission (the Commission) considered the Proposal to Initiate at its meeting of 13 October 2022 and resolved not to support the Code Amendment.

A summary of the roles and responsibilities for you and the Commission in regard to the Code Amendment is provided in **Appendix A**.

A flowchart of the Code Amendment process is provided in **Appendix B**.

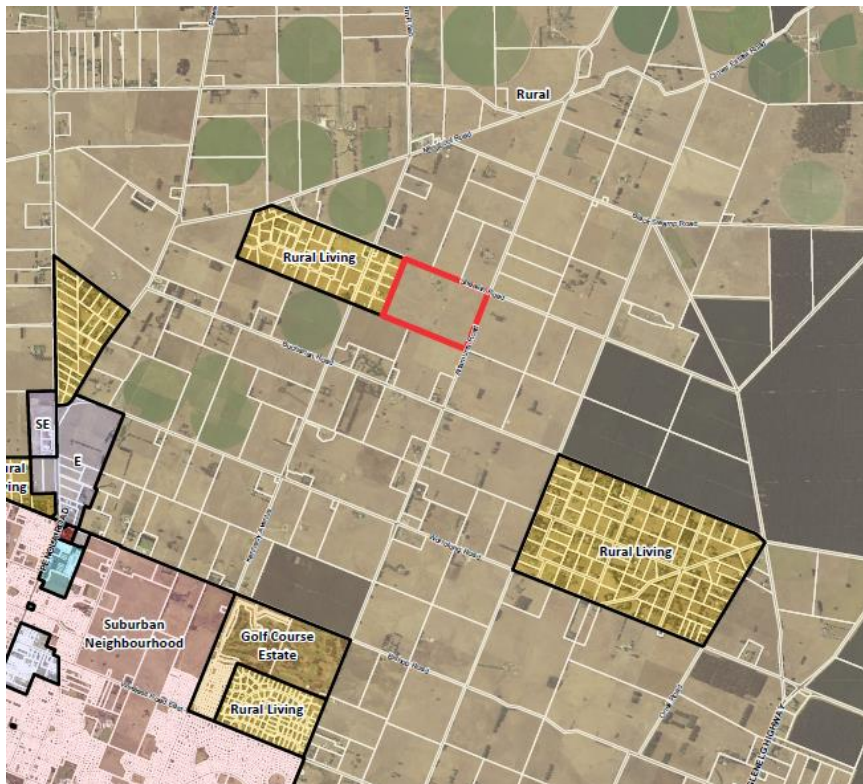
DISCUSSION

The following sets out the strategic, policy and procedural considerations in relation to the Proposal to Initiate.

Proposal

The Proposal to Initiate seeks to rezone approximately 48 hectares of land from the Rural Zone to the Rural Living Zone in Mil-Lel. It has also been proposed to remove the Dwelling Excision Overlay, Limited Land Division Overlay and Minimum Dwelling Allotment Size Technical and Numeric Variation (TNV). The introduction of a Minimum Site Area TNV of 5,000 square metres is sought, which will enable subdivision of up to 70 allotments, and effectively triple the size of the existing Mil-Lel Rural Living Zone in terms of allotment numbers. The affected area is within the District Council of Grant (the Council), on Boandik Country.

The affected area and current zoning are shown in the figure below.



Planning and Design Code Zoning

The affected area is located within the Rural Zone.

The following Overlays apply to the land:

- Building Near Airfields
- Dwelling Excision
- Hazards (Bushfire - General Risk)
- Hazards (Flooding - Evidence Required)
- Limited Land Division
- Native Vegetation
- Prescribed Wells Area
- Water Protection Area.

Land surrounding the affected area is within Rural Zone and Rural Living Zone.

Strategic considerations

The following sets out the strategic considerations relating to this proposal and rationale for the Commission recommending refusal for the Code Amendment.

More details of the Commission's strategic priorities are provided in **Appendix C**.

An assessment against the State Planning Policies (SPPs) and relevant Regional Plan are provided in **Appendix D**.

Strategic advice

The Proposal seeks to rezone land which is immediately adjacent to an existing Rural Living Zone in Mil-Lel, approximately six kilometres from the centre of Mount Gambier. In March 2020, Council undertook a Rural Living and Township Zone Boundaries Review and Master Plan which did not recommend extension of the Sherwin Road Rural Living Zone. The Proposal indicates that this area is now fully sold, and the proposed rezoning will meet demand for rural living land identified in the Review and Master Plan; however, no justification has been provided in relation to this site.

