

Melbourne Water – Christmas Hills Land Disposal Project

*Assessment of Options Development Report –
Christmas Hills Land Use Study (March 2018)*

DRAFT Submission to Melbourne Water

Nillumbik Shire Council

(DATE AS PER FINAL) July 2018

Assessment of Options Development Report Christmas Hills Land Use Study

Contents

Overview	3
1. The Christmas Hills project area.	6
2. Background Context	7
The Melbourne Water - Options Development Report, March 2018.....	7
Planning process to rezone land ready for disposal	8
Existing lots legally established	9
3. Community engagement	11
Melbourne Water Next Steps	14
4. Assessment of Melbourne Water’s options presented by the ODR	15
Key planning considerations	15
5. Strategic Planning Considerations	16
Current Department of Environment, Land, Water and Planning (DELWP) work on agricultural land capability	20
Is Melbourne Water confined by the Policies and Guidelines around selling Government Land? .	25
6. Statutory planning considerations	27
6.1. Environmental considerations	28
6.2. Statutory Planning Considerations.....	29
Precinct 1.....	29
Precinct 2.....	30
Precinct 3.....	31
Precinct 4.....	32
Precinct 5.....	33
Precinct 6.....	34
Precinct 7.....	35
6.3. Other considerations.....	36
Development engineering.....	36
Future trail alignments	36
CFA Response	36
7. Conclusions and recommended position	37

Assessment of Melbourne Water's Options Development Report – Christmas Hills Land Use Study (March 2018)

Overview

Nillumbik Shire Council welcomes the opportunity to provide this assessment in response to Melbourne Water's *Options Development Report – Christmas Hills Land Use Study* (March 2018) prepared by Spiire consultants for land at Christmas Hills.

Melbourne Water currently owns land at Christmas Hills that was historically earmarked for the Watsons Creek Storage Reservoir (WCSR). That land is now no longer required for this purpose because, in Melbourne Water's own words:

Following the 2012 review of potential future augmentations of Melbourne's water supply system, the land once earmarked for a storage reservoir has been eliminated as a viable future water supply option for the city.

Today, approximately 1000 hectares in Christmas Hills remains in our ownership. We are now planning to transfer 280 hectares of land to the Crown for conservation purposes and rezone and sell the balance of the land on the open market.

As a Government Authority, Melbourne Water is now obliged to sell the land under the policies and procedures set out by the Victorian Government Landholding Policy (2017) and other guidelines and policies. As part of the disposal process, Melbourne Water must firstly put the land into an appropriate 'zone' under the Nillumbik Planning Scheme before it can be sold.

Melbourne Water is currently developing options for the disposal of land at Christmas Hills and has recently released its '*Options Development Report – Christmas Hills Land Use Study*' (the **ODR**), March 2018¹, prepared on behalf of Melbourne Water by Spiire consultants.

The ODR represents the further development of Melbourne Water's background work from 2017 and begins to establish its preferred position in terms of how it might approach the future rezoning of land from public zones to an appropriate 'green wedge' zone.

Section 9 of the ODR outlines the likely next steps for Christmas Hills, including amongst others:

- Community consultation
- Confirmation of a preferred final Melbourne Water option
- Finalisation of a master plan
- Preparation of a planning scheme amendment to rezone land.

Melbourne Water has been unable to confirm to Council any next formal steps in the preparation of the final draft master plan in terms of additional engagement with Nillumbik Council and the community.

¹ Publicly released following public consultation events on 23 May 2018.

For this reason, Council has decided to provide formal feedback to Melbourne Water on the ODR to:

- Highlight any interim concerns until Council and the community have an opportunity to further engage in the master plan/ planning process with Melbourne Water; but
- Should no further engagement with the Council be forthcoming – this submission formalises Council's position to Melbourne Water.

It is acknowledged that Melbourne Water, as an authorised Government Authority, is able to act as if it were the planning authority in so far as preparing any planning scheme amendment (**PSA**) to the Nillumbik Planning Scheme is concerned. The Minister for Planning is, ultimately, recognised as the planning authority and decision maker.

The Nillumbik Council is, therefore, a stakeholder – albeit a key one in its view.

Importantly, it is highlighted that the Council is also the '*responsible authority*' (RA) for the receipt and determination of any future planning permit applications on the land that is disposed of by Melbourne Water. For this reason – the views of the Council are considered to be of vital importance as the custodians of any planning framework that emerges following any PSA.

This format of this assessment addresses the following matters:

1. The Christmas Hills project area
2. Background overview – from Council's perspective.
3. Community engagement – as undertaken by Melbourne Water
4. Assessment of Options Report – key issues
5. Strategic planning considerations
6. Statutory planning considerations
7. Conclusions

Council welcomes the opportunities to date to participate constructively in the preparation of the planning framework for Christmas Hills and calls on Melbourne Water to commit to continuing a collaborative approach as it progresses toward any planning scheme amendment. Moving directly into a planning scheme amendment process would not be desirable at this stage until some of the key considerations are further addressed.

Council has the ambition of becoming Australia's most liveable shire. The Nillumbik Council Plan (2017) supports the notion of 'Living in the landscape' – which, using the words of the Council Plan (pages12-13) is:

'Council's way of articulating that the Shire of Nillumbik is not just about the Green Wedge and the Natural Environment but also the people who live in it'.

