PLANNING APPLICATION

RESUBDIVISION AND USE OF THE LAND FOR SIX DWELLINGS
Crown Allotments 23A, 23, 37, 38, 44, 45, 46
Section H, Parish of Berringa
MARTINS ROAD BETHANGA
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1 Introduction
This planning report has been prepared to accompany a planning application seeking consent for the re-subdivision and use of land for the purpose of six dwellings at Martins Road Bethanga. It is an application that seeks to bring to fruition the aspirations of Council for high quality rural residential development within the Bethanga environs.

As will be outlined in this report, the proposal will facilitate orderly planning of the land, being consistent with the relevant provisions of the Towang Planning Scheme (TPS).

2 Subject Land and Relevant Planning Scheme Provisions

**Site Address:** Martins Road, Bethanga

**Land Description:** Crown Allotments 23A, 23, 37, 38, 44, 45, 46 Section H, Parish of Berringa

In accordance with the relevant requirements of the Planning and Environment Act, Council is advised that there is no s.173 Agreements that effect the land. Title particulars are provided at Appendix A.

**Zoning:** Current - Rural Activity Zone (RAZ)

**Overlay(s):**

- Proposed – Rural Living Zone (RLZ) (proposed under Amendment C25)
- None

**State Planning Policy Framework:**
The following clauses from the State Planning Policy Framework (SPPF) section of the TPS have some relevance to the assessment of this application and will have broader relevance to the proposal:

11. Settlement
11.07 Regional Victoria
11.12 Hume Region
12 Environmental and Landscape Values
13 Environmental Risks
14 Natural Resource Management
Local Planning Policy Framework:
The following clauses from the Local Planning Policy Framework (LPPF) section of the TPS have some relevance to the assessment of this application and will have broader relevance to the proposal:

- 21.02 Vision
- 21.03 Settlement
- 21.04 Environment
- 21.05 Economy
- 21.01 Rural Subdivision
- 22.02 Rural Dwellings
- 21.08 Effluent Disposal and Water Quality

Particular Provisions:
No Particular Provisions are applicable.

Permit Triggers:
Clause 37.08 Rural Activity Zone:
- 37.08-2 Use of the land for a dwelling
- 37.08-3 Subdivision
3 Site Context

Site Analysis

The subject land is located approximately 2km north east of Bethanga (Figure 1) and is comprised of a total of seven allotments arranged along the northern side of Martins Road between Flagstaff Road and Talgarno Gap Road.

![Site Location Map]

Figure 1: Site location

An unused Crown road reserve frames the eastern boundary of Crown Allotments 23 and 23A and the northern boundary of Crown Allotments 45 and 46. Legal and practical access to the site is via Martins Road and excellent telecommunications infrastructure is available to service the land as a consequence of the recently installed NBN and Telstra mobile facilities close by.

The land contains a variety of sloping terrain with elevations between 330m AHD and 420m AHD and slopes typically in the order of 5% - 15%, though these increase as the land falls away to the north. It is cleared and
given to pasture and contains an existing farm shed on Crown Allotment 37. Minor drainage lines drain typically in a northward direction from the elevated terrain near Martins Road. An elevated knoll within existing Crown Allotments 44, 45 and 46 provides a variety of aspects and this landscape feature affords the opportunity for the discrete placement of dwellings.

Site Context

The site is located close to the established and zoned Flagstaff Road rural living area, the informal rural residential area that has evolved over time along Talgarno Gap Road to the south-east and Martins Road to the north west. The subject land essentially links these established rural livings areas.

The established dominance of rural living as a land use in the area provides an ideal context within which to seek approval for the use of the land for multiple dwellings and one within which land use conflict is not likely to be an issue.

A feature of the subject land is its close proximity to the nearby settlement of Bethanga. Bethanga contains a range of facilities and services including a post office, police station, general store and community sporting facilities.

The subject land is located in an area that has been recommended for rezoning to facilitate rural residential development by multiple planning strategies reaching back into the late 1970’s. Indeed, in 1978 the ‘Rural Planning Study’ recommended rural residential development be allowed in the Bethanga Creek catchment (including the subject land).

From a broader perspective, the subject land is located within Towong Statistical Local Area A (SLA’A’) which is an area where there is an established trend of increasing importance of the rural areas as a settlement destination. This part of Towong Shire is essentially an ‘amenity’ landscape that is recognised by the Regional Growth Plan (RGP) as being located within ‘peri-urban’ hinterland of Albury Wodonga.

The immediate area including the subject land is characterised by:

- An absence of high quality agricultural land (Figure 2);
- High levels of residential amenity afforded by views toward the Lake Hume environs and the varied topography;
- Close proximity to Albury / Wodonga with a relatively short commute time;
- Excellent telecommunications infrastructure with availability of NBN internet and mobile phone coverage;
- Rural living being the dominant land use with significant fragmentation of rural land holdings (Figure 3). Rural properties in the immediate area are some of the smallest rural properties in the municipality.
The subject land is located in an area where there is an ever-widening of the gap between the amenity value of land compared to the productive value. In 2001, social research by the former Department of Agriculture suggested that the market value of land in western Towong Shire was a function of its amenity value rather than productive value by a ratio of more than 8:1 indicating that the market is prepared to purchase larger rural properties essentially for the purpose of rural living. Over the ensuing decade and half since this research, it is likely that this gap between the amenity and productive value has continued to widen.
To this end, the immediate area is characterised by the sustained decoupling of the Towong SLA 'A' economy from the agricultural sector. This decoupling is advanced and gathering pace and is evidenced by the following:

- A 47% reduction in the number of beef cattle over the period 1997-2009 which subsequently increased to 51% in 2011;
- The substantial decline of the dairy sector including a:
  - 73% reduction in dairy cows between 1997 and 2009 which then increased to 88% in 2011;
  - 66% reduction in milk production (1997-2009);
- A 63% reduction in the sheep population over the period 1997 to 2009 which further increased to 67% in 2011;
- A substantial reduction in the total number of agricultural enterprises. Between 1997 and 2011 there was a 57% reduction overall, from 231 farm businesses in 1997 to just 99 in 2011. By enterprise type the following declines were observed:
  - Beef -39%
  - Dairy -91%
  - Beef / Sheep -74%

Given the retreat of agriculture from this part of the municipality and the market land values land in the area, land is unlikely to be purchased by agricultural enterprises seeking to increase operational scale through land acquisition. The Australian Bureau of Statistics figures suggest that agriculture has retreated from this landscape and is unlikely to ever return.