Whilst Council has provided in-principle support, the Proposal conflicts with the SPPs and the Commission's Principles for Rural Living Development. In particular, the Proposal does not demonstrate the future 'need' for rural living, does not consider the equitable management of interface issues with conflicting land rural uses, and does not consider the land use capability and productivity of the land for primary production purposes. Given the Proposal would effectively triple the size of the existing township, further understanding of impacts on infrastructure and service delivery is also required. Recognising the significant areas of rural living land already identified within the broader Mount Gambier region, the appropriateness for rezoning the affected area could be considered and tested further through the regional planning process currently underway.

Residential land supply

As previously mentioned, the affected area is located within the District Council of Grant. Population projections published by Planning and Land Use Services (PLUS) in 2019 indicated that this local government area is estimated to grow by approximately seven per cent (600 people).

The adjacent City of Mount Gambier is anticipated to grow by close to nine per cent (2,600 people) over the same period.

The Proponent has not provided any analysis to demonstrate demand for rural living allotments.

Land use characteristics

The affected area is largely vacant, with the exception of a dwelling and some outbuildings and structures. There are very few trees on the land and the area is relatively flat, with some minor undulations. The centre of Mount Gambier is approximately six kilometres away and the Mil-Lel Primary School is located on Kennedy Avenue, approximately 350 metres from the western edge of the affected area. No advice has been received in relation to the available capacity of Mil-Lel Primary School. The Proposal will effectively triple the size of the existing township and it is unclear what impact this will have on the delivery of services and day-to-day needs, particularly given the distance from Mount Gambier.

Transport and access

Access to the affected area will be via Sherwin Road, which is currently unsealed. The Proponent has indicated an intent to seal the section of Sherwin Road between Kennedy Avenue and Attamurra Road. They also intend to construct a footpath and associated tree planting along Sherwin Road to the Mil-Lel Primary School. The increase in traffic will affect the local road network predominately and a traffic study is proposed.

Services and infrastructure

Investigations have been undertaken in relation to water supply, electricity and wastewater. Further investigations are proposed to determine the suitability for each proposed allotment to be serviced by groundwater bores and onsite wastewater systems. Electricity is available to the affected area; however, consultation with SA Power Networks is required to determine if there is capacity to accommodate expected demand as a result of the rezoning. Given the significant extent of the proposed development (in the context of the existing township), it is considered that insufficient information has been provided to demonstrate that services and infrastructure can be delivered efficiently.

Land use conflict

Potential land use conflict may occur with the affected area surrounded on three sides by rural land which appears to be used for primary production purposes. The Proposal provides no indication of the primary production value of the land, or the potential impacts on surrounding, existing activities.

Procedural considerations

The following sets out the key procedural considerations that satisfy the legislative requirements. Pursuant to section 73(5) of the Act, approval for a Proposal to Initiate may be given on conditions prescribed by the regulations (there are none at this time) or as specified by you, as Minister for Planning. As the Commission does not support initiation of the proposed Code Amendment, no conditions have been recommended.

Information requirements

Practice Direction 2 – Preparation of Amendment of Designated Instruments outlines the information requirements for a Proposal to Initiate (**Appendix E**).

The mandatory information requirements have been met and therefore the Proposal to Initiate is of a suitable form to be considered by you.

Consistent with the State Planning Policies and Regional Plan

The Code must be consistent with the principles of the SPPs and should be consistent with the directions of the relevant Regional Plan, which, in this instance, is *The Limestone Coast Region Plan*. This assessment is provided in the appendices.

A more detailed analysis is also located in the Proposal to Initiate (**Attachment 1**).

In summary, the Proposal is considered to conflict with the SPPs and the Commission's Principles for Rural Living Development (**Appendix F**).

Additional Resolution

Should you choose not to follow the Commission's advice to not support the Proposal, it is recommended that you seek further advice from the Commission with regards to conditions to be applied to an approval of a proposal.