It continues by saying:

The natural environment and the protection of the Green Wedge is very important to this Council – it's what contributes to our lifestyle and makes Nillumbik a great place to live and raise a family. At the same time, we also

recognise that the people who live in the Green Wedge are just as important.

That's why our Council Plan goals detail engaged, connected communities and active, creative people living in safe and healthy environments.

These higher level objectives were relevant to the consideration of the ODR. Overall, the assessment finds that the options being put forward have not yet been fully tested against the intent and purpose of State Government green wedge policy to evidence why residential outcomes are the best overall outcome. Alongside the comments made throughout this assessment, the following recommendations are made in terms of suggested next steps to Melbourne Water:

- Consider the feedback provided herein and undertake appropriate additional work to consider:
 - The agricultural use of land alongside Victoria's emerging food production need; emerging farming technologies etc.
 - In conjunction with the above, undertake an economic assessment of the proposed outcomes against the capacity of land to be used for rural purposes, such as agriculture and other rural businesses
 - Consider the site specific issues in more detail where proposed dwellings are being contemplated – including additional environmental survey and development engineering assessment. This should, in specific areas also consider the landscape and visual impact of any future dwellings (as proposed) that would build on previous landscape assessment work.
- Demonstrate robust consideration and evaluation of all relevant State Government Policy, notably all relevant Victorian Government land policies and guidelines relating to the use and sale of land.
- Related to the above, demonstrate what efforts have been made to retain existing agricultural and rural businesses, including exploration of possible exemptions (within Victorian Government land policy and guidelines) to enable current tenants and businesses to remain in operation. This is an important vitality and diversity issue for the green wedge.
- Ensure or confirm that cross-government department discussions are held about the appropriateness or otherwise of the proposed outcomes against Green Wedge Policy. Subject to the further research that is required - a working session or working group with various parties may be considered appropriate. Council should be a party to such discussions.
- Ensure that CFA feedback is provided to all relevant stakeholders as a priority.
- Arrange a meeting with Council's statutory planning officers to discuss the comments contained herein once all feedback has been collated.
- Arrange a working session with Council to discuss opportunities to preserve future trail alignments through the precinct before land is divested into private ownership.
- Provide clear feedback on the community consultation to the community and then undertake meaningful further options refinement with the community to demonstrate a truly collaborative approach.

1. The Christmas Hills study area.

1. For the purpose of clarity; Figure 1 illustrates the study area for the purposes of Melbourne Water's Christmas Hills project. It comprises approximately 1000 hectares and contains an existing 112 legally established lots – as outlined in the plan.
2. The Melbourne Water ODR provides a fuller description of the site, its location and surrounding context. It is not considered necessary to repeat that information herein.

Project area map

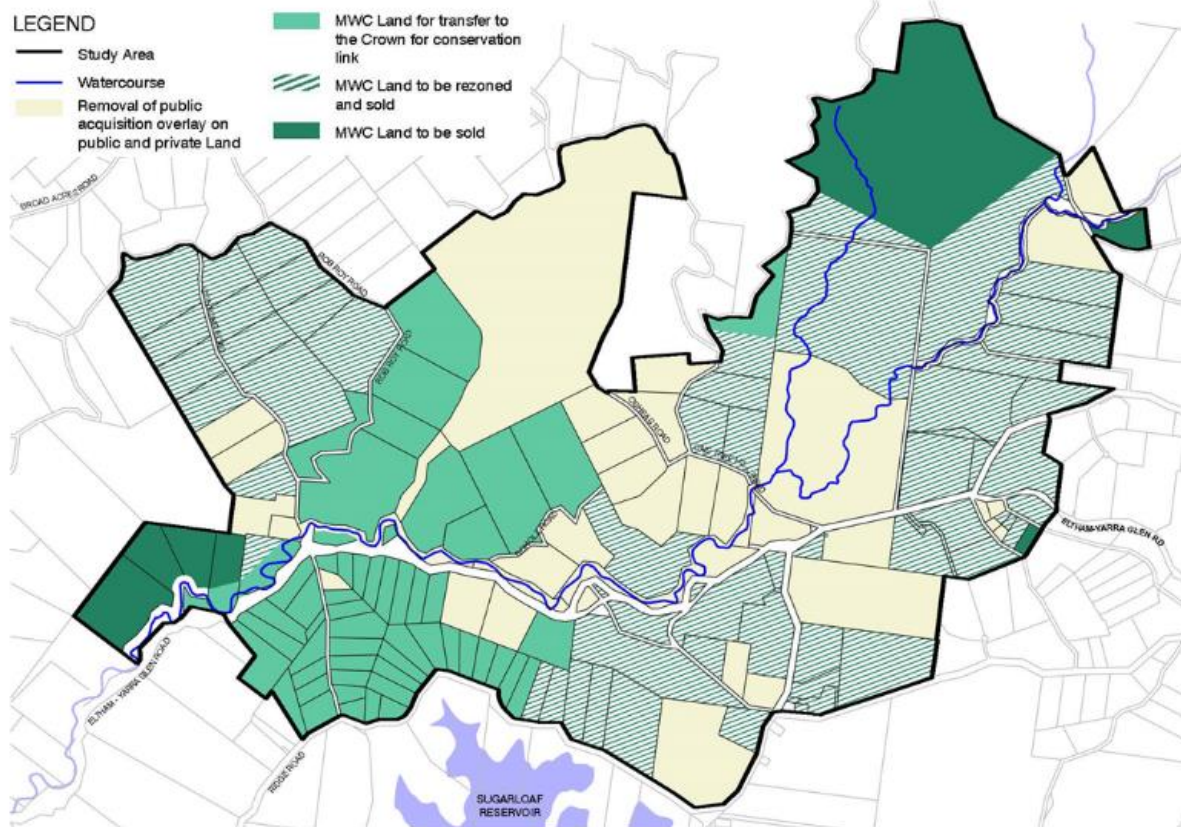


Figure 1 - Melbourne Water Christmas Hills Project Area Map. Source: Melbourne Water website.