This application for the re-subdivision of land and use of six lots for the purpose of a dwelling has been submitted within this inherently favourable land use context and will serve to reinforce the well-established pattern of land use change in this part of the municipality.
4 Planning Proposal

This planning application seeks the re-subdivision of seven existing allotments into seven allotments all with frontage to Martin’s Road. The application also seeks the use of six of the created lots for the purpose of a dwelling. The proposal is shown in Figure 4 and Appendix C.

Figure 4: Proposed lot configuration and dwelling location

The proposed approximate lot sizes are as follows:

- Lot 1 – 13.3ha
- Lot 2 – 2.4ha
- Lot 3 – 6ha
- Lot 4 – 5 ha
- Lot 5 – 3ha
• Lot 6 – 3.9ha
• Lot 7 – 1ha

Key elements of the proposal include:

• A design response that has been informed by site opportunities and constraints;
• No nett increase in the number of lots;
• The creation of seven lots all with legal and practical access from Martins Road;
• Six of the seven proposed lots are to contain dwellings (Figure 4), with one lot (Lot 7) to retain an existing shearing shed. A summary of the proposed dwellings is as follows:
  o Lot 1 – Dwelling to be located on modest slopes (~10%) on the 410m AHD contour close to Martins Road and approximately 150m to the east of the existing shed. The site has a north-east aspect with spectacular and commanding views toward the Murray River arm of Lake Hume.
  o Lot 2 – Dwelling to be located on gentle slopes (~5%) with a northerly aspect just below the ridge crest (approximately 415m AHD). The location has sweeping views toward Lake Hume and has an aspect that promotes excellent solar exposure;
  o Lot 3 – Dwelling is to be located on a gentle (5-10% slope) NE-SW aligned ridge crest (410m AHD) with excellent views toward Lake Hume. It has a north-easterly aspect that also facilitates excellent solar exposure;
  o Lot 4 – Dwelling to be located in a visually discrete position at the break of slope below the ridge crest (420m AHD) to the south. The northerly aspect provides excellent solar exposure;
  o Lot 5 – The dwelling is to be located at a height of 420m AHD below the main ridge crest. The south west aspect provides a sweeping vista toward Bethanga; and
  o Lot 6 – The dwelling is to be located on a perched saddle position (405m AHD) with a northerly aspect and with views to the south and north. This site is discrete and the existing dwelling to the east has no visibility to this site.

The nominated dwelling locations have been selected to:

• Provide appropriate separation distances between both the proposed and existing dwellings;
• Use site topography to provide discrete locations that offer outstanding views with limited awareness of other dwellings;
• Provide a development outcome that will not impact strategically important agricultural land or sites of environmental significance;
• Provide a development outcome whereby on-site domestic wastewater can take place in accordance with statutory requirements without adverse impact upon ground or surface waters;
The vision for the proposal is to deliver a development outcome that respects the attributes of the site and existing development in the area whilst providing long-term positive social and economic benefits to Bethanga and the broader municipality. These benefits will accrue through enhancement and protection of lifestyle, environment, landscape and through provision of additional residential options within the municipality. Anticipated social benefits include:

- Population growth in the Bethanga environs;
- Potential for increased social diversity;
- Potential for increased diversity in community skills, ideas and values;
- Increased membership of community groups (local voluntary, community etc);
- Additional social networks and improved community services;
- Possible provision of new services as a consequence of skills and professional capabilities; and
- Potential for new community leadership.

The area to be developed is in close proximity to the existing town of Bethanga and the development will assist in supporting social infrastructure within the area and the on-going viability and sustainability of the adjacent settlement of Bethanga.

The subject land abuts the Flagstaff Road rural living area and established rural residential development above and to the north of Bethanga. As mentioned previously the proposal links established rural living areas. Given the land use context, the proposed development is considered to be compatible with existing and proposed future land uses. It represents a logical augmentation of existing rural residential development in the Bethanga environs.

Of particular relevance, the proposal is also similar to numerous other planning approvals issued by Council in the general area and within the same zone.

The application seeks the use of the land for the purpose of a six dwellings and subsequent applications will need to be made to Council for the development of the land when plans of the individual dwellings are finalised. As will be demonstrated in this report, approval of the application is consistent with the current and proposed provisions of the TPS.
## 5 Response to Planning Scheme Provisions

### 5.1 State Planning Policy Framework (SPPF)

The SPPF seeks to ensure that the objectives of planning in Victoria are met and encouraged through the land use and development approvals process. The following are policies relevant to the proposal and have been considered when framing the proposal.

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<th>SPPF</th>
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<tr>
<td>Clause 11 Settlement</td>
<td>The proposal delivers on State Planning Policy by seeking to contribute to residential diversity and choice. In line with direction provided by State Planning Policy, the proposal seeks to take advantage of existing settlement patterns by directing additional rural residential development into an area where this land use type is already established and the dominant land use. Also in line with the direction provided by State Planning Policy, the proposal seeks to foster the sustainability of a small rural settlement (Bethanga) and avoids encroachment on land of strategic importance for agriculture.</td>
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<tr>
<td>Clause 11.07 Regional Victoria</td>
<td>The proposal will not compromise environmental health or the productivity of the rural landscape. The land is not located within the significant landscape overlay and does not contain high biodiversity values, strategically important agricultural land or extractable resources and therefore the proposal is considered to be consistent with the aspirations of State Planning policy at Clause 11.07. Clause 11.07 also seeks growth to be directed in to areas that are planned in accordance with any relevant regional growth plan. The Hume Regional Growth Plan (RGP) recognises that western Towong Shire is an area where there will be on-going demand for rural living and the proposal seeks to cater for that acknowledged demand.</td>
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| Clause 11.12 Hume     | The proposed development aligns with Clause 11.12 of the SPPF which seeks to develop a more diverse regional economy whilst managing and enhancing key regional economic assets. The proposal is inherently consistent with Clause 11.12 because:  
  - It does not encroach on areas identified as strategic agricultural land;  
  - It is in close proximity to the existing township of Bethanga;  
  - It does not compromise environmental or heritage assets; and  
  - Has minimal exposure to natural hazards and is not located within the Bushfire Management overlay or Floodway Overlay.  

