

# Government Land Standing Advisory Committee

## Tranche 5 Report

### 200 Shaws Road, Ballan

10 May 2017

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## List of Abbreviations

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BMO	Bushfire Management Overlay
CHMP	Cultural Heritage Management Plan
DDO	Design and Development Overlay
DPO	Development Plan Overlay
EAO	Environmental Audit Overlay
EHP	Ecology and Heritage Partners
EVC	Ecological Vegetation Classes
FTGL Service	Fast Track Government Land Service
GRZ	General Residential Zone
NRZ	Neighbourhood Residential Zone
PUZ	Public Use Zone
SUZ	Special Use Zone
VPO	Vegetation Protection Overlay
VPP	Victoria Planning Provisions

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## About this report

On 21 August 2016, the Minister for Planning referred the following sites to the Government Land Standing Advisory Committee as part of Tranche 5 Report:

- 200 Shaws Road, Ballan
- Blue Rock Road, Willow Grove
- 119 and 123 Curlewis Street, Swan Hill.

This is a report under Section 151 of the Planning and Environment Act 1987 of the Government Land Standing Advisory Committee for 200 Shaws Road, Ballan.



Brett Davis, Chair



Mandy Elliott, Member

10 May 2017

## The Government Land Standing Advisory Committee

The Fast Track Government Land Service (FTGL Service) is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Minister for Planning approved Terms of Reference to establish the Government Land Standing Advisory Committee (the Committee) under Part 7, section 151 of the *Planning and Environment Act 1987* in July 2015.

The purpose of the Committee is:

*... to advise the Minister for Planning on the suitability of changes to planning provisions for land owned by the Victorian Government.*

The Committee consists of:

- Chair: Lester Townsend
- Deputy Chairs: Brett Davis and Cathie McRobert
- Members: Gordon Anderson, Alan Chuck, John Collins, Mandy Elliott, Jenny Fraser, John Ostroff, Cazz Redding and Lynn Sweeney.

The Committee was assisted by Ms Emily To, Project Officer with Planning Panels Victoria.

The Committee's Terms of Reference state:

*The Committee must produce a written report for the Minister for Planning providing:*

- *An assessment of the appropriateness of any changes to planning provisions, in light of the relevant planning scheme and State and Local Planning Policy Frameworks.*
- *An assessment of whether planning scheme amendments could be prepared and adopted in relation to each of the proposals.*
- *An assessment of submissions to the Standing Advisory Committee.*
- *Any other relevant matters raised in the course of the Standing Advisory Committee Hearing.*
- *A list of persons who made submissions considered by the Standing Advisory Committee.*
- *A list of persons consulted or heard.*

## Details of the site and process

**Table 1: Proposal summary**

Proposal summary	
<b>Tranche and site reference</b>	Tranche 5: Site reference FT94
<b>Site address</b>	200 Shaws Road, Ballan
<b>Previous use</b>	Area of water storage basin (Bostock Reservoir)
<b>Site owner</b>	Barwon Water
<b>Council</b>	Shire of Moorabool
<b>Exhibition</b>	6 February to 17 March 2017
<b>Submissions</b>	Five submissions were received: <ul style="list-style-type: none"> <li>- John Joseph Kowarsky</li> <li>- Stephen Carter</li> <li>- Ezaz Sheikh</li> <li>- Environment Protection Authority Victoria</li> <li>- Moorabool Shire Council</li> </ul>

**Table 2: Proposed planning scheme changes**

Existing controls	Proposed changes
Public Use Zone – Service and Utility	Special Use Zone (Schedule 5)
Environmental Significance Overlay – Schedule 1	Retain
Design and Development Overlay – Schedule 2	Retain
Bushfire Management Overlay	Retain

**Table 3: Committee process**

Committee process	
<b>Members</b>	Brett Davis (Chair) and Mandy Elliott
<b>Information session</b>	22 February 2017 at Mechanics Institute Reserve and Community House, 143 Inglis Street, Ballan
<b>Hearing</b>	3 April 2017 at Mechanics Institute Reserve and Community House, 143 Inglis Street, Ballan
<b>Site inspections</b>	Prior to Hearing and including 3 April 2017
<b>Appearances</b>	Barwon Water represented by Antony Duffill of SMEC Australia Moorabool Shire Council represented by Tim Doolan
<b>Date of this Report</b>	10 May 2017