2. Background Context

3. Since its 2012 review of future augmentation of Melbourne's water supply system, Melbourne Water eliminated the need for land at Christmas Hills that had been reserved for the Watsons Creek Storage Reservoir (**WCSR**).
4. As a Government authority, Melbourne Water is required to dispose of land no longer required for operational (current or future) purposes, as per the Victorian Government Landholding Policy and Guidelines. It is noted that the guidelines provide some exemptions and these are considered later in this assessment under the *Strategic Planning Considerations* section.
5. Before it can dispose of land, it must first ensure that it is zoned appropriately i.e. not in a public use zone or similar.
6. Under the disposal procedures for Government land, the land is first offered (at market value) to other Government Departments or Agencies, then the local Council and then, if there are no interested parties - to put it on the open market. It is understood that no State Government department or agency indicated interest in acquiring land. Council has also indicated that it cannot purchase land.
7. When considering the disposal of land, Melbourne Water is obliged to seek the highest and best use of the land. This must take into consideration the relevant land use planning constraints. In most instances, residential use and development will present as the highest and best use of land.

The Melbourne Water - Options Development Report, March 2018

8. The ODR report referred to earlier has been prepared by Spiire consultants on behalf of Melbourne Water. It is considered that it provides a good overview of the project area; the sub-precincts and the range of titles that exist. It is not considered necessary to replicate any of this background here.
9. The ODR further builds upon the previous Background Report (August 2017) titled '*Background Report Christmas Hills Land Use Study*' also prepared by Spiire (on behalf of Melbourne Water), referred to hereafter as the **Background Report**. Combined, the ODR and the Background Report provide the basis and justification, so far, upon which the options have been based.
10. The ODR has been prepared on the basis of revised Bushfire Mapping Overlays (BMOs) and a detailed assessment of the relevant land capability considerations.
11. Much like the Background Report, the ODR sets out the range of issues it has addressed in arriving at the Options it has identified for each of the seven (7) precincts in the ODR area.
12. In summary and as per the overview provided on page 9 of the ODR, Melbourne Water has considered the following in preparation of its options:
 - Environment Significance Overlays/ Vegetation
 - Bushfire Risk
 - Slope
 - Heritage

- Waterways
 - Access
 - Servicing requirements
 - Existing planning controls
13. In general, Officers consider that both the background report and the ODR clearly explain the methodology that has been adopted by Melbourne Water when considering the capability of the lots to accommodate additional residential development.
 14. Notwithstanding the above, this report provides comment on some of the outstanding concerns that Council officers have identified when reviewing the ODR. These are detailed later in this assessment report.
 15. It is unclear whether the CFA has made comment on the Options to Melbourne Water. If so, this has not been provided to Council or the community.
 16. The Options Report is not a final master plan for the Christmas Hills area and has been developed to further test possible zone and lot amalgamation scenarios for each precinct.
 17. Melbourne Water is currently carrying out public consultation on the ODR and seeking feedback from Council.
 18. Melbourne Water has advised that the next steps in terms of refining the ODR into a master plan have not been clearly set in place and may depend on the scope of further work or changes required in its master planning process; community feedback and the views of Council.

Planning process to rezone land ready for disposal

19. To put the land into an appropriate zone (a green wedge zone) before it is sold, Melbourne Water will be required to prepare an amendment to the Nillumbik Planning Scheme.
20. The Minister for Planning would be the planning authority in this instance (instead of the Council) and has authorised Government Departments, Authorities and Agencies to act as if it were a planning authority for the purpose of preparing planning scheme amendments (**PSAs**).
21. Melbourne Water will prepare any amendment and submit this directly to the *Government Land Planning Service* (GLPS). A Government appointed Panel will hear submissions made during any public exhibition period and make recommendations to the Minister on any amendment.
22. A number of policies and guidelines outline the procedures that Melbourne Water must follow:
 - *Victorian Government Landholding Policy and Guidelines*
 - *Victorian Government Land Transactions Policy and Guidelines*
 - *Victorian Government Land Use Policy and Guidelines*
 - *Victorian Government Strategic Assessment Policy and Guidelines*

23. It is very relevant to note that Nillumbik Shire Council is and will continue to be the responsible authority role for future planning permits if the land is rezoned.
24. It is Melbourne Water's intention, as per the ODR, to put an appropriate green wedge zone over the land under a planning scheme amendment process (**PSA**). Green Wedge Zones are generally the Green Wedge Zone, Green Wedge Zone A and the Rural Conservation Zone; which has a number of 'Schedules' that are applied depending on the characteristics of the land. A PSA may also contemplate additional overlays (if they are deemed necessary).
25. Melbourne Water is not contemplating the subdivision of land that would create additional lots. Only lot consolidation is being contemplated by Melbourne Water i.e. the overall number of lots will be reduced under any of its options currently being considered. It is recognised that subdivision would possibly entail the approval of Parliament.
26. The public acquisition overlay (PAO) is also to be removed from a number of private properties as part of any planning scheme amendment. These properties already have a green wedge zone on them.

