



Memorandum

To: Peter Marriott – Director, Delburn Wind Farm Pty Ltd

From: Debra Butcher/Peter Doyle

Subject: Delburn Wind Farm, Preliminary overview of relevant Planning Controls (EES Referral)

Date: April 28, 2020

cc: Mandy Elliott

1. INTRODUCTION

This Memorandum provides a preliminary overview of the planning policies and controls affecting the Delburn Wind Farm site and the subsequent permit triggers. The review is based on the site boundaries shown on the plans provided by Osmi on its cadastre and the infrastructure as at 27 April 2020.

Please note that this is a desk top review of planning controls only and no site visit has been undertaken in its preparation. Please also note that no review has been undertaken of the Certificate of Titles that are included within the overall site boundaries. This memorandum provides a preliminary overview of the controls only as a full assessment will be undertaken as part of the Planning Permit Application Report that is being prepared to accompany the planning permit applications.

The intention of this memorandum is to:

- Provide a brief overview of relevant State and Regional policy;
- Provide a brief overview of the relevant Municipal Strategic Statements (MSS) and local policies – noting that the site crosses three municipal boundaries and thus three different MSSs and local policies apply (albeit the majority of the wind farm is located within Latrobe);
- Consider the zones and overlay controls that apply to the site and the permit triggers that result based on the current site layout and proposal;
- Consider any relevant particular and general provisions;
- Consider who the Responsible Authority is for particular elements of the proposal.

Each of these matters are addressed in the following sections.

2. PLANNING POLICY FRAMEWORK

As the Planning Policy Framework at the State level is the same for all three municipalities only one set of policies needs to be considered. Policies that are of relevance to the wind farm are listed below, with a brief discussion associated with each. Where there is a policy of particular note (ie the Renewable Energy clause) then a more detailed discussion is provided. Relevant policies are as follows.

- Clause 11.01-1S Settlement. Seeks to ensure the sustainable growth and development of Victoria. Included as a policy document is the *Gippsland Regional Growth Plan* (Victorian Government, 2014).
- Clause 11.01-1R Settlement – Gippsland. Identifies Latrobe City as Gippsland’s regional city in addition to five other regional centres. Included at this clause is a map from the Gippsland Regional Growth Plan which shows the area where the wind farm is proposed as containing brown coal reserves.
- Clause 11.02-1S Supply of urban land. Includes a strategy to maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry.
- Clause 12.01-1S Protection of biodiversity. Seeks to assist the protection and conservation of Victoria’s biodiversity.
- Clause 12.01-2S Native vegetation management. Seeks to ensure that there no net loss of biodiversity as a result of the removal, destruction or lopping of native vegetation.
- Clause 12.03-1S River corridors, waterways, lakes and wetlands. Outlines the need to protect the environmental, cultural and landscape values of all water bodies and wetlands is recognised by this clause.
- Clause 12.05-2S Landscapes. Seeks to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.
- Clause 13.01-1S Natural hazards and climate change. Seeks to identify at risk areas and consider those risks in planning and management decision making processes.
- Clause 13.02-1S Bushfire Planning. Implements risk based planning that prioritises the protection of human life.
- Clause 13.03-1S Floodplain management. Seeks to avoid intensifying the impact of flooding through inappropriately located use and development.
- Clause 13.04-2S Erosion and landslip. Seeks to prevent inappropriate development in unstable areas or areas prone to erosion.
- Clause 13.04-3S Salinity. Seeks to minimise the impact of salinity and rising water tables on land uses, buildings and infrastructure in rural and urban areas and areas of environmental significance.
- Clause 13.05-1S Noise Abatement. Intent is to ensure that development is not prejudiced and community amenity is not reduced by noise emissions using a range of techniques including land use separation as appropriate to the land use function and character of an area.
- Clause 13.07-1S Land use compatibility. Seeks to safeguard community amenity while facilitating appropriate commercial, industrial or other land uses with potential off-site effects.
- Clause 14.01-1S Protection of agricultural land. Seeks to ensure that strategically important agricultural and primary production land is protected from incompatible land uses.
- Clause 14.01-3S Forestry and timber production. Seeks to facilitate the establishment, management and harvesting of plantations and the harvesting of timber from native forests.
- Clause 14.02-1S Catchment planning and management. Seeks to assist the protection and restoration of catchments, water bodies, groundwater and the marine environment including ensuring that development at or near waterways protects the environmental qualities of waterways and their instream uses. This includes through the provision of appropriate setbacks to waterways.

- Clause 14.02-2S Water Quality. Seeks to ensure that land use activities are sited and designed to minimise discharge to waterways and to protect the quality of surface water and groundwater.
- Clause 14.03-1S Resource exploration and extraction. Amongst a range of strategies this clause seeks to protect the brown coal resource in Central Gippsland by ensuring that changes in use and development of land overlying coal resources do not compromise the winning or processing of coal.
- Clause 14.03-1R Resource exploration and extraction. This clause seeks to protect the Gippsland brown coal resource and associated buffer areas via a range of strategies including ensuring that development in coal resource areas does not compromise the existing or future use of the resource.
- Clause 15.01-6S Design for rural areas. Seeks to ensure that new development respects valued areas of rural character and minimises visual impacts on surrounding natural scenery.
- Clause 15.03-1S Heritage conservation. Seeks to ensure the conservation of places of natural and cultural heritage.
- Clause 15.03-2S Aboriginal cultural heritage. Aims to protect and conserve places of Aboriginal cultural heritage in accordance with the requirements of the Aboriginal Heritage Act 2006.
- Clause 16.01-5S Rural residential development. Seeks to manage the location of rural residential development to protect agriculture including by discouraging the development of small lots in rural zones for residential uses.
- Clause 17.01-1S Diversified economy. Seeks to facilitate growth in a range of employment sectors and support rural economies to grow and diversify.
- Clause 18.01-2S Transport system. Amongst a range of strategies, seeks to plan or regulate for new land uses to avoid detriment to and where possible enhance the service, safety and amenity desirable for that transport route.
- Clause 18.04-1S Planning for airports and airfields. Seeks to, amongst a range matters, ensure that appropriate planning is put in place to ensure that new use or development doesn't prejudice the safety or efficiency of airfields.
- Clause 19.01-1S Energy supply. Seeks to facilitate the appropriate development of energy supply infrastructure. Strategies to support this include:
 - *'Supporting the development of energy facilities in appropriate locations where they can take advantage of existing infrastructure and provide benefits to industry and community.'*
 - *Support the transition to a low carbon economy with renewable energy and greenhouse emissions reductions including geothermal, clean coal processing and carbon capture and storage.*
 - *Facilitate local energy generation to help diversify the local economy and improve sustainability outcomes.*
- Clause 19.01-2S Renewable energy. This Clause includes as a policy document '*Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria*' (March 2019) and seeks to:
 - *Facilitate renewable energy development in appropriate locations;*
 - *Protect energy infrastructure against competing and incompatible uses.*
 - *Develop appropriate infrastructure to meet community demand for energy services.*
 - *Set aside suitable land for future energy infrastructure.*
 - *Consider the economic and environmental benefits to the broader community of renewable energy generation while also considering the need to minimise the effects of a proposal on the local community and environment.*
 - *Recognise that economically viable wind energy facilities are dependent on locations with consistently strong winds over the year.*

As noted above, the '*Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria*,' (March 2019) DELWP, is a policy document in the Planning Scheme. The purpose of the Guidelines is to set out:

- a framework to provide a consistent and balanced approach to the assessment of wind energy projects across the state;
- a set of consistent operational performance standards to inform the assessment and operation of a wind energy facility project; and
- guidance as to how planning permit application requirements might be met.