# 1 Summary and recommendation

## 1.1 The site

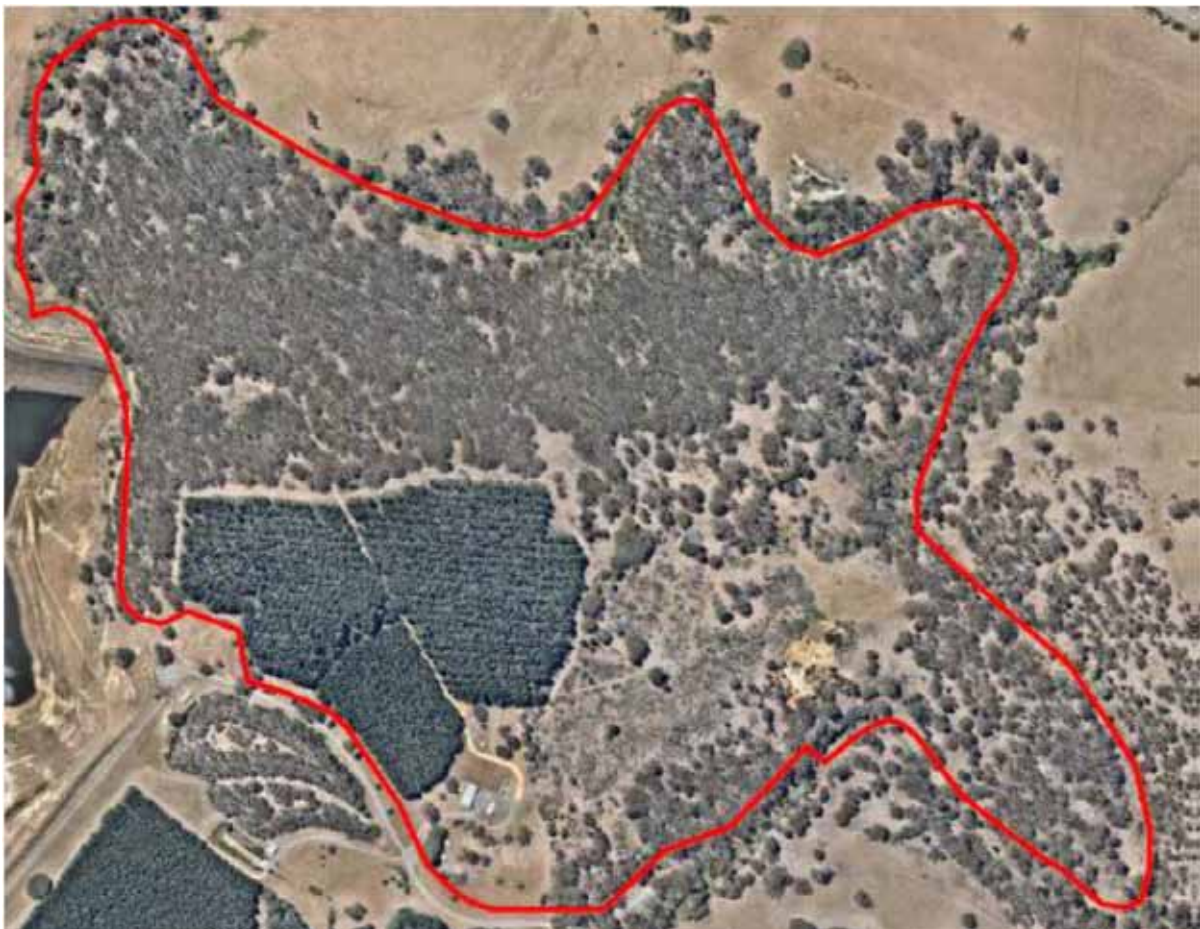
The site is located approximately 3.5 kilometres southwest of the Ballan Town Centre and approximately 90 kilometres north-west of the Melbourne CBD. Ballan is the major population and service centre for the region.

The site comprises a caretaker's house and maintenance sheds associated with the operation of a water storage basin (Bostock Reservoir). The site owner has identified approximately 52 hectares of land surplus to its needs. The site is largely vacant, heavily treed land. A large grouping of pine species is located in the central southern part of the site, while other areas are comprised predominantly of native vegetation.

The surrounding area is primarily agricultural in nature. Nearby there are several forested areas and water bodies, including the Moorabool River and Bostock Reservoir.