Existing lots legally established

27. The ODR area contains an existing 112 titles owned by Melbourne Water. A small number of 'parcels' exist within some of these existing titles, meaning that overall, there are approximately 119 legally recognised lots in the ODR area. An example of this is in Precinct 2 on the land to the north-east side of Clintons Road and to the north of the 'Rob Roy Hill Climb site. Here 1 lot exists, but with 6 separate and legally recognised 'parcels'.
28. The ODR does not contemplate the subdivision of land that would create additional lots. Only lot consolidation is being proposed i.e. the overall number of lots will be reduced under any of its options currently being considered.
29. It is accepted that the existing lots benefit from being legally established under the historic planning provisions at the time they were created. Council also recognise that Melbourne Water is exploring the best fit zone for them prior to selling.
30. Under its obligations to pursue the 'highest and best' (financial) use for the land, Melbourne Water is seeking to establish which lots (or lot amalgamations) can best accommodate a residential dwelling. It will be argued later that 'highest and best' use should be one consideration in the context of the broader strategic objectives of State planning policy (see section titled Strategic Planning Considerations).
31. All of the green wedge zones can stipulate a minimum lot size, however; if they are applied to existing and legally established lots – it is recognised that the minimum lot size is only relevant in respect of any future subdivision potential post rezoning.
32. For established lots – it is recognised that the ability to put a future dwelling on any lot will be governed by a range of factors, including the ability of the zone to allow a dwelling, either 'as of right' or by a permit.
33. All of the green wedge zones allow a single dwelling on a lot (irrespective of existing size). The next range of tests about the suitability/ capability of a lot to accommodate

a dwelling relate to the application requirements of the zone, meeting any requirements of planning scheme overlays, such as the Bushfire Management Overlay (BMO) or native vegetation removal. A number of other technical requirements under the planning scheme and other legislation also exist, such as access for a CFA fire truck.

DRAFT

3. Community engagement

34. As part of the disposal of its land and the preparation of the planning scheme amendment, Melbourne Water is taking responsibility for all community engagement associated to the project.
35. Melbourne Water is acting as if it were the planning authority for the purposes of preparing an amendment. Coordinating community consultation is its responsibility in this instance – with the community invited to make submissions directly to Melbourne Water.
36. The engagement, prior to the release of the ODR, is summarised at Section 4 of the ODR.
37. As part of the release of the ODR, Melbourne Water conducted 6 identical ‘by-design’ drop-in sessions at the Mechanics Institute at Christmas Hills to engage with the local community.
38. These sessions were run on the 22nd and 23rd May 2018 and were 1.5 hours in length each. They comprised of an overview presentation by Spiire and then precinct-by-precinct table discussions that allowed community members to look and question the proposed options in detail.
39. Melbourne Water has opened a written submissions period of 21 days from the 24th May. It invites submissions from any person on the proposed options.
40. Council’s Coordinator of Strategic Planning attended all sessions.
41. In summary of the community engagement sessions, the following table provides an overview of the key observations that were made during the six ‘by design’ sessions.
42. It is to be noted that these are a summary of people’s observed views (as picked up by officers); are not based on written submissions and should not be taken as being representative of shared views of the broader community present (or not present) at each session.
43. Melbourne Water’s community engagement team will be coordinating a feedback report of its own once all written submissions are received. We encourage this report to be made available publicly. It is further noted that many of the comments raised at the sessions were of a nature previously raised during previous Melbourne Water engagement for Christmas Hills, as described at Section 4 of the ODR.
44. The following is an officer summary of the May 2018 engagement sessions:

Precinct	Issue
General observation	Availability of information There were comments at almost every session about the lack of prior information made available to the local community and about being informed of the engagement sessions with sufficient notice. A number of people would have liked the detailed options paper made available prior so that they could better understand the options and focus their questions/ better use their time
General	General Option 1 – 40ha Rural Conservation Zone 4.

	<p>Several people made the comment that although MW had made reference to an option to blanket rezone all land to be sold as RCZ4 – they were not being allowed to discuss that option as Melbourne Water was only presenting its preferred outcome. The ‘by design’ sessions allowed people to put forward their preferred outcome – be it a universally applied RCZ4 zone or otherwise.</p>
General – process	<p>Community feedback Some people expressed scepticism about whether the process was meaningful engagement and what would happen to the feedback following the engagement period. Various people made the comment that the preferred option had been chosen and that the outcome was already determined. Spiire made comments in response that this was not the case and that the by design sessions were intended to identify further opportunities to refine Melbourne Water’s intention before drawing up a preferred master plan.</p>
General	<p>40 Hectare lot size minimum</p> <ul style="list-style-type: none"> • There was a number of people repeating a preferred outcome to put a 40 hectare minimum Rural Conservation Zone Schedule 4 over all land in the ODR area. • The additional suggestion alongside this was that all lots should be amalgamated to create the largest lots possible. • Overall concern about hobby farms, small lots & comparing it to land around Panton Hills – preference to be different. • Others indicated opposition to 40ha; like to see some more people; like to see opportunities to further subdivide.
General	<p>Intent of the Green Wedge A number of people made comment on the intent and purpose of the Green Wedge and whether the MW zone options reflected the purpose of the proposed zones.</p>
General	<p>Conservation reserves or off-set sites. A few people suggested that the Council could or should be acquiring land for conservation areas or off-set sites</p>
Precinct 1	<p>Overall – it was generally observed that Precinct 1 is challenged by site conditions and that few options were available to Melbourne Water. Generally people were accepting of the proposed outcomes.</p>
Precinct 2	<p>Rob Roy Generally – the community were supportive of the proposal to ensure the retention of the Rob Roy Hill Climb site by creating a crown allotment. Various people expressed concern about</p> <ul style="list-style-type: none"> • the number of possible dwellings in the ‘valley’ next to Rob Roy and to the east of Clintons Road. • Comments focused on the land capability, such as slope and being able to get access into any sites. • Numerous suggestions to collapse total number of lots into minimal or no additional dwelling outcomes. • Some comments on unsuitability of dwellings and use of Rob Roy site for motor racing – e.g. noise complaints, traffic etc and possibility of future amenity complaints to council from any new residents which could threaten use of Rob Roy. • Trail connections through the Rob Roy site and beyond to north