The Guidelines detail the information that needs to be provided as part of any planning permit application for a wind farm and also outline the other types of approvals that might be required for wind farms. In addition, the Guidelines outline the key matters that a Responsible Authority should consider when assessing a wind farm proposal. The Guidelines are included in the Decision Guidelines at Clause 52.32 (discussed later) and provide the key framework for the assessment of wind farm applications.

3. LOCAL PLANNING POLICY FRAMEWORK

3.1 Latrobe Planning Scheme

Relevant clauses from the Local Planning Policy Framework (LPPF) of the Latrobe Planning Scheme include the following.

- Clause 21.01-1 Introduction. The clause identifies eight key planning issues Council considers needs addressing and includes the strategic framework plan for the City. The Framework Plan shows the open cut mine areas, the Hazelwood Pondage and the Strzelecki Ranges. The Plan also shows the broad location of a the 'potential Strzelecki-Alpine Biolink' as well as designating a settlement hierarchy for towns. Moe-Newborough and Morwell are designed as key population centres where growth is supported to the north west and north east (respectively). The two towns closest to the wind farm site are Yinnar (designated as a District Town where future growth will be supported but not actively promoted) and Boolarra (designated as a small town and also where growth will be supported but not promoted). The map includes areas designated as rural living precincts, the closest of these being Moe South, which is some distance to the north west of the site.
- Clause 21.02-1 Settlement. Included as a strategy is to consolidate development within existing township boundaries and surrounding activity centres and to ensure that future land use development is consistent with the Strategic Framework Plan discussed above.
- Clause 21.02-15 Land use buffers and constraints. Amongst a range of objectives and strategies, this Clause seeks to minimise land use conflict between the coal resource development and other development and use in the municipality by a range of means.
- Clause 21.02-19 Rural living. This clause identifies that rural living is supported in appropriate locations, which includes where there will be minimal or no negative environmental impact or conflict with commercial agriculture. This is mentioned in the context of the wind farm as it is proposed in an area where agricultural uses are the priority, not rural living.
- Clause 21.03-1 Sustainability. This Clause seek to encourage environmentally sustainable land use and development.
- Clause 21.03-2 Significant environments and landscapes. This Clause seeks to protect indigenous flora and fauna species and their habitat across the municipality and to support the retention and enhancement of habitat and biodiversity values.
- Clause 21.04-1 Greenhouse and climate change. This clause seeks to reduce the effects of climate change including through evaluating use and development proposals having regard to climate change implications. In addition, the clause identifies the need to prioritise new and

alternative clean energy industries and investments within the city, leveraging from existing energy infrastructure and workforce expertise.

- Clause 21.04-7 Floodplains. The key objective is to sustainably manage floodplains and discourage raised earthworks within floodplain areas
- Clause 21.04-12 Bushfire. Seeks to minimise risk to life, property and the environment from bushfire.
- Clause 21.04-14 Mine areas. The clause seeks to minimise risk of fire from within and around mine sites, including as a strategy to encourage adequate buffers from open cut mines to timber plantations.
- Clause 21.05-1 Agriculture. This clause seeks to protect productive agricultural land from fragmentation and the establishment of non-agricultural use and development. It also encourages the establishment of intensive agriculture in specific locations as shown on the rural framework plan included at Clause 21.05-2. The plan shows a broad area including where the wind farm is proposed as a potential intensive agriculture area, as well as a potential Biolink area.
- Clause 21.05-3 Water. This Clause seeks to protect and improve waterway health including through the provision of buffers to waterways and retention of riparian land.
- Clause 21.05-8 Coal Resources. This Clause identifies the significance of the brown coal resource in the Latrobe Valley and its role in supplying over 90 per cent of Victoria's electricity. Included as an objective is to ensure that new development is not undertaken in such a way as to compromise the effective and efficient use of existing or future infrastructure or resources such as coal resources, timber production and high-quality agricultural land. Strategies to support this include to discourage incompatible uses such as residential, rural living, commercial or non-coal related industrial land uses and development in areas of potential coal production but to allow land uses which do not impede coal resource development. Included at the end of the clause is the Gippsland Coalfields map. Only a small portion of the wind farm site (comprising three turbines and the terminal station) is located within the Category A land (Special Use Zone Schedule 1), noting that the terminal station is proposed to be co-located with the existing 220kV transmission line that services the coal area.
- Clause 21.05-15 Timber. Recognises the need to encourage environmentally sustainable timber production and to encourage expansion of plantation forestry opportunities in appropriate locations, including within the proposed Strzelecki-Alpine Biolink. The wind farm is located within a timber plantation area, and has been sited in consultation with the plantation operators.
- Clause 21.05-17 Stone resources. Seeks to protect significant stone resources to ensure adequate future supplies. The Clause refers to protecting areas as required by the *Latrobe Area Extractive Industry Interest Areas Strategy 1999* and seeks to protect extractive industry sites by separating incompatible land uses. A map is included at the end of the clause showing the Extractive Industry Interest Areas in Latrobe. The wind farm site sits within one of these areas, as does the existing quarry centrally located within the wind farm site and which is intended to be used in the construction of the wind farm.
- Clause 21.06-6 Heritage. Seeks to identify, recognise and protect places of heritage, cultural and social significance.
- Clause 21.07-1 Economic Growth. A relevant objective of this clause is to support the establishment of new and alternative energy related jobs growth and investments within Latrobe City, leveraging the advantages of existing energy infrastructure and distribution networks. Strategies to support this include promoting and encouraging investment in new energies, particularly in locations with good access to energy distribution infrastructure.
- Clause 21.07-8 Latrobe Regional Airport. Seeks to promote and protect the operations of the airport.