The site owner submitted that no other government body or local authority has expressed interest in purchasing the site.

**Figure 1: Site location**



## 1.2 Summary

The site owner proposes to rezone the land from Public Use Zone Schedule 1 – Service and Utility (PUZ1) to the Special Use Zone – Schedule 5 (SUZ5) to enable a range of tourism associated uses. A *Tourism Potential Assessment* prepared by Essential Economics (March 2016) supports the Amendment and finds that the site is suitable for several uses, including a mineral spa and wellness retreat (a natural spring is located nearby) and adventure training camp (for schools or adults).

The Committee considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from inspections of the site.

**Table 4: Existing and proposed controls**

Current planning scheme controls	Proposed planning scheme controls	Recommendation
<b>200 Shaws Road, Ballan</b>		
Public Use Zone Schedule 1 – Service and Utility	Special Use Zone – Schedule 5	Rezone with Committee’s proposed changes
Environmental Significance Overlay – Schedule 1	Retain	Retain
Design and Development Overlay – Schedule 2	Retain	Retain
Bushfire Management Overlay	Retain	Retain

## 1.3 Recommendation

The Committee recommends for 200 Shaws Road, Ballan that:

**A planning scheme amendment be prepared and approved, subject to the changes to the Special Use Zone Schedule 5 as shown at Appendix B.**

## **2 Process issues for this site**

Some of the exhibited documentation referred to a ‘future development area’, which was an area within the subject land proposed rezoning area. This led to some confusion, as the Amendment did not include a proposed development, which would need to follow its own course of planning process.

There were no other process issues associated with the Ballan site.



## 3 Site constraints and opportunities

### 3.1 Zoning context

Figure 2: Current zoning



Figure 3: Proposed zoning



### 3.2 Physical constraints

#### (i) History of the site

The site is a water storage basin (Bostock Reservoir). Site titles identify Geelong Waterworks and Sewerage Trust as the sole proprietor of all parcels of land since at least 1953 (Preliminary Site Investigation, Tonkin & Taylor July 2016). From historical aerial photographs, it was observed by Tonkin & Taylor that minimal changes have occurred to the site since this time, with the exception of some minor areas of activity along the southern site boundary. The pine plantation was established at the site around 1970.

The site currently contains a caretaker's house and maintenance sheds associated with the operation of a water storage basin.

#### (ii) Titles

The site comprises all of Lot 1 on Title Plan 618674 and part of Lot 1 on Title Plan 389608. There are no Covenants or Agreements that have been registered on title.

#### (iii) Current site conditions

The majority of the site is vacant, some of which is heavily treed including the central, northern and eastern parts. A pine plantation in the central part of the site was established in around 1970.

A preliminary Ecological Assessment was undertaken by SMEC (November 2015), which identified that the site includes a diverse range of remnant native vegetation (particularly EVC22 Grassy Dry Forest) and fauna habitat, including habitat along the Moorabool River for the Commonwealth and State listed Growling Grass Frog.

Mr Kowarsky raised concerns about the Ecological Assessment), in particular the timing of the assessments, the need for a greater buffer along the Moorabool River for the Growling Grass Frog and the requirement for public access to the mineral spring. He provided a copy of the *Sub-regional Species Strategy for the Growling Grass Frog (DSE, 2011)* in his submission.

A central elevated ridge slopes from a high point in the western part of the site down to flatter ground in the southeast.

**(iv) Interface with surrounds**

The site is located north of Shaws Road and is predominately bound by the Moorabool River (East branch) to the north and the east, Shaws Road and an internal access roads to the south, and the Bostock Reservoir to the west. Farming is the predominant land use surrounding the site.

Beyond the southern boundary of the site is a natural mineral spring, with public access. The site owner submitted that this public access will be maintained as it is located on Crown land that was returned to public use in May 1935.

**(v) Access**

The main access is provided from Shaws Road. A secondary maintenance track is located west of the subject site. A number of informal access tracks also exist.