	west.
Precinct 3	<p>Land to be given to Warrandyte Kinglake Nature Conversation Reserve (WKNCR)</p> <p>No real discussions about this – all generally accepted the outcome as good.</p> <p>Some questioned any opportunities for trails/ connections through this precinct.</p>
Precinct 4	<p>General comments about:</p> <ul style="list-style-type: none"> • Minimising total number of possible dwellings, • Ability to get defensible space, • Suitability of access; • Preference to consolidate lots. • Overall, preference appeared to favour Option 1 (1 lot) rather than 3. • Some questioned how you might get appropriate emergency access, especially in higher yield option.
Precinct 5	<p>‘Wanneroo’</p> <p>Overall comments included:</p> <ul style="list-style-type: none"> • Create a ‘Westerfolds’ style park – Parks Victoria or State should acquire. • Preference to retain for agriculture • Opposition to any future ability to further subdivide (recognising legal ability to create 5 lots under the proposed RCZ4). • Preference to retain as 1 single lot – could a legal restriction be placed on land preventing further subdivision? • How would any future subdivision get road access? • Suggestion from several people for Melbourne Water to subdivide into 3 lots and prevent any future subdivision beyond 3 lots. • Access off Buttermans Track could be central track serving each lot.
Precinct 6	<p>General preference to see larger but fewer lots e.g. suggestion for 2 x 40ha lots</p> <p>Can building envelopes be put on titles?</p> <p>Can the planning scheme contemplate overlays that restrict the design and siting of rural sheds?</p> <p>Could the ESO be contained in 1 lot?</p>
Precinct 7	<ul style="list-style-type: none"> • Number of repeated requests for 40ha RCZ 4 associated to this precinct. • Some suggested making lots as large as possible. • Suggestion of nationally significant EPBC Act biodiversity values on ‘Area C’ • Challenge accessing Area C from Eltham – Yarra Glen Road • Could area C become an Offset site taken by Council? • Could Area C become a conservation reserve? • General sentiments toward fewer lots • Appeared to be a general understanding of existing lot patterns, presence of existing dwellings and MW intended approach toward consolidation and reorganisation – those speaking loudest appeared to prefer ‘Option 1’ (least lots).

	<ul style="list-style-type: none">• Could Council take land around Mechanics Institute?
--	---

Melbourne Water Next Steps

45. Melbourne Water hasn't committed to the next steps of its process, but it will carry out further community engagement for a number of people unable to attend the sessions on the 22nd and 23rd May. It is intended that this will occur on Saturday the 16th June 2018.
46. Melbourne Water will also await the conclusion of the community engagement phase before further finalising its next steps.
47. It is anticipated that the next stage of formal community and stakeholder engagement will take place through the more formal planning scheme amendment process. Community members and community stakeholder groups will have the opportunity to make further submissions and appear in front of any planning panel – should the process progress to such a stage.
48. Council considers that moving into a planning scheme amendment process, in advance of preparing a draft master plan for further engagement, would not represent a satisfactory outcome to the community or, indeed, Council and its officers.
49. In the interests of transparency and the feedback observed during the recent consultation, it is recommended that further collaborative work is undertaken with key stakeholders to:
 - a. Present the findings of community consultation
 - b. Work through the above outcomes in developing the emerging final draft of the master plan

4. Assessment of Melbourne Water's options presented by the ODR

50. This section sets out Nillumbik Shire Council's feedback to the ODR document, which was released publicly following public consultation events held on the 22 and 23 May 2018.
51. The following comments are made based on officer review of all previous information provided by Melbourne Water, including the Background Report and the ODR and an observation of the community engagement sessions.
52. This assessment and the views contained herein should be considered an 'interim' position of the Council until such time as Melbourne Water further advance the development of a single preferred outcome and a master plan for the land it owns at Christmas Hills. It is further hoped that these comments will be used by Melbourne Water in further discussions with Council about the creation of a future master plan for the area.
53. The Council reserves the right to add to or amend its views should further information; evidence, referrals, views or opinions emerge that would indicate it appropriate to do so. For example, Officers are aware that the CFA has not yet provided formal feedback on the development of the ODR and the options contained therein.