- Clause 21.08-1 Integrated transport networks. Seeks to ensure that new development provides for safe and efficient vehicular access.
- Clause 21.09-6 Boolarra. Identifies that any future expansion of Boolarra will be to the east of the township.
- Clause 21.09-16 Yinnar. Identifies that Yinnar provides urban lifestyle opportunities in a village setting.
- Clause 21.10-3 Reference Documents. This clause includes a series of documents referred to in the previous policies including the *Live Work Latrobe Rural Land Use Strategy*, *Housing Strategy* and *Industrial and Employment Strategy* that provided the basis for Amendment C105.
- Clause 22.01 Intensive Agriculture. The policy applies only to applications for intensive agriculture and seeks to direct intensive agricultural uses to areas considered more appropriate for such uses including plantation areas that offer relatively isolated locations for enterprises with biosecurity needs, and on land within coal reserve zones and overlays that are relatively undeveloped, commonly distant from sensitive uses.
- Clause 22.02 Rural Dwelling. This policy only applies to applications for dwellings or subdivision in the Farming Zone. However, it is worth noting in the context of the proposed wind farm as it seeks to discourage the proliferation of dwellings in the Farming Zone not associated with agricultural uses and to ensure that the siting of dwellings doesn't prejudice existing and future agricultural activities on surrounding land.

3.2 Baw Baw Planning Scheme

Relevant clauses from the LPPF of the Baw Baw Planning Scheme include the following.

- Clause 21.03-3 Directions for growth. Amongst a range of objectives and strategies, this Clause seeks to protect agricultural land and activities to maintain their long-term sustainable use and to conserve and protect the natural environment and minimise risk as a result of future growth.
- Clause 21.06-3 Biodiversity. Seeks to increase the quality and extent of native vegetation and to protect and manage native flora, fauna and habitats in the Shire
- Clause 21.06-4 Natural Resource Base. Seeks to ensure development proposals make a positive contribution to the environment in terms of soil stability, erosion, flood and drainage management and the retention of native vegetation.
- Clause 21.06-6 Farmland and soil quality. Seeks to protect and maintain high quality agricultural land.
- Clause 21.06-7 Forestry operations. Supports the development of the timber industry on an ecologically sustainable basis, particularly where it can assist with environmental rehabilitation.
- Clause 21.07 Economic activity. Includes a range of objectives and strategies including seeking to encourage investment and establish value added industry particularly those which relate to the agricultural base and natural resources.
- Clause 21.08 Transport and infrastructure. The 'vision' for this clause includes seeking to support economic development through the timely provision of infrastructure.
- Clause 21.09 Heritage. Seeks to retain the historic character and fabric of heritage places throughout the Shire.
- Clause 22.01 Rural Zones Policy. The policy applies to all land in the Farming Zone and Rural Activity Zone and has a range of objectives which seek to protect and maintain agricultural land but which primarily provides policy direction in relation to the subdivision of land and development of dwellings. As noted in relation to Latrobe's equivalent policies, this is only relevant insofar as it highlights that agricultural and associated land uses are prioritised in the Farming Zone.

3.3 South Gippsland Planning Scheme

Relevant clauses from the LPPF of the South Gippsland Planning Scheme include the following.

- Clause 21.01-2 Key issues. Amongst a range of key issues, this Clause identifies the need to manage development and land use to ensure that environmental and landscape values are maintained; the incidence of landslip and erosion (particularly within steep areas of the Strzelecki Ranges) flooding and drainage problems affecting parts of the Shire; the need to protect the character and significance of the coast line, and the need to promote and protect the strong agricultural base of the Shire. This Clause also identifies the need to encourage the development of alternative energy sources. The Framework Plan shows the wind farm site as being located in an area of high quality agricultural soils and identifies the Toora Wind Farm as a 'preferred' wind farm area.
- Clause 21.02 Settlement. Identifies a hierarchy of settlements for the Shire, including Mirboo North as a 'district town' and Darlimurla as a 'locality' (the two closest settlements in South Gippsland Shire to the wind farm site).
- Clause 21.03-2 Biodiversity. Seeks to achieve a measurable net gain in the extent and quality of the Shire's biodiversity.
- Clause 21.03-3 Overview – Coastal and hinterland landscapes. This clause refers to the *Coastal Spaces Landscape Assessment Study* (2006) which identifies six different character areas along the coast line where the Significant Landscape Overlay (SLO) has been applied. The wind farm is not located within the SLO areas.
- Clause 21.04-1 Overview – Land and catchment management. Seeks to achieve a measurable improvement in the health of the Shire's land and water resources.
- Clause 21.05-1 Overview - Agriculture. Amongst a range of strategies, seeks to protect high quality agricultural land for primary production and to consider land capability when assessing applications for the use and development of rural land.
- Clause 21.05-5 Overview – Extractive industry. This clause seeks to encourage mining and extractive industry in an environmentally responsible manner.
- Clause 21.06-6 Signage and infrastructure. Seeks to minimise the visual impact of signage and infrastructure on the landscape via a series of strategies including:
 - *'Locate infrastructure away from highly scenic locations, key views and near-coastal locations, or underground wherever possible in the case of powerlines and other utility services*
 - *Locate power lines, access tracks and other infrastructure in areas of low visibility, preferably in previously cleared locations, and avoid the use of materials that contrast with the landscape*
 - *Use vegetation to screen infrastructure from key viewing corridors and public use areas*
 - *Encourage reticulated electricity to be provided by underground cabling'.*
- Clause 21.07-7 Overview – Rural residential development. Seeks to ensure that agricultural land is protected and retained in primary production by discouraging dwellings not related to commercial scale agriculture in rural and high quality agricultural areas.
- Clause 21.08-1 Overview - Processing and manufacturing. Included as an objective is to promote emerging natural resource-based industries including by encouraging the use of wind, tidal, solar and methane as alternative energy sources.
- Clause 21.09 Transport. Includes as an objective to maintain a safe and efficient road network across the whole of the Shire including encouraging improvements to the South Gippsland and Strzelecki Highways.
- Clause 21.10-6 Overview - Alternative energy. Objective 1 in relation to alternative energy seeks to encourage the use of alternative energy sources in the provision of electricity including by promoting the use of alternative energy sources such as wind, tidal and solar power. Objective 2 seeks to ensure that the use of alternative energy technology does not detrimentally affect the surrounding environment, via the following strategies:
 - *'Ensure the design and siting of structures associated with alternative energy production does not detrimentally affect the character of the area*

- *Discourage tall structures on ridgelines or in view corridors*
- *Minimise the potential impact of alternative energy sources on the existing physical and ecological relationships of flora and fauna, and identify appropriate mitigation techniques where required*
- *Minimise the potential impact of alternative energy sources on public health and safety, including fire hazard’.*
- Clause 21.14 -5 Mirboo North. The clause includes a framework plan for the township which shows a potential urban expansion area to the south (ie away from the wind farm site).
- Clause 21.19-9 Darlimurla. Allows for limited rural dwellings within the settlement boundary providing they comply with the applicable restructure plan that is incorporated in the Planning Scheme.
- Clause 21.20 Landscape character areas. As discussed previously, the site does not sit within the identified six ‘unique character areas’.
- Clause 22.05 Rural dwellings. The clause applies to applications for dwellings in the Farming Zone and seeks to ensure that the development of dwellings on rural land does not prejudice existing agricultural activities on surrounding land.
- Clause 22.06 Rural subdivision. Seeks to limit the further fragmentation of rural land by subdivision.
- Clause 22.07 Rural Activity Zone. This clause seeks to manage development in the Rural Activity Zone including by ensuring that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- Clause 22.01 Advertising signs. This clause seeks to ensure signs will enhance the visual amenity of the built and natural environment.