## 4 Issues with the proposed changes

### 4.1 What zone is suitable

The Amendment proposes to rezone part of the subject site from PUZ1 to SUZ5 with a schedule for tourism uses that relates specifically to 'Shaws Road, Ballan Tourism Precinct. The purposes of the Schedule are:

- *To recognise and provide for the use and development of land for tourism related uses.*
- *To encourage development and uses that are in harmony with the environmental attributes of the area and the provision of water supply on neighbouring land.*
- *To ensure that subdivision provides for tourism related uses and promotes appropriate land management practices and infrastructure provision.*

The site owner submitted that none of the existing zones provide an appropriate planning framework for the site to be used for tourism based uses. A *Tourism Potential Assessment* was prepared by Essential Economics and exhibited as part of the Amendment documentation to investigate the tourism potential of the subject site. The consultants suggested that options for the site include a mineral spa and well-being retreat, a school adventure camp or an adult adventure and training camp.

Council generally supported the Amendment and the use of the SUZ to facilitate tourism related uses and protect the inherent values of the site. Council supported the promotion of tourism at this location and in rural areas and cited Council adopted strategies including *Moorabool Shire Economic Development Strategy (2015)* and *Growing Moorabool Development Strategy and Action Plan (2006)*. However, Council submitted that this support is dependent on the following:

*Protection of natural environment, including native vegetation, general land quality (soil type, erosion etc), existing natural springs and special water catchment.*

*Acceptable level of bushfire risk, ensuring that no compromise on site values will be sought in meeting bushfire safety requirements.*

*No adverse impact on local community, including infrastructure, servicing and public facilities, such as access and use of Bostock Reservoir and the nearby mineral spring.*

Council raised issues with the proposed minimum lot size, which is generally 40 hectares within the surrounding Farming Zone. The site owner stated that there is no real relationship with the surrounding land so the surrounding minimum lot size was not relevant.

Central Highlands Water, whilst not directly involved in the Stony Creek Catchment, provided a written submission generally supporting the Amendment, but raising concerns that:

*rezoning of the land could set an undesirable precedent in respect to future developments generally with open potable water supply catchment unless effective measures are put in place to ensure the reservoir and catchment more generally are protected from any pollutants resulting from future development of the site.*

The site owner tabled Schedule 7 to the Development Plan Overlay (DPO) (Document 2), as a way of highlighting that this tool could be used in conjunction with the SUZ5. In response, Central Highlands Water provided requirements regarding a land capability assessment that they would like included in such a schedule.

No other submissions raised issues in relation to the proposed rezoning from PUZ1 to SUZ5.

## **4.2 What overlays are suitable**

The site is currently covered by an Environmental Significance Overlay – Schedule 1, Design and Development Overlay – Schedule 2 and a Bushfire Management Overlay. These overlays will be retained. The site owner did not submit any revisions to these overlays.

Council suggested the introduction of a DPO to ensure that the intended development area is made clear to future owners of the site. Council submitted that the developable area cannot be adequately specified through the SUZ or existing overlays, and that the absence of clarity around the developable area may have implications in terms of:

- *Water catchment management*
- *Native vegetation removal*
- *Land degradation*
- *Bushfire safety*
- *Use of existing public facilities in the form of Bostock Reservoir and Ballan Mineral Spring*
- *Identification of potential negative impacts of subdivision/development on the Ballan Mineral Spring.*

While the site owner tendered the draft DPO7, they submitted that the requirements sought by Council in a DPO could be met in the SUZ schedule:

*It is our view that the SUZ can cover this off more so than applying a DPO as well. By having a DPO you remove third party appeal rights and we are not particularly in favour of this, we are ensuring transparency into the future and we submit that the SUZ is adequate.*

### **Bushfire Management Overlay**

The subject site is located within the Bushfire Management Overlay (BMO). The Amendment does not propose to remove this overlay. A Bushfire Risk Assessment was prepared by Practical Ecology (June 2016) and exhibited as part of the Amendment documentation. The site owner submitted that the assessment acknowledges that a bushfire threat exists, and quoted the following conclusion from the consultants' report:

*Rezoning the site and developing it for tourism and potential accommodation is viable but considerations have to be made regarding the preparation of the*

*site, design and management of the proposed use to address the significant risk to an acceptable level.*

The site owner submitted that factors such as bushfire risk is from limited directions, the presence of a large water body (Bostock Reservoir), and availability of defendable space provide a level of mitigation of bushfire risk. They state that the “*Amendment will not facilitate an unacceptable risk to human life and is consistent with State Policy in this regard (particular reference is given to clause 13.05-1 – Bushfire Planning Strategies and Principles)*”.

Council raised the issue of the need for a secondary emergency access track or road. The site owner is amenable to an appropriate requirement that the access track to the west of the site be made available as a secondary emergency access and upgraded or extended to join the Old Melbourne Road to the north of the site. This has been reflected in the revised SUZ Schedule.