Key planning considerations

54. There are a small number of key issues that have presented themselves through Melbourne Water's documentation and engagement phases so far:
 - 1) Strategic Planning considerations - consistency with State Policy on Green Wedges
 - 2) Statutory planning - suitability of Lots for future intended residential use – environmental, statutory and development engineering considerations/ feedback
 - 3) Other considerations – CFA response needed; Trails and easement opportunities
55. These matters are explored in turn in the following sections.

5. Strategic Planning Considerations

56. Council expects that a rigorous assessment of State planning policy should be a key consideration in the future use and development of land that is divested by Melbourne Water.
57. The State Government, under Melbourne Water's stewardship, has a unique opportunity in that it currently controls the ownership of over 1000 hectares of land in the Nillumbik Green Wedge.
58. Quoting the Victorian Government's own land use policy and guidelines² (the LUPG) about the sale of Government land, it says:

*'Government land can be used for public benefit countless times, **but only sold once.**'*
(Emphasis added by Council)

59. To Council, this is considered a key moment for Christmas Hills – given the ODR's outcome would see the ownership irreversibly fragmented. Given the strategic objectives for green wedge land, green wedge zones and the values of its landscape, consideration of the disposal outcomes should be based on detailed examination of the longer term consequences, opportunities and impacts it may have from a strategic perspective – particularly if land is to be sold to private buyers.
60. The need for a considered and holistic approach is further explored by the LUPG where it states:

'The purpose of the Victorian Government Land Use Policy (the Policy) is to establish a framework that enables a strategic, whole-of-government approach to government land use decision-making, in order to maximise public value for Victorian communities.'

61. While the existing lot pattern at Christmas Hills is severely fragmented, the fact that it is currently under a single ownership provides a significant level of control for the State to exhibit leadership in how it would like to see an important green wedge managed from a best practice perspective. This might bethough retaining farming land for education and research, demonstration projects of new agricultural practices or technologies, partnerships with industry/ education institutions, education, tourism and economic benefits or the creation of greater areas of public parkland reserve.
62. As a Government authority, it is considered that Melbourne Water and the State Government (as a whole) should have a higher responsibility or duty of care to consider the future use of the land from a whole of Government policy perspective, including the purpose of green wedges, agricultural land use, economic prosperity and land capability. This also includes the protection of the environmental features of the land, including for example, native vegetation, flora and fauna and cultural heritage. They can also relate to the landscape and visual qualities of the land.

63. When discussing the future of Government land, the LUPG says:

The Decisions about the future use of government land need to be made carefully to ensure public value is maximised; decisions fully

² 'Victorian Government Land Use Policy and Guidelines – Unlocking public value from government land' (VGLAUPG), May 2017

consider the needs of current and future generations; and land use is in line with whole-of-government strategic priorities.

For the purposes of the Policy, public value is defined as using or making decisions about government land which deliver intergenerational, social, economic and environmental benefits to the Victorian community.

64. While pursuing the 'highest and best' land use valuation may be an important component of the Government's own land disposal policy, it is considered that there is enough in-built flexibility within the process, policy and guidelines to consider, more broadly, whole of policy outcomes.

65. The LUPG acknowledges this by saying:

Public value can be enhanced by considering the following themes:

- ***Intergenerational.*** *By considering how land use decisions made today benefit current and future generations, including Traditional Owners who use the land to pass down their culture to younger generations.*
- ***Social.*** *Equity of access to health, housing, education and recreational space, and improved local amenity and social inclusion. For Traditional Owner groups access to land is an integral part of their future sustainability, self-reliance and community prosperity.*
- ***Economic.*** *Access to employment, and benefits for business and industry.*
- ***Environmental.*** *Improve resource use and sustainability, reduce contamination, emissions and waste, improve ecosystems and biodiversity and manage the impacts of climate change.*

66. The LUPG then adopts the following principles to guide land use decision-making that provide public value:

- ***Focus on achieving positive social, environmental and economic benefits.*** *Government land use decisions should consider the broad impacts of government land use on Victorian communities. Government land use should focus on delivering social, environmental and economic benefits that meets the needs of the Victorian community, while offering value for money to government. Decision-making will consider the rights and interests that Traditional Owners have in land, and look at opportunities to deliver the aspirations of Traditional Owners.*

- ***Intergenerational equity impacts.*** *Government must consider the long-term intergenerational impacts of land use decisions and balance these impacts against short term benefits. By considering the impacts of decisions out to 2050 and alignment with longterm strategic plans such as Plan Melbourne 2017-2050, agencies can ensure long-term community and government needs are taken into account.*

- ***Whole-of-government perspective.*** *Government land use decisions need to take a whole-of-government perspective. This means thinking about the use of government land not only from the perspective of the landholding agency, but with a view to broader objectives of other agencies and the government as a whole.*

• **Engage and collaborate.** *In making land use decisions, government agencies should engage and collaborate across government, and more broadly with business and industry, not for profits and the community where appropriate, in an open and meaningful way. Building collaborative relationships and working partnerships with Victorian Traditional Owner groups is also integral to good land use decisions.*

67. From Council's perspective, the key point in the above is considered to be:

'Government must consider the long-term intergenerational impacts of land use decisions and balance these impacts against short term benefits'.

68. In this instance, the short term 'benefit' is considered to be the sale of land and capitalisation of the asset to State revenue. Perceived additional benefits may be the creation of additional housing opportunities to live within a rural environment (albeit this could be seen as a negative equally – e.g. bushfire risks; protection of human life).