4. RELEVANT DEFINITIONS

Relevant Planning Scheme definitions are as follows.

- Energy generation facility (includes renewable energy facility) – *‘Land used to generate energy for use off site other than Geothermal energy extraction. It includes any building or other structure or thing used in or in connection with the generation of energy’.*
- Minor Utility installation – *‘Land used for a utility installation comprising any of the following:*
 - a) sewerage or water mains;*
 - b) storm or flood water drains or retarding basins;*
 - c) flow measurement device or a structure to gauge waterway flow;*
 - d) siphons, water storage tanks, disinfection booster station and channels;*
 - e) gas mains providing gas directly to consumers;*
 - f) a sewage treatment plant, and any associated disposal works, required to serve a neighbourhood;*
 - g) a pumping station required to serve a neighbourhood;*
 - h) power lines designed to operate at less than 220,000 volts but excluding any power lines directly associated with an Energy generation facility or Geothermal energy extraction; or*
 - i) an electrical sub-station designed to operate at no more than 66,000 volts but excluding any sub-station directly associated with an Energy generation facility or Geothermal energy extraction’.*
- Renewable energy facility (which includes wind energy facility) – *‘Land used to generate energy using resources that can be rapidly replaced by an ongoing natural process. Renewable energy resources include the sun, wind, the ocean, water flows, organic matter and the earth’s heat. It includes any building or other structure or thing used in or in connection with the generation of energy by a renewable resource. It does not include a renewable energy facility principally used to supply energy for an existing use of the land’.*

- Utility installation (which includes minor utility installation) – ‘Land used:
 - a) for telecommunications;
 - b) to transmit or distribute gas or oil;
 - c) to transmit, distribute or store power, including battery storage;
 - d) to collect, treat, transmit, store, or distribute water; or
 - e) to collect, treat, or dispose of storm or flood water, sewage, or sullage.
 It includes any associated flow measurement device or a structure to gauge waterway flow’.
- Wind energy facility – ‘Land used to generate electricity by wind force. It includes land used for:
 - a) any turbine, building or other structure or thing used in or in connection with the generation of electricity by wind force
 - b) an anemometer.
 It does not include turbines principally used to supply electricity for domestic or rural use of the land’.

5. ZONE AND OVERLAY TABLES AND PERMIT TRIGGERS

This section will consider the zones and overlays that apply to the wind farm site area and the subsequent permit triggers. Each Planning Scheme has been addressed individually as the controls differ between the municipalities and there are different elements of the wind farm in different municipalities.

The elements of the proposed wind farm that are located within the Latrobe Planning Scheme comprise the following:

- wind turbines;
- operations and maintenance facility;
- temporary construction compounds;
- temporary concrete batching plants;
- access tracks (both upgrades to existing tracks and new tracks);
- underground cabling between turbines;
- terminal station;
- battery storage facility;
- transmission line connecting the terminal station to the existing lattice towers and transmission lines extending through the terminal station site;
- permanent anemometer (or met mast); and
- business identification signage.

Within Latrobe there will also be vegetation removal to facilitate the wind farm and some minor changes to access to roads in the Road Zone Category 1.

From a definitional perspective the following land uses are proposed within the Latrobe Planning Scheme area:

- Wind energy facility (including a permanent anemometer, battery storage facility and other ancillary elements outlined above);
- Utility installation (comprising the terminal station and transmission line connection).

The elements of the wind farm that are located within the Baw Baw Planning Scheme comprise one wind turbine (including hard stand area and associated access track and underground cabling) and a permanent anemometer. From a definitional perspective this means that consideration needs to be given to the use of land for a Wind Energy Facility. There will also be vegetation removal in Baw Baw Shire.

The elements of the wind farm that are located within the South Gippsland Planning Scheme area comprise three wind turbines (including hard stand area and associated access track and underground cabling) a permanent anemometer and potentially a concrete batching plant. Business identification signage is also proposed, and there will also be vegetation removal and there may be changes to access to roads in the Road Zone Category 1. From a definitional perspective this means that within the South Gippsland Planning Scheme consideration needs to be given to the use of land for a Wind Energy Facility.

Please refer to Tables 1 to 3, following, which outline the relevant zones and overlays in each municipality and associated permit triggers and to Annexure A which includes the zone and overlay maps.

Table 1: Latrobe Planning Scheme Zones and Overlays

Latrobe Planning Scheme Applicable Zones and Overlays	Purpose	Permit triggers
Farming Zone (FZ) Schedule 1	<ul style="list-style-type: none"> To provide for the use of land for agriculture. To encourage the retention of productive agricultural land. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. To encourage the retention of employment and population to support rural communities. To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision. To provide for the use and development of land for the specific purposes identified in a schedule to this zone. 	<p>Use permit for Wind Energy Facility subject to meeting the condition 'must meet the requirements of Clause 52.32'.</p> <p>Buildings and works permit</p>
Special Use Zone Schedule 1 Brown Coal (SUZ1)	<ul style="list-style-type: none"> To provide for brown coal mining and associated uses To provide for electricity generation and associated uses To provide for interim and non-urban uses which protect brown coal resources and to discourage the use or development of land incompatible with future brown coal mining and industry 	<p>Use and buildings and works permit for Wind Energy Facility.</p> <p>No use permit for Utility Installation if the following conditions are considered to have been met:</p> <ul style="list-style-type: none"> Must be directly associated with the mining, processing, or treatment of brown coal, or the generation, transmission, or distribution of electricity. All of the land must be at least 1000 metres from land (not a road) which is in a residential zone, business zone, land used for a hospital or school or land in a Public Acquisition Overlay for a hospital or school. <p>Buildings and works permit required for Utility Installation unless the Utility Installation works can be considered to be to 'rearrange, alter, renew or maintain buildings or works (including associated plant) for use for or associated with brown coal mining, processing or treatment of electricity generation, transmission or distribution'.</p>
Road Zone Category 1 (RDZ1)	<ul style="list-style-type: none"> To identify significant existing roads. To identify land which has been acquired for a significant proposed road 	Refer to discussion in Section 5 about Clause 52.29.
Bushfire Management Overlay (BMO)	<ul style="list-style-type: none"> To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire. To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented. To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level. 	No buildings and works permit required for Wind Energy Facility or Utility Installation under the BMO.