The Regional Growth Plan also identifies the subject land as being in the hinterland influence of Albury / Wodonga where there is expected to be demand for rural residential development. The RGP highlights that there is an opportunity to take advantage of the amenity provided by Lake Hume and that rural living development should not impact farmland of strategic importance or environmental assets. The RGP recognizes that rural living should not be a significant land use within the
Wodonga City municipality itself and that such development should be directed to high amenity, lower quality agricultural land within the Wodonga hinterland, in locations where such development will not impede the future residential expansion of Wodonga. Areas nominated by Towong Planning Scheme Amendment C25, including the subject land, accord with this approach.

**SETTLEMENT NETWORK**

- Major growth location
- Medium to high growth location
- Significant change location
- Designated identified growth centre in Plan Melbourne

**OTHER KEY URBAN SETTLEMENTS**

- Cross-border settlements
- Support growth in these urban locations, and lifestyle opportunities
- Towns and areas in the Hume Region within Melbourne’s Urban Growth Boundary

**URBAN GROWTH AND HINTERLAND INFLUENCE**

- Hinterland influence
- Areas within 100 km of central Melbourne

Figure 5: Hume Regional Growth Plan
### Clause 12
**Environment and Landscape Values**

The development provides an outcome desired by Clause 12 which seeks to avoid and minimise impacts of land use and development on important areas of biodiversity, to protect and conserve environmentally sensitive areas and to protect landscapes and significant open spaces that contribute to character, identity and sustainable environments. The subject land does not contain site environmental significance and is not included in the Significant Landscape Overlay. The nominated building envelopes are to occupy relatively discrete positions in the overall landscape and the dwelling siting provides the appropriate respect to the landscape values of the area.

### Clause 13
**Environment Risks**

Clause 13 requires a ‘best practice’ environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. The proposal will not cause environmental changes that will impact upon the economic, environmental or social well-being of society. By selecting building envelope sites with modest slopes there should be minimal risk of erosion, landslip or other land degradation processes. The subject land is not located within a floodplain and is not known to be contaminated. It is also not located within the Bushfire Management Overlay.

### Clause 14
**Natural Resource Management**

In line with the aspirations of Clause 14, the proposal does not impact productive farmland which is of strategic significance in the local or regional context, will not adversely impact waterways, water bodies, groundwater and will not impact water quality. Land Capability Assessments have been provided for each lot and demonstrate that wastewater can be managed in accordance with statutory requirements.

### Clause 16
**Housing**

The proposal aims to implement the requirements of Clause 16 by directing development into an area that has been identified as being suitable for rural living and rural residential development by the *Towong Rural Land Use Study, Towong Shire Settlement Strategy* and ultimately Towong Planning Scheme Amendment C25. The subject land has limited agricultural value and the proposal will facilitate the augmentation and consolidation of an established rural living area where there is the appropriate physical and community infrastructure to support the development. The proposal will not compromise the long-term sustainable use and management of existing natural resource attributes or agricultural production, mineral and energy resources, existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat. Consistent with this Clause of the SPPF the subject land is located close to an existing town (Bethanga), but not in an area that will be required for fully serviced urban development. Also in line with the SPPF, it is located in an area that if needed can be supplied with electricity and it has good quality road access.
5.2 Local Planning Policy Framework (LPPF)

The following are policies within the LPPF are relevant to the proposal and have been considered when framing the proposal.

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| 21.02 Vision             | Of direct relevance to the proposal, the vision for Towong is one that provides additional rural living opportunities, particularly on the Bethanga Peninsular, Lake Hume environs around Tallangatta and adjacent to existing settlements. The land use planning vision also recognises and responds to the multifunctional nature of the Towong rural landscape so as to cater for differing rural land use planning outcomes across the Shire. This approach recognises three main spatial rural planning policy units:
  1. Production Towong – this includes areas of farmland of strategic significance containing high quality agricultural land where agriculture and food production has primacy and where protection of agricultural land is paramount;
  2. Transitional Towong - being agricultural land of low to moderate quality where diverse land use planning outcomes are encouraged; and
  3. ‘Peri Urban’ Towong - being land essentially located within the 40min travel / commute contour of nearby Albury – Wodonga where rural residential development is to be encouraged.

The subject land is located within the ‘Peri-urban’ policy unit and the proposal provides the type of land use planning outcome explicitly sought by Clause 21.02 of the Municipal Strategic Statement (MSS).

The MSS signals that the benefits of this approach are clear – the Planning Scheme can articulate the importance of those parts of the rural landscape that contribute most to the overall Shire ‘farm gate’ output, and in these areas agriculture and food production has primacy. However, it also allows flexibility and discretion in those parts of the rural landscape that are substantially less economically important from a rural production perspective (such as the subject land), thereby assisting in the aspirations of increased economic diversity and population growth.