RECOMMENDATIONS

It is recommended that you:

- | | |
|--|---------------------|
| 1. Note the advice of the State Planning Commission provided to you as required under section 73(2)(b) of the <i>Planning, Development and Infrastructure Act 2016</i> . | NOTED / NOT NOTED |
| 2. Agree to decline initiation of the Sherwin Road Rural Living Code Amendment, pursuant to section 73(2)(b) of the <i>Planning, Development and Infrastructure Act 2016</i> , on the grounds that it conflicts with the State Planning Policies and the Commission's Principles for Rural Living Development. In particular, the Proposal does not demonstrate the future 'need' for rural living, does not consider the equitable management of interface issues with conflicting rural land uses, and does not consider the land use capability and productivity of the land for primary production purposes. | AGREED / NOT AGREED |
| 3. Agree to sign the attached letters to Caroem Pty Ltd (Attachment 2) and the District Council of Grant (Attachment 3) advising of your decision. | AGREED / NOT AGREED |

NICK CHAMPION MP
/ / 2022



CRAIG HOLDEN

Chair, State Planning Commission

14 / 10 / 2022

Attachments:

1. Proposal to Initiate the Sherwin Road Rural Living Code Amendment (#19176849).
2. Suggested letter to Caroem Pty Ltd (#19179388).
3. Suggested letter to the DC of Grant (#19179396).

Appendices:

- A. Summary of Roles and Responsibilities in the Code Amendment Process (#19178025).
- B. Process Flowchart – Code Amendments Initiated by Proponents (#19178023).
- C. State Planning Commission’s Strategic Priorities (#19178029).
- D. Assessment against the State Planning Policies and Regional Plan (#19178041).
- E. Extract from *Practice Direction 2 – Preparation and Amendment of Designated Instruments* (#19178049).
- F. State Planning Commission’s Principles for Rural Living Development (#19285256).

Contact: Nadia Gencarelli
Tel No: 08 7109 7036

Procedural Matters for the State Planning Commission (the Commission)

The Commission's role at Initiation, when the Commission is not the Proponent, is to:

- Provide advice to the Minister for his consideration in making a decision on initiation pursuant to section 73(2)(b) of the Act.
- Specify any person or body the Designated Entity must consult with under section 73(6)(e) of the Act, noting that the designated entity will also need to prepare an engagement plan in accordance with the Community Engagement Charter prior to consultation.
- Specify any investigations to be carried out and/or information to be obtained by the Designated Entity, in accordance with section 73(6)(f) of the Act.

The importance of the initiation process is two-fold:

- Firstly, it enables proposals considered to be significantly at odds with the State Planning Policies (SPPs) and relevant Regional Plan to be refused early in the process, minimising risk. This is because the decision to proceed is based on an assessment against these documents.

To that end, the Commission may also advise the Minister on how the proposal fits with its stated priorities, including:

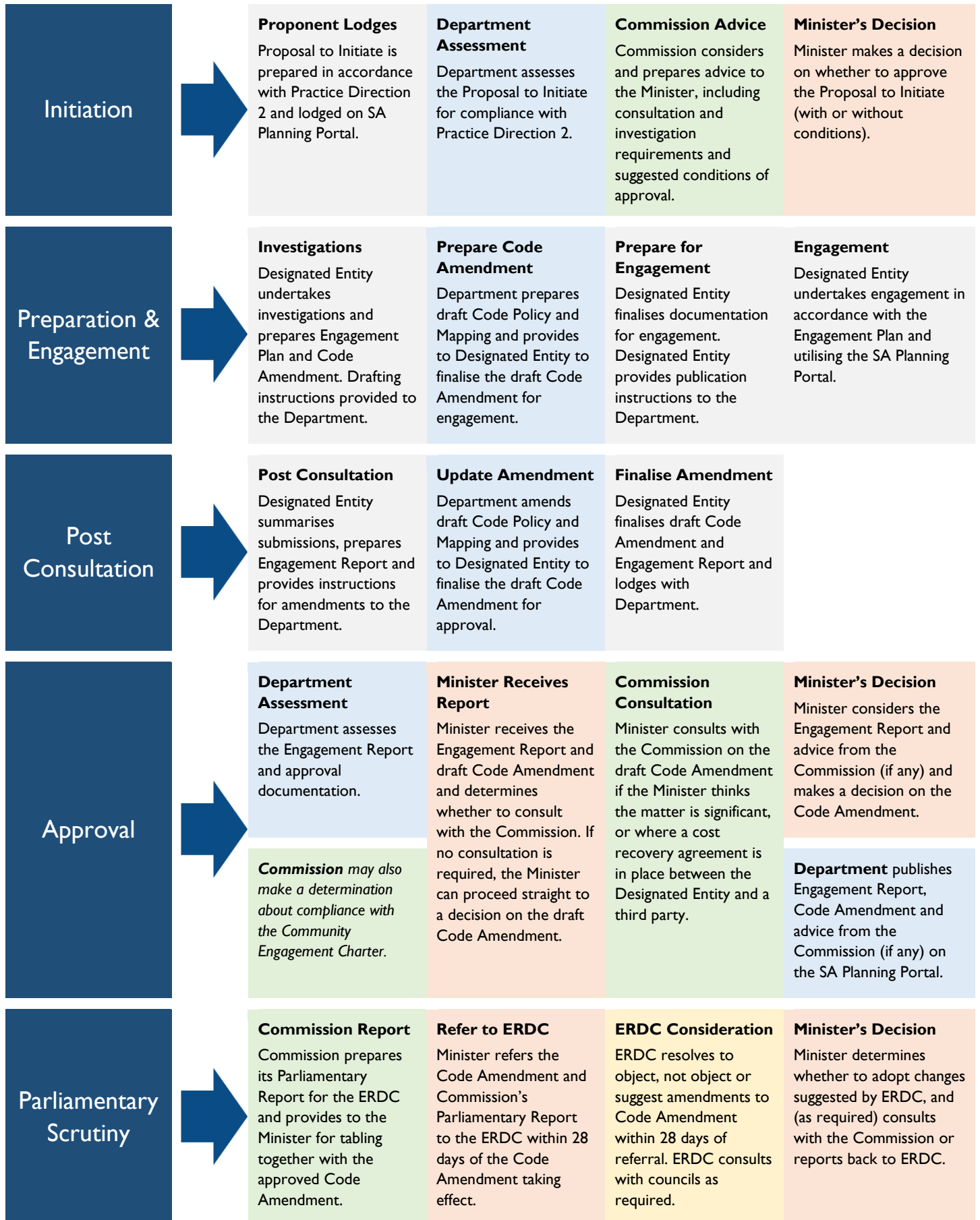
- Technical amendments that enhance the operation of the Code.
- Bushfire policy in response to the Royal Commission and improved bushfire mapping data.
- Support land supply, including infill, master planned neighbourhoods and growth areas consistent with the Growth Management Programme.
- Support economic clusters such as agribusiness and value adding, defence industries, energy and resources, health and medical industries and knowledge and creative industries.
- Provide state-wide strategic benefit such as protection against environmental hazards.
- Secondly, the initiation process is the point at which the scope of the Code Amendment process, investigations and information requirements and the amendments are determined. This provides clarity and certainty for the proponents.