The views of the CFA were sought during the exhibition stage, however they did not make a submission.

#### **Environmental Significance Overlay – Schedule 1**

Council raised concerns regarding the protection of the environmental values of the site, particularly the water catchments, natural spring and native vegetation. In terms of water catchment protection, Council submitted that insufficient information has been provided on how the proposal can satisfy the requirements of the ESO1 through the planning permit process.

The site owner responded that:

*The ESO includes a permit requirement at Clause 42.01-2 to remove, destroy or lop any vegetation, including dead vegetation (exemptions apply).*

*The ESO1 includes application requirements at Clause 3.0 (Buildings and works) including a report to accompany any new buildings and works application that demonstrates:*

- *That any removal, destruction or lopping of vegetation will not compromise the quality of water within proclaimed catchment areas.*

*The provision of clause 52.17 (Native vegetation) will also apply to the site (DELWP is a referral authority under Clause 66.01).*

*The DPO can nominate areas for protection. However, the requirement for a targeted assessment has been included as an application requirement under the SUZ schedule.*

*It is our view that adequate protection can be provided and we note that the SMEC Ecological Assessment (November 2015) has included a number of recommendations that can be included in the SUZ ...*

### 4.3 Post-hearing changes

At the request of the Committee, the site owner, Council and Central Highlands Water submitted further conditions or requirements post-hearing. The Committee has discussed or accepted most of these changes. It has also made changes to ensure the Schedule relates properly to the head clause.

One issue was the suggestion that the 'catch all' requirement– "*any use other than those in Section 1 or 3*" – be in the Section 2 table of uses. The exhibited version listed the catch all in both Section 2 and 3 of the Schedule. The Committee was taken predominately to issues related to the *Tourism Potential Assessment* and concluded that the table of uses adequately covers this requirement without the need to broaden the permit required section. However, it is the Committee's understanding that the catch all is set in Section 2 of the table of uses by the head clause to the Special Use Zone and so should not be shown in the schedule at all.

As such, this is shown as struck through on the Committee's preferred SUZ5 at Appendix B.

### 4.4 Discussion and conclusion

The Committee supports the use of the SUZ and the future use and development of tourism purposes. The introduction of Schedule 5 provides a mechanism to ensure that certain matters are investigated at the permit application stage, including the protection of native vegetation and the retention of Growling Grass Frog habitat.

The Committee notes that the existing overlays provide a measure of protection for bushfire management, appropriate guidelines around design and development, as well as protecting the environmental attributes such as the water storage basin and native vegetation that exist on the site. The Committee is satisfied that the combination of the existing controls and the introduction of the SUZ Schedule 5 protects the sites environmental and amenity values, whilst providing for some form of potential tourism related development.

The Committee does not agree that the introduction of a DPO would provide a level of guidance as to what should be developed on this site. The Committee's version of the SUZ5 as shown in Appendix B, enables the matters raised by Council and other submitters to be considered at the permit application stage.

The Committee believes that introduction of a DPO would to some extent duplicate the SUZ5. It also agrees that the introduction of a DPO would remove the requirement for third party review rights which the Committee concludes is not desirable in this case.

## Appendix A: Document list

Documents Presented to Hearing (No.)	Description	Presented By
1	Barwon Water submissions	Mr Duffill, SMEC representing Barwon Water
2	Draft DPO Schedule 7	Mr Duffill
3	Moorabool Shire Council submissions	Mr Tim Doolan, Moorabool Shire Council

## Appendix B: Revised Special Use Zone – Schedule 5 (Committee Version)

### SCHEDULE 5 TO THE SPECIAL USE ZONE

Shown on the planning scheme map as **SUZ5**.

#### SHAWS ROAD, BALLAN TOURISM PRECINCT

##### Purpose

To recognise and provide for the use and development of land for tourism related uses.

To encourage development and uses that are in harmony with the environmental attributes of the area and the provision of water supply on neighbouring land.

To ensure that subdivision provides for tourism and tourism related uses and promotes appropriate land management practices and infrastructure provision.