The MSS goes on to state:

*It is a premise of the vision for Towong that with careful and consistent planning decision making, changing land use patterns in themselves do not necessarily pose difficulties for agriculture, particularly if pressure for change is not affecting higher quality lands which might otherwise be expected to contribute significantly to agricultural production. An equitable approach to rural land use planning is one that places a greater emphasis on production rather than land use and embraces a performance based approach which allows matters to be considered on the basis of merit.*
The Towong rural land use planning vision is one where the historic use of land for a particular purpose should not be a justification for its continuing use for the same purpose at the exclusion of all other land use options, especially in circumstances where an alternative land use might actually increase the net benefit to the broader community, both now and into the future. In this way a merits based approach might also support a paradigm where rural does not necessarily always mean agricultural. The Towong Planning Scheme needs to make provision for other land uses in locations where there is capacity to encourage different outcomes that can contribute to the social, environmental and economic wellbeing of the Shire.

It is immediately apparent the proposal provides the type of outcome explicitly sought by the MSS and is strongly supported by the stated policy position of the Towong Planning Scheme.

This clause identifies that rural living is the dominant land use in the Bethanga Creek catchment and it is increasingly evident that grazing at the scale traditionally undertaken in this part of the municipality has become comparatively less viable than it has been in the past. A clear response to decreasing viability has been a growth in demand for rural lifestyle options.

The MSS identifies that:

The retreat of traditional agriculture as a land use from the western Towong Shire landscape has been significant, sustained and appears inexorable. It is clear that there is progressive shift away from traditional full time farming and associated production-based land uses to a new multi-functional land use pattern with residents that commute to the nearby urban centre for employment. Much of western Towong Shire is closer to the central business districts of Albury and Wodonga than other key commuter centres and affords excellent scope for additional rural living opportunities.

The MSS signals that there is on-going demand for rural living in the Bethanga Creek catchment and that:

Western Towong Shire and the Bethanga peninsular in particular offers tremendous scope for the provision of additional rural living opportunities. The area presently contains a mosaic of genuine rural living and quite small scale grazing enterprises and is an area that has been recommended for rural living rezoning by multiple planning strategies. A key feature of this area is its proximity to Albury / Wodonga and it offers an outstanding rural living environment with high levels of amenity provided within the environs of Lake Hume. Changing land use patterns have seen the retreat of agriculture and increased demand for rural residential development. It is an area that is characterised by:
An absence of high quality agricultural land.
High levels of residential amenity afforded by the Lake Hume environs and varied topography.
A high proportion of residents already commuting to Albury/Wodonga.
Heavy fragmentation of rural land holdings particularly in the Bellbridge/Bethanga area and around the margins of Lake Hume.
A decoupling from the agriculture sector that is advanced and gathering pace.

The MSS identifies that rural living is the dominant land use in much of western Towong Shire and in such locations, formalisation of existing rural living areas through rezoning should be a priority planning response. To this end the MSS seeks to apply Rural Living Zone over parts of the Bethanga Creek catchment where rural living is the dominant or preferred land use and where such areas can interface with the town. The subject land is located in such an area, hence its inclusion in Towong Planning Scheme Amendment C25. The proposal will ultimately provide an outcome that delivers on the stated settlement ambitions of Clause 21.03.

21.04 Environment

The proposal is inherently consistent with Clause 21.04 of the MSS because:
- It will not impact upon native vegetation, biodiversity or water quality;
- Steep slopes have been avoided and the discrete and sensitive positioning of the proposed dwellings affords appropriate landscape protection; and
- The subject land does not contain strategically significant agricultural land.

21.05 Economy

Clause 21.05 of the MSS identifies that:

The retreat of agriculture as a land use from the SLA ‘A’ landscape (western Towong shire including the subject land) has been significant and seems inexorable. It is clear that there is a progressive and shift away from traditional full time farming and associated production-based dominant land uses to a land use pattern dominated by rural residential development. There has been 28% a reduction in agricultural employment over the period 1991-2006. In 2011, 97% of all farm businesses in SLA ‘A’ had an annual Estimated Value of Agricultural Operations (EVAO) of less than $350K meaning that these enterprises are under significant economic pressure if they are simply relying on income from the farm business alone. The decoupling of the agricultural sector within SLA ‘A’ over the period 2001-2009 is evidenced by the following:

- 37% reduction in the number of beef enterprises.
- 47% reduction in the number of beef cattle.
- 48% reduction in the area of beef enterprises. Sheep:
- 63% reduction in sheep population.
- 52% reduction in wool production.
- 46% reduction in the area under sheep production. Dairying:
- 73% reduction on stock numbers
- 66% reduction in milk production.
- 74% reduction in the area under dairy production
- 76% reduction in the number of dairy businesses

In response to the retreat of agriculture, the MSS seeks to encourage additional residential and rural living opportunities and to implement the recommendations of the Towong Shire Settlement Strategy and Rural Land Use Study including the provision of additional rural living opportunities in the western part of the Shire in areas including the subject land.

**Towong Shire Rural Land Use Study**

The Towong Shire Rural Land Use Study was undertaken to provide an analysis of land use planning issues in the rural areas of the Shire and to articulate a direction and vision for the future that includes recommendations for changes to the content and operation of the Towong Planning Scheme with respect to rural land use planning.

According to the Rural Land Use Study:

‘The Towong Planning Scheme needs to make provision for the protection of agriculture as a land use and for the protection of high quality agricultural land upon which the Towong agricultural sector is so dependant. It also needs to make provision for other uses in locations where there is capacity to encourage different outcomes that can contribute to the environmental, social and economic wellbeing of the Shire.’

The Study was seen as a mechanism to draw together community views and key data relating to rural land use planning issues. It was prepared in order to offer a clear vision for planning in rural areas of the Shire and to provide a future framework for day-to-day rural land use planning decision making. It was intended to provide strategic justification for the introduction of planning controls for the management of land use and development in rural areas of the Shire. The Study itself noted that:

‘The information obtained from the study will inform subsequent Planning Scheme Amendments and build upon those changes made by the C14 Towong Planning Scheme Amendment that was gazetted in 2007.’

Amendment C25, which included the subject land, attempted to implement the recommendations of the Rural Land Use Study and it is clear that the proposed
development delivers the type of planning outcome sought by the Study.