69. Longer term – the impacts are the further fragmentation of the green wedge from a land ownership perspective; the irregular lot pattern; the introduction of additional residential use and development into a rural environment (and its potential conflicts or restrictions on adjoining land) and a further dilution of any ability to satisfy broader policy objectives.

70. Having regard to the above, it is now relevant to turn to the broader policy context that Council argues is highly relevant from a whole-of-government perspective. Plan Melbourne establishes the State Government's metropolitan strategy. It contains the following Direction in respect of Melbourne's green wedges:

Direction 1.4

Support the productive use of land and resources in Melbourne's non-urban areas Melbourne's green wedges and peri-urban areas are immensely important to the state's economy, community and environment and support a wide range of non-urban land uses and activities. For instance, some of Victoria's most productive agricultural land is located within these areas. Other productive non-urban land uses include natural resource extraction, tourism, airports, sewage plants and waste and resource recovery operations.

These areas also accommodate businesses that need buffers from residential and incompatible land uses. Non-urban land uses in the green wedges and peri-urban areas should be carefully planned and managed to avoid irreversible land-use change and support their ongoing productivity.

(Council *emphasis*)

The decision to sell land and for the uses identified in the ODR is irreversible.

71. Supporting the above Direction is a number of policies, including the Policy 1.4.1 in respect of agriculture:

Policy 1.4.1

Protect agricultural land and support agricultural production

Agricultural production in green wedges and peri-urban areas is vital to Melbourne's long-term food security due to its proximity to markets, access to infrastructure and labour, and quality soils. Agricultural areas are also important agrifood tourism destinations as well as acting as green buffers for urban areas.

In green wedges and peri-urban areas, competing land uses (such as urban development and rural living) threaten agricultural production. Councils need support to maintain the long-term economic and social value of agricultural production.

Agricultural land in green wedges and peri-urban areas should be retained for productive use so it is not permanently lost.

72. Further, the State Planning Policy Framework (SPPF) set out in the Victorian Planning Provisions (VPPs) at Clause 11.06-7 details the specific Strategies for Green Wedges; which include amongst others:

- *Ensure strategic planning and land management of each green wedge area to promote and encourage its key features and related values.*
- *Support development in the green wedge that provides for environmental, economic and social benefits.*
- *Consolidate new residential development within existing settlements and in locations where planned services are available and green wedge area values can be protected.*
- *Support existing and potential agribusiness activities, forestry, food production and tourism.*
- *Protect areas of environmental, landscape and scenic value such as biodiversity assets, national and state parks, Ramsar wetlands and coastal areas.*

73. Of particular note, the third bullet point in the above SPPF Clause states only a strategy to '*consolidate new residential development within existing settlements and in locations where planned services are available and green wedges can be protected*'.

74. Critically, none of the proposed housing in the ODR could reasonably be argued as being 'consolidated' in an existing settlement. Neither would it have 'planned services' available (on the whole). In this regard, the Options need to better demonstrate why the housing is required in these locations to satisfy the Government's own policies.

75. This is not to say that Melbourne Water might not be able to meet such a test, but rather the documents provided to Council so far have not provided the analysis required.

76. The State Government's position in respect of agricultural land is set out in Clause 14.01- Agriculture, of the VPPs.
77. It states the following Objective at Sub-Clause 14.01-1:
To protect productive farmland which is of strategic significance in the local or regional context.
78. The following strategies are set out to support the above objective:
- *Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.*
 - *Prevent inappropriately dispersed urban activities in rural areas.*
 - *Limit new housing development in rural areas, including:*
 - *Directing housing growth into existing settlements.*
 - *Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*
 - *Consult with the Department of Economic Development, Jobs, Transport and Resources and utilise available information to identify areas of productive agricultural land.*
 - *Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.*
 - *Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.*
 - *In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:*
 - *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
 - *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
 - *Assessment of the land capability*

Current Department of Environment, Land, Water and Planning (DELWP) work on agricultural land capability

79. Building on the above policy context, it is highlighted that future food security and diminishing land resources available for food production is a genuine concern to Victoria – as reflected in Plan Melbourne and State Planning Policy.

80. The State's 'Supporting Victoria's Agriculture - Agriculture Victoria Strategy' (May 2017) identifies agriculture as a priority industry. Emerging technologies, research and agricultural techniques are providing new opportunities and approaches toward food production and thinking on land capability.
81. Under the heading 'Intensification of Agriculture', the above Strategy states the following in terms of using diminishing land resources better:

Support changing production systems and industry innovation through industry policies, access to information and strategic advice that recognise local impacts and underpin investor confidence

As global and domestic population increases, new domestic and global market opportunities will emerge and there will be increased demand for agricultural commodities. With reduced land available for agriculture, this demand is likely to be met in part through more intensified production systems. Intensification will not be limited to animal production; it will also apply across the suite of agricultural commodities.

There is a strong and steady trend for agricultural intensification, as indicated by increasing stocking rates and yields, increased areas under irrigation, the growing use of precision agriculture, increased farm fertiliser, pesticide and food stock inputs, and the conversion of farms to more intensive forms. These activities have transformed many farm businesses, related upstream businesses and food and fibre supply chains.

Intensification presents a variety of opportunities to grow markets, improve resource efficiency, mitigate and adapt to climate change, improve environmental outcomes more broadly and grow and revitalise rural and regional communities. However it also creates a new set of challenges related to outdated or absent codes of practice. Another challenge is the capacity of planning agencies to manage change and social licence. Tackling these challenges requires better understanding of sustainable intensification opportunities and trends, policy and legislation modernisation and exploration of innovative farming systems, plant, animal genetics and enabling services.