#### 1.0 Table of uses

##### Section 1 - Permit not required

Use	Condition
Apiculture	Must meet the requirement of the Apiary Code of Practice, May 1997
Caretaker's house	
Home occupation	
Informal outdoor recreation	
Minor utility installation	
Natural systems	
<del>Retail plant nursery</del>	
Road	
<del>Wholesale plant nursery</del>	

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## Section 2 - Permit required

Use	Condition
Accommodation (other than Caretaker's house)	
Art and craft centre	
Car park	
Convenience shop	
Education centre	
Food and drink premises	
Leisure and recreation (other than Informal outdoor recreation and Motor racing track)	
Market	
Place of assembly (other than an Amusement parlour and Nightclub)	
Store	
<a href="#">Plant nursery</a>	
<del>Any use other than those in Section 1 or 3</del>	

## Section 3 - Prohibited

Use
Abattoir
Amusement parlour
Extractive industry
Industry
Motor racing track
Nightclub
Retail premises (other than Market, Convenience shop, Food and drink premises, Plant nursery and Primary produce sales)
Saleyard
Sawmill
Warehouse (other than Store)
<del>Any other use not listed in Section 1 or 2</del>

2.0

### Use of land

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[Goods and services sold in a shop must be predominantly associated with the tourism industry and tourist activities.](#)

### Application Requirements

#### Accommodation

An application to use land for any use within the Accommodation group must be accompanied by a report which demonstrates that the proposal is consistent with the tourism emphasis of the schedule.

#### ~~Shop~~

~~Goods and services must be predominantly associated with the tourism industry and tourist activities.~~

### **Traffic Impact Assessment**

A Traffic Impact Assessment which specifically addresses:

- The suitability of Shaws Road and the intersection of this road and Geelong-Ballan Road to accommodate increased vehicle movements associated with the use.
- The suitability of the two access ways in the event of an emergency.

### **Flora and Fauna Assessment**

A detailed Flora and Fauna Assessment which:

- Surveys the site in the seasonal period between mid-spring and summer-end.
- Identifies the location of existing vegetation to be retained on site and to be protected, including the establishment of appropriate buffers between any future developed area and native vegetation
- Undertakes a targeted Growling Grass Frog Survey at the appropriate time of year
- Identifies buffer areas to be provided (to be determined after a Growling Grass Frog Survey but would be a minimum of 20 metres) to the Moorabool River
- Identifies strategies to:
  - Control weeds and pests in any future development area and car park, and along any tracks that are used in the native forest areas.
  - Work with the surrounding landowners to prevent cattle accessing the native forest and Moorabool River environments.
  - Ensure the Ballan Mineral Springs Reserve area does not become degraded.
  - Protect the water quality in the Moorabool River.

### **Amenity**

A written response outlining the likely effects, if any, on the local environment, including:

- Emissions to land or water.
- Traffic, including the hours of operation, delivery and despatch.
- Light spill or glare.
- The removal / clearing of vegetation.

### **Decision Guidelines**

Before deciding on an application to use land, the responsible authority must consider:

- The impact of the proposed use on the environmental attributes of the area.
- The impact of the proposed use on the natural spring.
- The impact of the proposed use on the provision of water supply and storage, including the ability of the land to contain and treat wastewater on site with any buildings and works that are approved.
- The impact of the proposed use on the local traffic conditions.
- The views of the relevant water and catchment management authority/s.
- Impact on nearby public facilities including Ballan Mineral Spring and Bostock Reservoir Reserve.

## **3.0 Subdivision**

--/-- ~~A permit is required to subdivide land.~~

Reticulated sewerage facilities must be provided to each lot(s) and if impracticable a Land Capability Assessment must be provided to show that all wastewater can and will be contained on site.

### Decision Guidelines

Before deciding on an application to subdivide land, the responsible authority must consider:

- The impact of the proposed subdivision on the environmental attributes of the area.
- The views of the relevant water and catchment management authority.

#### **4.0 Buildings and works**

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~~A permit is required to construct a building or construct or carry out works.~~

### **Decision Guidelines**

Before deciding on an application to use land, the responsible authority must consider:

- The impact of the proposed buildings and works on the environmental attributes of the area.
- The impact of the proposed buildings and works on the natural spring.
- The impact of the proposed buildings and works on the provision of water supply and storage.
- The impact of the proposed buildings and works on the amenity of neighbouring agricultural and residential properties.
- The views of the relevant water and catchment management authority.

#### ~~**5.0 Advertising signs**~~

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~~Advertising sign requirements are at Clause 52.05. This zone is in Category 3.~~