**Towong Shire Settlement Strategy**

The *Towong Shire Settlement Strategy* represents a study of the future needs for residential and rural based living in the Towong Shire. The primary purpose of the Strategy was to identify residential and rural living opportunities adjacent to existing towns and appropriate locations within the rural areas of the Shire. It built upon the 2004 *Residential Settlement Strategy for Towong Shire* which had a much narrower scope and was chiefly confined to conducting a strategic review of rural land in the Lake Hume environs for the purposes of identifying residential and rural living opportunities. It specifically recommends the development of the subject land for rural residential purposes and the proposal seeks to deliver on the aspirations of the Strategy.

Overall the current policy direction within the MSS is derived from the recommendations of both the *Rural Land Use Study* and the *Settlement Strategy*. Both are ‘Reference Documents’ at Clause 21.06 of the *Local Planning Policy Framework (LPPF)* and both directly support the rural residential use and development of the subject land in the manner proposed.

The proposal is inherently consistent with the stated policy position of Clause 22.01 of the *TPS* because:

- The proposal does not impact or fragment high quality agricultural land;
- The area is characterised by rural living and there is only limited agricultural use of the land;
- The subject land is well serviced by infrastructure with the land abutting Martins Road and having access to recently installed telecommunications infrastructure (NBN internet and Telstra mobile);
- The design responds to site opportunities and constraints and the subject land is clear of important environmental assets and hazard; and
- Environmental values will not be fragmented or compromised.

In response to the objectives and decision guidelines of this Clause the following comments are offered:

- The proposed dwellings will not undermine the productive agricultural base of the municipality and has been demonstrated in this report, the subject land does not contain high quality and versatile agricultural land;
- The proposed dwelling will not prejudice or adversely impact on rural activities carried out on the land and in the general. Rural living is the
dominant land use in the immediate area and the proposal is inherently compatible with this land use context;
- The proposed dwellings are to be sited so as to avoid land containing environmental hazards such as flooding, inundation, erosion or fire;
- The proposal provides appropriate consideration of landscape and environmental values;
- The subject land is not located in an isolated or remote locations and has excellent road access with direct access to each lot via Martins Road;
- The allotment has the capacity to treat and retain all wastewater on site and can manage domestic waste water without degrading the environment; and
- The proposal reinforces an established land use pattern and given that the dominant land use in the area is rural residential, land use conflict is unlikely.

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<th>21.08</th>
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</table>

This Local Planning Policy applies to all development that is unable to be serviced with reticulated sewerage. It reinforces the environmental setbacks contained within the Environment Protection Authority’s *Code of Practice for On-Site Waste Water Management* and seeks to ensure that each lot created by a subdivision is of sufficient size to manage waste water within the lot boundaries, that development will not lead to the pollution of land and water resources and that development is appropriate to the site.

Pursuant to Clause 21.07, individual land capability assessments are provided for each lot containing a dwelling in the re-subdivision. These indicate that such use and development will not adversely affect ground or surface water quality. They also provide advice that the location and proposed density of effluent disposal systems within the area will not impact on environmental features as well as advice about system selection in response to the soil characteristics and site features.
5.3 Zoning
Clause 35.08 Rural Activity Zone – (RAZ)

<table>
<thead>
<tr>
<th>Clause</th>
<th>Response</th>
</tr>
</thead>
</table>
| **Clause 35.08**<br>R AZ Purpose | The proposal is consistent with the purpose of the zone because:  
- There is very little genuine agriculture remaining in the immediate area;  
- It provides for the use and development of the land in a manner which is compatible with adjoining land uses and the environmental and landscape characteristics of the area;  
- Is inherently consistent with the specific purposes identified in a schedule to this zone (see further discussion below);  
- It will not compromise natural resources and the biodiversity of the area; |
| **Clause 35.08-2**<br>Use of land for a dwelling | The proposal is consistent with Clause 35.08-2 because:  
- Access to each dwelling is via an all-weather road with dimensions adequate to accommodate emergency vehicles;  
- Waste water can be treated and retained on-site in accordance with the *State Environment Protection Policy (Waters of Victoria)* under the *Environment Protection Act*;  
- Adequate static storage for domestic use as well as for fire-fighting purposes can be provided; |
- Each dwelling can be connected to a reticulated electricity supply or could have an alternative energy source.

**Clause 35.08-3**

**Subdivision**

In accordance with the requirement of Clause 35.08-3 lots smaller than 40 hectares can be created because the subdivision is the re-subdivision of existing lots and the number of lots is not increased.

**Clause 35.08-5**

**Decision Guidelines**

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate, the decision guidelines of Clause 35.08-3. The following comments are offered in response to the decision guidelines:

- The land is capable of supporting the proposed use and development, including the disposal of effluent;
- The site is suitable for the use and development and compatible with adjoining and nearby land uses;
- The proposal will not significantly impact agricultural production or limit the operation and expansion of adjoining and nearby agricultural uses;
- The proposal will not result in the loss or fragmentation of strategically important agricultural land;
- The proposal will not be adversely affected by agricultural activities due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- The proposal will have minimal impact on the natural physical features and resources of the area, in particular on soil and water quality, flora, fauna and landscape features of the locality.

Dwelling design matters will need to be determined when plans for each dwelling become available, however in terms of siting:

- Careful consideration has been made to use the topography of the site to reduce the impact of dwelling siting on the natural environment, major roads, vistas and on the character and appearance of the area;
- The design has been framed to enable legal and practical access from Martins Road;
- Each dwelling will have access to mobile telecommunications infrastructure and NBN internet.
Schedule to Clause 37.02

To provide for a range of land use and development that does not adversely affect surrounding uses.

To recognise the need to strengthen and diversify the economic base of the Shire.

To provide a flexible approach to the consideration of land use and development proposals to off-set the adverse effects of economic restructuring and climate change on the agricultural sector.

To encourage opportunities that contribute to population stability and growth in the Shire. To recognise the natural beauty and "pure" image of the Shire.

The building setbacks provided in the schedule are only permit triggers pursuant to Clause 35.08-4, however in this instance all can be met, although the proposed building envelope is on proposed Lot 1 is on the 20m boundary / road setback permit trigger and around 30m from Martins Road itself.