Design and Development Overlay Schedule 1 – Major Pipeline Infrastructure (DDO1)	<ul style="list-style-type: none"> To ensure that all buildings and works and in particular buildings designed to accommodate people are sufficiently separated from high pressure pipelines to avoid a safety hazard 	Buildings and works permit required.
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Table 2: Baw Baw Planning Scheme Zones and Overlays

Baw Baw Applicable Zones and Overlays	Purpose	Permit triggers
Farming Zone (FZ)	Refer FZ discussion for Latrobe.	Refer FZ discussion for Latrobe. Also, in the FZ in Baw Baw a permit is required for earthworks which change the rate of flow or the discharge point of water across a property boundary or earthworks which increase the discharge of saline groundwater.
Erosion Management Overlay (EMO)	<ul style="list-style-type: none"> To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development. 	Buildings and works permit required except on land where the natural ground level has a slope less than 20% (1 in 5), where the slope is the average slope of the land measured perpendicular to the contours of the land for a distance of 50 metres either side of the area of the proposed works. A permit is also required to remove, destroy or lop any vegetation (not just native) unless the 'exemptions table' at Clause 44.01-4 applies. An exemption is provided for 'planted vegetation'. Whether a permit is required for vegetation removal pursuant to EMO is currently being explored based upon an assessment of whether the impacted vegetation is planted (or meets any of the other exemptions at Clause 44.01-4).
Bushfire Management Overlay (BMO)	Refer BMO discussion for Latrobe.	Refer BMO discussion for Latrobe.
Development Contributions Plan Overlay Schedule 1 (DCPO1)	<ul style="list-style-type: none"> To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence. 	A permit can't be issued until a DCP has been incorporated into the Planning Scheme. The DCPO is divided into residential, business and industrial land use contributions and the site is in Area 48. As The proposal doesn't fit within any of these categories the 'note' at the end of the levy tables is relevant. The note states that Baw Baw Shire Council shall determine the most appropriate development charge to be used for the development and that such developments may require a case-by-case assessment of the number of demand units that they represent, with the assessment to occur at the time a planning permit is applied for, or at the time a building permit is registered with the Council.

Table 3: South Gippsland Planning Scheme Zones and Overlays

South Gippsland Applicable Zones and Overlays	Purpose	Permit triggers
Farming Zone (FZ)	Refer FZ discussion for Latrobe.	Refer FZ discussion for Latrobe.
Road Zone Category 1 (RDZ1)	Refer to RDZ1 discussion for Latrobe.	Refer to discussion in Section 5 about Clause 52.29.
Environmental Significance Overlay Schedule 5 – Areas Susceptible to Erosion (ESOS)	<ul style="list-style-type: none"> To identify areas where the development of land may be affected by environmental constraints. To ensure that development is compatible with identified environmental values. The environmental objective to be achieved is: <ul style="list-style-type: none"> To protect areas prone to erosion by minimising land disturbance and vegetation loss. To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of watercourses 	<p>Buildings and works permit required (with some exceptions including the lay out of underground powerlines provided they do not alter the topography of the land).</p> <p>A permit is also required to remove, destroy or lop any vegetation, including dead vegetation, unless the 'exceptions table' at Clause 42.03-3 applies. An exemption is provided for 'planted vegetation'.</p> <p>Whether a permit is required for vegetation removal pursuant to ESOS is currently being explored based upon an assessment of whether the impacted vegetation is planted (or meets any of the other exemptions at Clause 42.03-3.</p>
Bushfire Management Overlay (BMO)	Refer BMO discussion for Latrobe.	Refer BMO discussion for Latrobe.

6. PARTICULAR PROVISIONS AND PERMIT TRIGGERS

The following particular provisions are of relevance to the wind farm proposal. Relevant permit triggers as a result of the provisions are also identified.

Table 4: Particular Provisions

Clause No	Title	Permit triggers
Clause 52.02	Easements, Restriction and Reserves	A permit is required to create, vary or remove an easement or restriction. Whether a permit is triggered pursuant to this clause will be considered further as part of the next phase of the detailed siting and design.
Clause 52.05	Signs	Signs in the FZ are in Category 4 'Sensitive Areas'. In that Category a business identification sign requires a permit however the total display area can be no more than 3 square metres. If a greater area is proposed then it is prohibited. Signs in the SUZ are in Category 3 'High Amenity Areas'. In Category 3 a business identification sign requires a planning permit and there is no specified limitation on the total display area for a business identification sign.
Clause 52.06	Car parking	Clause 52.06-5 includes a table that specifies the number of car parking spaces for particular land uses. Neither a wind energy facility or renewable energy facility is listed. Clause 52.06-6 states that where a car parking requirement for a use isn't listed in the table then car parking must be provided to the satisfaction of the responsible authority.
Clause 52.17	Native vegetation	Requires a permit to remove, destroy or lop native vegetation, including dead native vegetation except in particular circumstances.
		The majority of the vegetation removal is located within the wind farm site or on adjoining road reserves and therefore it can be considered as part of the 'works' associated with the wind farm proposal. The only vegetation removal that will be required outside/beyond the wind farm site is a small patch in association with a minor road widenings/works in Latrobe City Council. A separate permit application will be required for this external vegetation removal.
Clause 52.29	Land Adjacent to a Road Zone, Category 1, or a Public Acquisition overlay for a Category 1 Road	A permit is required to create or alter access to a road in a Road Zone Category 1. Confirmation of the location and extent of any road works is currently being determined.
Clause 52.32	Wind Energy Facility	<p>A permit is required to use and develop land for a Wind Energy Facility. If turbines are within one kilometre of a dwelling then consent of the landowner must be provided. This does not apply to the current application as all dwellings are more than 1 kilometre from any turbine. Wind energy facilities are prohibited on land included in a schedule in the National Parks Act or land declared as a Ramsar wetland. This does not apply to the proposed wind farm.</p> <p>In the case of the Latrobe Planning Scheme, wind energy facilities are also prohibited on all land within five kilometres of a residential zone, an industrial zone, a business zone or a special purposes zone in the urban areas of Moe, Morwell and Traralgon. The proposed wind farm is located outside this prohibited area.</p> <p>In the case of the South Gippsland Planning Scheme, wind energy facilities are also prohibited on all land within five kilometres of the high water mark of the coast west of Wilson's Promontory. The proposed wind farm is located outside this prohibited area.</p> <p>The clause includes specific requirements for a mandatory noise assessment including an environmental audit of the pre-construction noise assessment and requirement for a condition on any planning permit that issues to undertake a post-construction environmental audit. Clause 52.32-7 states that a permit may be granted to use and develop land for an anemometer for a period of more than three years.</p> <p><i>Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria, (DELWP), March 2019</i> are included in the Decision Guidelines of this Clause.</p>

7. MINISTER AS THE RESPONSIBLE AUTHORITY

Clause 72.01 of the Operating Provisions of all three Planning Schemes states the following.

‘The Minister for Planning is the responsible authority for matters under Divisions 1, 1A, 2 and 3 of Part 4 of the Act, and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority, in relation to the use and development of land for a:

- *Renewable energy facility with an installed capacity of 1 megawatt or greater.*
- *Utility installation used to store, transmit or distribute electricity generated by a renewable energy facility with an installed capacity of 1 megawatt or greater’.*

This is apart from particular circumstances specified in the Clause, which do not apply to the Delburn Wind Farm.

As noted in the previous section, for native vegetation removal that is required outside/beyond the wind farm site then a separate permit will need to be sought from Latrobe City Council.