Approval of the Proposal to Initiate may be given on conditions prescribed by the regulations (there are none at this time) or as specified by the Minister. As such, conditions have been recommended by the Commission, to be made by the Minister.

The Commission has previously determined that (where possible) Code Amendments should be prepared and led by proponents themselves for the first 12 months following implementation of the Phase Three Code.

Code Amendments Initiated by Proponents

Section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016*



Principles for Rural Living Development

New rural living may occur where it does not:

1. Impact the future expansion of the urban area/township:

- a. The proposal should demonstrate the future 'need' for rural living in the context of the overall settlement pattern and growth objectives.
- b. Opportunities to increase rural living supply through intensification and/or development of existing rural living areas should be considered in the first instance.
- c. Ensure the proposed rural living area does not compromise future growth fronts. Consideration can be given to the proposed configuration of local roads, size and configuration of allotments that may facilitate future densification and urban expansion.

2. Result in the inefficient delivery of infrastructure and social services:

- a. Capacity of existing infrastructure to be investigated.
- b. Rural living development occurs where it will not impede 'highest and best use' opportunities associated with available and cost-effective infrastructure access.
- c. The proposal is in proximity to existing and established roads, and accessible to key centres with a range of community facilities and services.
- d. The proposal should include a cost benefit analysis to determine the cost of the provision of services that community expects (e.g. rubbish collection) and infrastructure (e.g. roads and stormwater systems) against the benefit of a growing population.

3. Result in fragmentation of valuable productive land:

- a. Consider physical factors (e.g. location, size, soil quality, topography, accessibility and vegetation) as well as inventory factors (e.g. climate, the effects of past land use, and potential for erosion) to determine land use capability and productivity level of the affected area.

4. Create land use conflicts that affect the productivity of nearby lawfully operating land uses:

- a. Identify existing external impacts of land uses in the vicinity
- b. Consider buffers and setback parameters at the interface with conflicting land uses to protect residential amenity and allow for adjoining uses and businesses to continue to operate and adapt.
- c. Consider the application of overlays to assist with the equitable management of interface issues (such as the Interface Management Overlay, Significant Interface Management Overlay).

5. Encroach on sensitive environmental or cultural assets and places of high landscape value.

6. Result in unmanageable environmental impacts.

7. Occur in areas vulnerable to hazards.