The proposal provides an outcome consistent with the stated purposes of Clause 37.02 because:

- It provides a land use outcome that does not adversely affect surrounding land uses. The proposal augments and reinforces an established rural living area;
- Strengthens to economic base of the Shire by providing additional residents in the Bethanga environs;
- It is logical land use planning response given the retreat of agriculture from the region and land market preferences;
- It directly contributes the aspirations for population stability and growth.

5.4 Overlays
No overlays applicable.

5.5 Particular Provisions
No particular provisions applicable.
5.6 Clause 65

The provisions at Clause 65 of the Scheme indicate that consideration needs to be given to whether the outcome is one which is acceptable having regard to the policy requirements of the Scheme and orderly planning. In response, the following comments are provided with respect to the decision guidelines of Clause 65.

Clause 65.01 - Approval of an Application

- The orderly planning of the area.

The proposal will link and augment existing rural living areas in a manner supported by the Towong Shire Rural Land Use Study, Settlement Strategy and Amendment C25. It will deliver on the policy aspirations of the MSS and RGP and will provide the type of development outcome that is inherently sought by the current and proposed zoning regimes. Given this inherent alignment with the aspirations of the TPS it is contended that the project represents orderly planning for the site.

- The effect on the amenity of the area.

The proposal has been framed to use site topography to minimise impact existing residents and the amenity of the area. The building envelopes are discrete and have little to no inter-visibility.

- The proximity of the land to any public land.

An unused Crown road reserve is located within proposed Lot 1. There are no significant public-freehold land matters.

- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.

The proposal is unlikely to impact upon ground or surface water quality. Land capability assessments have been provided to demonstrate wastewater management can be managed in accordance with statutory requirements.

- The extent and character of native vegetation and the likelihood of its destruction.

No removal of remnant native vegetation will occur.

- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

Stormwater can be managed in accordance with Council requirements.

- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

The subject land is not located in the Floodway, Land Subject to Inundation Overlay or Bushfire Management Overlay.
Clause 65.02 Approval of an application to subdivide land

This proposal seeks re-subdivision of seven existing lots. Before deciding on an application to subdivide land, the responsible authority must also consider as appropriate:

- The suitability of the land for subdivision.

Given the location and stated TPS aspirations for the subject land, it is contended that the land is suitable for the proposed re-subdivision. The subdivision delivers the type of planning outcome sought by the LPPF and TPS Amendment C25.

- The existing use and possible future development of the land and nearby land.

Land is the immediate area is chiefly used for rural residential purposes and the proposed development will reinforce the established land use pattern.

- The availability of subdivided land in the locality, and the need for the creation of further lots.

It is contended that given the stated TPS aspirations for the subject land that this is not a relevant consideration in the circumstances. The TPS is actively seeking the establishment of rural living in the area.

- The effect of development on the use or development of other land which has a common means of drainage.

Not applicable.

- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.

The lot configuration has been framed with regard to site opportunities and constraints. Lots have been configured to offer discrete building envelopes that respect site constraints.

- The density of the proposed development.

The proposal does not create any additional lots.

- The area and dimensions of each lot in the subdivision.

The proposal does not create additional lots and therefore the average lots size remains unchanged.

- The layout of roads having regard to their function and relationship to existing roads.

The re-subdivision provides each lot with frontage to Martins Road.
• The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.

Not applicable.

5.7 Relevant Planning Scheme Amendment

Towong Planning Scheme Amendment C25

Towong Planning Scheme Amendment C25, inter alia seeks to:

• Rezone existing areas of 'de facto' rural living in the western part of Towong Shire within Towong Statistical Local Area (SLA) 'A' from Rural Activity Zone (RAZ) to Rural Living Zone (RLZ) (Figure 1); and

• Insert a new Schedule to the Rural Living Zone (RLZ), being Schedule 3 to Clause 35.03 and apply the Schedule at the areas being rezoned by Amendment C25. The proposed Schedule 3 does not specify maximum building sizes and minimum setbacks in order to facilitate a greater range of merits based outcomes. It retains the default Victorian Planning Provisions (VPP's) minimum lot size of 2 hectares and sets the minimum area for which no permit is required for a dwelling to 2 hectares;

• Deletes Clause 22.07 'Rural Living' to streamline the Towong Planning Scheme Local Planning Policy Framework (LPPF) because the proposed Design and Development Overlay (Schedule 1) and Development Plan Overlay (Schedule 6) are able to essentially replace the local policy.

The Amendment is required to implement the recommendations of the Towong Shire Settlement Strategy, 2010 Towong Shire Rural Land Use Study and to implement the current Council Plan. It also implements the settlement aspirations of the current Municipal Strategic Statement (MSS) and is supported by the Hume Regional Growth Plan (RGP). Towong Shire Council considered that the conventional planning approach of applying zones that give primacy to agriculture in an increasingly vain attempt to protect any remaining vestiges of agriculture in the areas nominated for rezoning was no longer considered to be a relevant or appropriate planning approach. These areas are dominated by rural residential development and contain few, if any viable agricultural enterprises. The agricultural use of the land in these areas is typically secondary to the residential use of the land and there was a recognition that the zoning regime needs to acknowledge this.

Amendment C25 identifies that the higher land values in these areas driven by lifestyle residents and people paying a higher price for the amenity of the landscape has made increasing operational scale impossible for farming enterprises and is a clear indication that the true value of the land in such areas lies in its amenity value rather than its productive value. In these areas, it is evident that the market is
prepared to purchase larger properties for the purpose of rural living, and if genuine rural living type
development is not permitted in a coordinated and ordered manner, relatively large land parcels will
continue to be traded essentially just for rural residential purposes. This will create inefficient land use
outcomes and perpetuate current planning scheme inadequacies.