8. APPROACH TO THE PLANNING PROCESS

Given the site extends across three municipalities there will be a need for three separate permit applications to be lodged with the Minister for Planning for the wind farm. An application will also need to be lodged for the small patch of native vegetation removal outside the wind farm site area and adjoining roads, within Latrobe City Council.

It is proposed that the three wind farm applications will be supported by one Planning Report (and associated supporting consultant reports) which relate to the whole of the wind farm site. Three permits will ultimately need to issue for the wind farm, one for each municipality, as well as a permit for the native vegetation removal in Latrobe City.

9. CONCLUSION

Based on this preliminary review of the existing relevant policies, zones and overlay controls, approval will be required for:

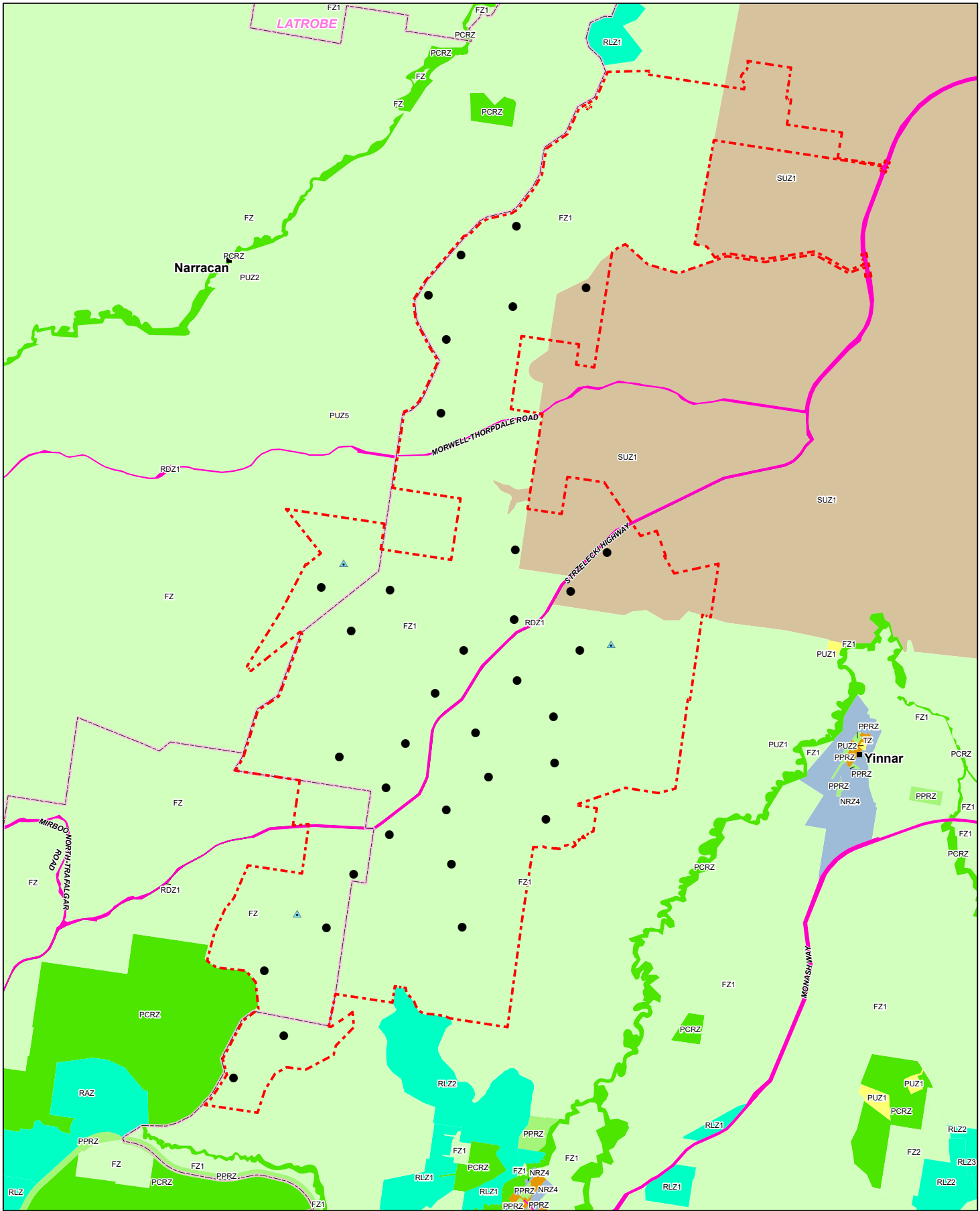
- development and use of a wind energy facility (including three permanent anemometers and a battery storage facility);
- development of a utility installation (comprising the terminal station and transmission line);
- removal of vegetation (native and possibly non-native due to the EMO and ESO);
- alterations to a road in a Road Zone Category 1;
- business identification signage.


A permit may also potentially be required for earthworks in the Farming Zone in Baw Baw Shire however this requires further investigation. In addition, car parking will need to be provided to the satisfaction of the responsible authority.

It is highlighted that the above issues relate to planning matters only. Whilst other approvals will be required (cultural heritage being one example of this), this is beyond our expertise to provide guidance on. We trust that this overview of the relevant planning controls is of assistance.

Debra Butcher Consulting Pty Ltd and SJB Planning Pty Ltd
April 2020

Annexure A: Zone and Overlay Maps






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LEGEND

- Wind Turbine
- Met Mast
- Major Road
- LGA Boundary
- COMMERCIAL ZONE
- FARMING ZONE
- GENERAL RESIDENTIAL ZONE
- INDUSTRIAL ZONE
- LOW DENSITY RESIDENTIAL ZONE
- MIXED USE ZONE
- NEIGHBOURHOOD RESIDENTIAL ZONE
- PUBLIC CONSERVATION AND RESOURCE ZONE
- PUBLIC PARK AND RECREATION ZONE
- PUBLIC USE ZONE
- RESIDENTIAL GROWTH ZONE
- ROAD ZONE
- RURAL ACTIVITY ZONE; RURAL LIVING ZONE
- SPECIAL USE ZONE
- TOWNSHIP ZONE



PROJECT

Delburn Wind Farm

TITLE

Planning Zones

DATE
20/04/2020

SCALE
1:50,000 @ A3

STATUS
Draft

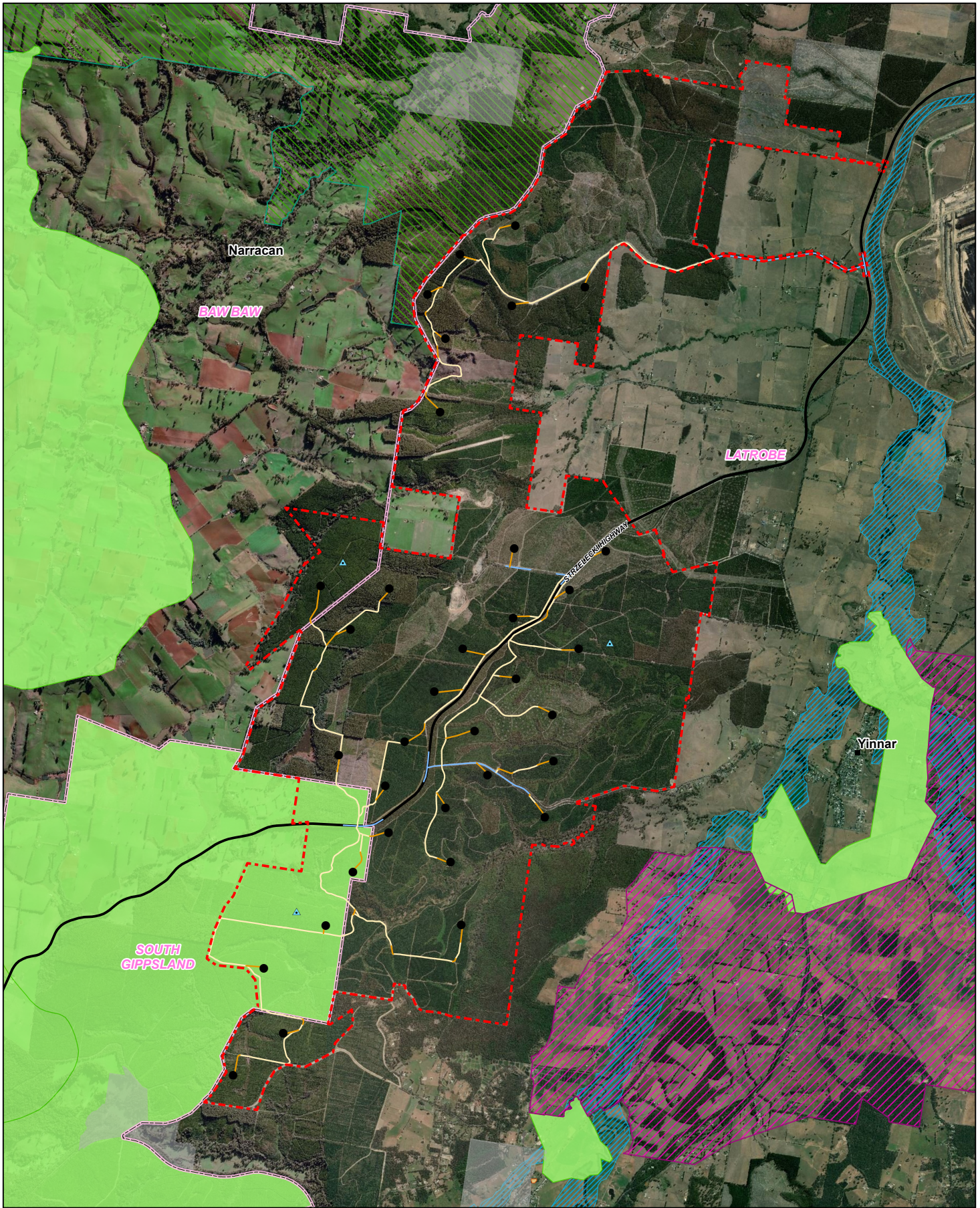
PRODUCED BY
I. Mackey

CHECKED BY
I. Mackey

APPROVED BY
P. Marriott

DRAWING No.
DWF_OVR_017_02.2

REV
v2.2



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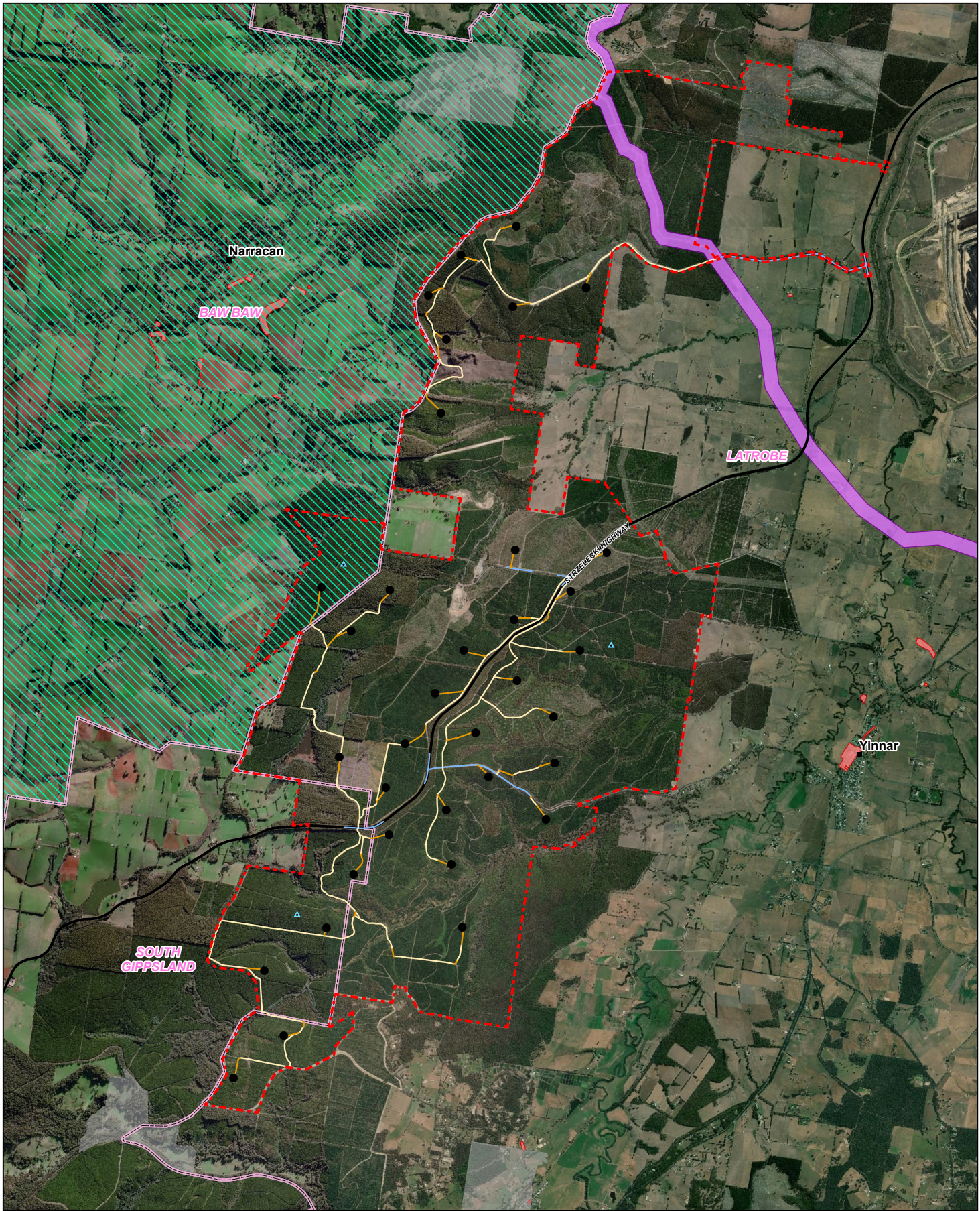
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LEGEND