The Amendment:

• Is intended to provide appropriately zoned land in suitable locations to meet long term need
  for rural living. The Albury / Wodonga residential land market has signaled its preference for
  rural living in the high amenity Lake Hume environs and the Towong Planning Scheme needs to
cater for this market preference in an orderly manner by providing a zoning regime that enables
  such development with appropriate safeguards;

• Directs rural living into areas characterized by the absence of agriculture as the dominant land
  use and the absence of strategically important agricultural land. Enabling further rural
  residential development in these areas will not cause the loss of inter-generational equity with
  respect to the allocation of the high quality agricultural land resource;

• Provides positive social and economic effects and benefits will accrue by allowing existing rural
  living areas to be developed more efficiently and effectively. Allowing additional settlement to
  be directed to areas where rural living is already the dominant land use will promote
  infrastructure efficiencies and support adjacent settlements and communities.

It is evident that the established economic and land use trends, particularly in western Towong Shire,
required a planning response. Amendment C25 seeks to provide that response by providing for ordered
rural residential development in appropriate locations with safeguards for landscape, amenity and the
environment.

The Amendment has been prepared, exhibited and been through a Planning Panel process. It received
broad community support and the support of the Planning Panel. It is now awaiting Ministerial approval.
When approved, it would facilitate the rural residential development of the subject land. It is apparent
that the proposal provides the type of planning outcome explicitly sought by Amendment C25 and is
inherent consistent with the ambitions of Amendment C25.
6 Aboriginal Cultural Heritage

Pursuant to the Aboriginal Heritage Regulations 2007 – a Cultural Heritage Management Plan (CHMP) is not required in this instance. A completed CHMP checklist is provided at Appendix E. A CHMP is not required because the proposal does not create any additional lots in a defined sensitive area, all building envelopes are external to identified sensitive areas and the application is for the use of the land only, not the development of the land, so does not seek approval for any earth works that might cause significant land disturbance.

7 Conclusion

The vision for the proposal is to deliver a development outcome that respects the attributes of the site and existing development in the area whilst providing long-term positive social and economic benefits for Bethanga and the broader municipality. The proposal has been framed with regard to site opportunities and constraints and:

- Provides a land use outcome that does not adversely affect surrounding land uses;
- Augments and reinforces an established rural living area;
- Strengthens the economic base of the Shire by providing additional residents in the Bethanga environs;
- Offers a logical land use planning response given the retreat of agriculture from the area and established land market preferences;
- The application is similar to others with the same planning controls that have been given approval in recent years;
- Directly contributes the TPS policy aspirations for aspirations for population stability and growth;
- Provide appropriate separation distances between both proposed and existing dwellings;
- Use site topography to provide discrete locations that offer outstanding views with limited intervisibility and awareness of other dwellings;
- Will not impact strategically important agricultural land or sites of environmental significance; and
- On-site domestic wastewater management can take place in accordance with statutory requirements without adverse impact upon ground or surface waters.

The proposal is inherently consistent with the relevant provisions of the TPS and will facilitate the orderly development of the land. It is considered that the proposal would be both appropriate and reasonable in the circumstances. For the reasons provided in this report it deserves the support of Council.
Appendix A Title Particulars
Appendix B – Existing Conditions
REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 07550 FOLIO 197

LAND DESCRIPTION

Crown Allotments 23, 23A, 37, 38, 45 and 46 Section H Parish of Berringa.
PARENT TITLE Volume 06717 Folio 229
Created by instrument 2395168 08/06/1951

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor

THOMAS ROBERT MARTIN of BETHANGA PARK ROAD BETHANGA 3691
V819485A 30/12/1998

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AF152412L 23/06/2007
BENDIGO BANK LTD

For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP765650C FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

--------------------END OF REGISTER SEARCH STATEMENT-----------------------

Additional information: (not part of the Register Search Statement)

ADMINISTRATIVE NOTICES

NIL

eCT Control 03500L BENDIGO AND ADELAIDE BANK LTD - SAFE CUSTODY
Effective from
21/07/2017

DOCUMENT END
REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 04746 FOLIO 145 Security no : 124070696310N
CROWN GRANT Produced 06/03/2018 06:55 pm

LAND DESCRIPTION

Crown Allotment 44 Section H Parish of Berringa.

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
THOMAS ROBERT MARTIN of BETHANGA PARK ROAD BETHANGA 3691
V819485A 30/12/1998

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AF152412L 23/06/2007
BENDIGO BANK LTD

Any crown grant reservations exceptions conditions limitations and powers noted on the plan or imaged folio set out under DIAGRAM LOCATION below.
For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP351046C FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

---------------------------------END OF REGISTER SEARCH STATEMENT--------------------------------

Additional information: (not part of the Register Search Statement)
Street Address: MARTINS ROAD TALGARNO VIC 3691

ADMINISTRATIVE NOTICES

NIL
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Effective from
21/07/2017
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TOTAL AREA = 62A 3R 16P

Description of Land / Easement Information

THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT

COMPILED: 01/01/2003

VERIFIED: L.S.
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LAND DESCRIPTION INCLUDING RESERVATIONS EXCEPTIONS

CONDITIONS AND POWERS SHOWN ON THE CROWN GRANT

provided always that the said land is and shall be subject to be reserved for mining purposes under Section 108 of the Land Act 1915.

Also provided also that the said land is and shall be subject to the right of any person being the holder of a miner's right or a licence to search for minerals or minerals or of a mining or mineral lease to enter thereon and to mine for gold silver copper tin antiquity coal and other metals and minerals and mineral ores and to construct and to occupy mining plant or machinery therein in the same manner and under the same conditions and provisions as those on which the holder of a miner's right or of a mining or mineral lease had at the date of these presents the right to mine for gold and silver in and upon Crown lands.