- Wind Turbine
- New Access Track
- Existing Track Upgrade
- Public Road Upgrade
- ▲ Met Mast
- LGA Boundary
- STATE RESOURCE OVERLAY
- LAND SUBJECT TO INUNDATION OVERLAY
- SIGNIFICANT LANDSCAPE OVERLAY
- ENVIRONMENTAL AUDIT OVERLAY
- ENVIRONMENTAL SIGNIFICANCE OVERLAY



PROJECT		Delburn Wind Farm	
TITLE		Planning Overlays (Environment)	
DATE	20/04/2020	PRODUCED	I. Mackey
SCALE	1:50,000 @ A3	CHECKED	I. Mackey
STATUS	Draft	APPROVED	P. Marriott
DRAWING No.		DWF_OVR_016A_02.2	
		REV v2.2	





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LEGEND

- Project Boundary
- Wind Turbine
- New Access Track
- Existing Track Upgrade
- Public Road Upgrade
- Met Mast
- LGA Boundary
- DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY
- DESIGN AND DEVELOPMENT OVERLAY
- HERITAGE OVERLAY



Melbourne

Traralgon

PROJECT

Delburn Wind Farm

TITLE

Planning Overlays (Design)

DATE

20/04/2020

SCALE

1:50,000 @ A3

STATUS

Draft

PRODUCED

I.Mackey

CHECKED

I.Mackey

APPROVED

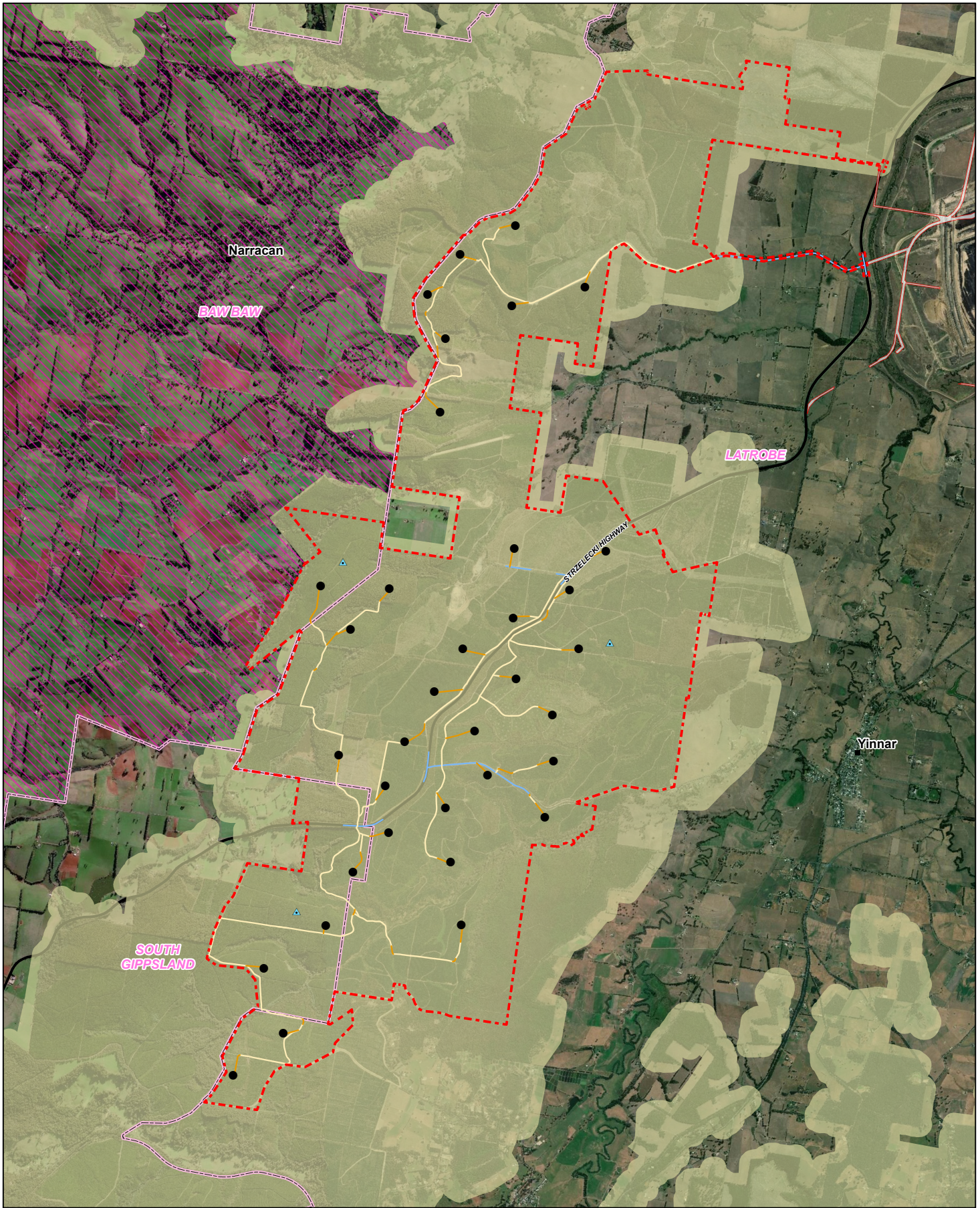
P.Marriott

DRAWING No.

DWF_OVR_016B_02.2

REV

v2.2



 <p>osmi AUSTRALIA</p> <p><small>Disclaimer: OSMI Australia Pty Ltd makes no warranty in relation to the accuracy, reliability, completeness or suitability of the data and does not accept liability for any loss, damage or costs, including consequential damage, in relation to any use of the data in this map.</small></p> <p><small>© OSMI Australia Pty Ltd</small></p>	<p>LEGEND</p> <ul style="list-style-type: none"> Project Boundary Wind Turbine New Access Track Existing Track Upgrade Public Road Upgrade Met Mast LGA Boundary EROSION MANAGEMENT OVERLAY BUSHFIRE MANAGEMENT OVERLAY PUBLIC ACQUISITION ROAD CLOSURE OVERLAY 		<p>PROJECT</p> <p>Delburn Wind Farm</p>	
	<p>TITLE</p> <p>Planning Overlays (Management)</p>			
	<p>DATE</p> <p>20/04/2020</p>		<p>PRODUCED</p> <p>I. Mackey</p>	
	<p>SCALE</p> <p>1:50,000 @ A3</p>		<p>CHECKED</p> <p>I. Mackey</p>	
<p>STATUS</p> <p>Draft</p>		<p>APPROVED</p> <p>P. Marriott</p>	<p>DRAWING No.</p> <p>DWF_OVR_016C_02.2</p>	
		<p>REV</p> <p>v2.2</p>		