Provided further that the grant is upon the express condition that neither the grantee nor any one claiming from through or under him shall claim or be entitled to any compensation or in respect of damage to be done to the land hereby granted or to any part thereof or to any improvements therein by mining thereof as therein within the meaning of the Mines Act 1915 or of any Act for the time being in force relating to mining or by the cutting or removing of any live or dead timber thereon or therefrom for mining purposes within the meaning of the said Act or for any purpose authorized by the said Act.
REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 08015 FOLIO 140

LAND DESCRIPTION

PARENT TITLE Volume 06628 Folio 539
Created by instrument 2316918 07/07/1950

REGISTERED PROPRIETOR

Estate Fee Simple
As to 1 of a total of 2 equal undivided shares
Sole Proprietor
   THOMAS ROBERT MARTIN of BETHANGA
   E018385 21/04/1971

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AF152412L 23/06/2007
   BENDIGO BANK LTD
   For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP785023T FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

END OF REGISTER SEARCH STATEMENT-------------------------

Additional information: (not part of the Register Search Statement)

OTHER TITLES WITH INTERESTS AFFECTING THIS LAND
9545/333

ADMINISTRATIVE NOTICES

NIL

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Effective from
21/07/2017

DOCUMENT END
REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 09545 FOLIO 333

LAND DESCRIPTION

PARENT TITLE Volume 08015 Folio 140
Created by instrument K717404 16/01/1984

REGISTERED PROPRIETOR

Estate Fee Simple
As to 1 of a total of 2 equal undivided shares
Sole Proprietor
THOMAS ROBERT MARTIN of BETHANGA
K717404 16/01/1984

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AF152412L 23/06/2007
BENDIGO BANK LTD

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DIAGRAM LOCATION

SEE TP7850237 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

------------------------END OF REGISTER SEARCH STATEMENT------------------------

Additional information: (not part of the Register Search Statement)

OTHER TITLES WITH INTERESTS AFFECTING THIS LAND
8015/140

ADMINISTRATIVE NOTICES

NIL

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Effective from
21/07/2017

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Appendix C – Design Response
Appendix D - Site Photos

Photo 1: View across building envelope Lot 1

Photo 2: View across building envelope Lot 2

Photo 3: View across building envelope Lot 3
Photo 4: View across building envelope Lot 4

Photo 5: View across building envelope Lot 5

Photo 6: View across building envelope Lot 6
Appendix E – Aboriginal Cultural Heritage

**Process List**

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<tr>
<td>Date:</td>
<td>17-Feb-2018</td>
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<table>
<thead>
<tr>
<th>QUESTION</th>
<th>ANSWER</th>
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<tbody>
<tr>
<td>Question 1: Is the proposed activity, or all the proposed activities, exempt?</td>
<td>No</td>
</tr>
<tr>
<td>Question 2: Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations?</td>
<td>Yes</td>
</tr>
<tr>
<td>Question 3: Does your activity include significant ground disturbance?</td>
<td>No</td>
</tr>
<tr>
<td>Question 3(a): Is your activity a subdivision of 3 or more lots for housing (where at least 3 of the lots are less than 8 hectares in size), or industrial subdivision in an area zoned for Industry, or do you require a permit under the relevant planning scheme municipal council permit) to use the land for one of the following purposes?</td>
<td>Yes</td>
</tr>
<tr>
<td>Question 4: Does your activity area include areas of a registered cultural heritage place (regardless of significant ground disturbance) or cultural heritage sensitivity that have not previously been subject to significant ground disturbance?</td>
<td>No</td>
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**Answer:**

ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED
YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN
FOR THIS PROJECT
Appendix F – Property Report

Property Report

Address: MARTINS ROAD TALGARNO 3691
Lot and Plan Number: This site has 8 parcels. See table below.
Standard Parcel Identifier (SPI): See table below.
Local Government (Council): TOWONG Council Property Number: 207650
Directory Reference: VicRoads 36 C3

This property is in a designated bushfire prone area. Special bushfire construction requirements apply. Planning provisions may apply.
Further information about the building control system and building in bushfire prone areas can be found in the Building Commission section of the Victorian Building Authority website www.vba.vic.gov.au

Parcel Details

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<td>23A-HPP2126</td>
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State Electorates
Legislative Council: NORTHERN VICTORIA
Legislative Assembly: BENAMBRA

Utilities
Regional Urban Water Business: North East Water
Rural Water Business: Goulburn-Murray Water
Melbourne Water: outside drainage boundary
Power Distributor: AUSNET (Information about choosing an electricity retailer)

Planning Zone Summary
Planning Zone: RURAL ACTIVITY ZONE (RAZ)
Planning Overlay: SCHEDULE TO THE RURAL ACTIVITY ZONE (RAZ)

Areas of Aboriginal Cultural Heritage Sensitivity:
This property is within, or affected by, one or more areas of cultural heritage sensitivity

Planning information continued on next page

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MARTINS ROAD TALGARNO BASIC PROPERTY REPORT

Planning Application 37
Planning scheme data last updated on 2 March 2018.

A planning scheme sets out policies and requirements for the use, development and protection of land. This report provides information about the zone and overlay provisions that apply to the selected land. Information about the State, local, particular and general provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting Planning Schemes Online.

This report is NOT a Planning Certificate issued pursuant to Section 199 of the Planning & Environment Act 1987. It does not include information about exhibited planning scheme amendments, or zones that may about the land. To obtain a Planning Certificate go to Titles and Property Certificates.

The Planning Property Report includes separate maps of zones and overlays. For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit Planning Maps Online. For other information about planning in Victoria visit www.planning.vic.gov.au.

Areas of Aboriginal Cultural Heritage Sensitivity

The data provides indicative information about the location and extent of areas of Aboriginal cultural heritage sensitivity and is provided to assist with the decisions about the potential need to prepare a Cultural Heritage Management Plan in relation to proposed activities on this property.

For further information about whether a Cultural Heritage Management Plan is required go to Aboriginal Heritage Planning Tool.

To find out if your property has any recorded Aboriginal cultural heritage places, such as scarred trees, occupation sites or places of burial, you can request information from the Victorian Aboriginal Heritage Register.

Find out more about the Victorian Aboriginal Heritage Register.

Area Map

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NARTUS ROAD 74 CLARION BASIC PROPERTY REPORT Page 2 of 2

Planning Application 38