82. Council is aware that the Department of Environment, Land, Water and Planning (DELWP) is currently undertaking agricultural land capability assessment work across all interface council areas. It is not clear yet what this might conclude or where it may be heading in terms of State policy, but nonetheless it is a relevant consideration.
83. In terms of agricultural land capability, Council encourages Melbourne Water to have urgent discussions with DELWP and the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) in order to understand whether the future sale and disassembly of the State's landholding would be in best overall interests of a number of key State policies.
84. This is not to say that all or much of the land at Christmas Hills is of valuable agricultural quality (currently) in terms of crop production, however; in the context of evolving thinking and safeguarding future opportunities for food production – the minimum that Council would expect of Melbourne Water and the State Government is that some critical thinking is demonstrated about future agricultural needs in the context of its own existing policy framework.

85. In addition, the work that the State Government is undertaking to better understand the implications of future food supply should provide a critical opportunity to pause and think about the opportunities that Christmas Hills might present before disposing of rural green wedge land for predominantly housing-led outcomes. Once again – Council makes reference to the LUPG and its calls for longer term strategic thinking of the outcomes.
86. To this end, Council would expect such a significant strategic amendment and land sell off to have engaged:
- A specialist agricultural land specialist with knowledge of emerging technologies to have carried out at least a basic assessment of the Christmas Hills area for future food production capacity. This should include an assessment of the existing lot pattern and to examine any opportunities to better align, realign or amalgamate lots for agricultural purpose or rural business.
 - Alongside the above, it would be anticipated that the rural economic impacts of selling off land for residential purposes rather than seeking to retain it for rural uses, businesses etc should be examined.
 - To compliment the above, an assessment of the proposed outcomes from a landscape and visual assessment perspective – this should build on earlier landscape visual work undertaken by Spiire. An example of this would be the land through Precinct 2 and the impacts within the natural bowl to the east of Clintons Road.
87. As examples, Council is aware that the existing ‘Wanneroo’ property in Precinct 5 is a large agricultural property that could, if brought to the market, be further subdivided into five properties under the rural conservation zone’s minimum 40 hectare subdivision limit. How does this meet some of the broader agricultural tests expected by Government policy?
88. Further, the ‘Ponylands’ business that operates on a lease in Precinct 5 has long been established under a lease agreement with Melbourne Water. Potentially – if put on the open market – this may result in the loss of an important rural business that includes the provision of community oriented activities. Understanding the economic impacts to existing and future business potential if land is sold for residential purposes should be an important consideration – and one that goes to the heart of some important economic and social functions within the green wedge that go beyond a typical ‘highest and best use’ value proposition.
89. This assessment explores the potential to secure the retention of existing business and agricultural uses in a later sub-section.- with a focus on the possible exemptions available to the State Government under the Victorian Government land policies and guidelines
90. The historic Rob Roy Hill climb site would also likely be potentially impacted by the presence of new residential occupiers, e.g. noise, traffic complaints. As a potential tourism and local economic opportunity to grow the Hill Climb and its range of activities – the inherent conflict with the proposed outcomes for Precinct 2 are potentially obvious from the outset – and might undermine the very reasons that Melbourne Water is seeking to transfer the Rob Roy site to the Crown. One outcome is likely contrary to the other. Again – as an activity in the green wedge – the Rob Roy Hill

Climb benefits from the buffers that rural pasture land and forest can provide it – buffers being a role of the green wedges around Melbourne. Some exploration of the economic and tourism potential and impacts to this site is requested.

91. For the above reasons, the ODR is somewhat silent on the consistency of the preferred options with policy. It is recommend that the whole of the Christmas Hills project area as well as each option is assessed by MW in terms of how each would meet State and local policy objectives, once the above further work has been completed.
92. Turning to the Background Report (pages 37 and 38), dated August 2017, the broader range of objectives and outcomes that Plan Melbourne seeks to achieve for Melbourne's Green Wedges, amongst other things; is required to:
Support existing and potential agribusiness activities, forestry, food production and tourism.
93. Page 38 of the background report also states that:
'In relation to future growth in the green wedges Plan Melbourne requires growth to be managed to protect productive land, strategic economic resources, heritage and biodiversity assets, while accommodating additional housing and employment in established towns that have the capacity for growth.'
94. It is, once again unclear, how MW has concluded that it now satisfies this objective in terms of testing its responses and options for each precinct against these higher level (desired) objectives.

Existing lot pattern need not confine current thinking and opportunities

95. As per earlier in this report, all lots in either of the ODR options are already legally established – irrespective of their size.
96. The process to rezone is simply to enable the sale through the Government land disposal process by applying a zone other than the current public zone.
97. Melbourne Water's approach generally appears to be trying to put a 'best fit' zone to the existing lot pattern.
98. This has not prevented a number of suggestions from the community that there should be a blanket 40ha RCZ4 zone applied to all land Melbourne Water is seeking to sell.
99. It is noted that this would not resolve some of the broader concerns expressed about lot size and minimising the number of future dwellings. For this to occur, Melbourne Water would first have to amalgamate lots to create lots of the 40ha minimum (or close to) wherever possible.
100. As with any landowner – it is fully accepted that there is no legal compulsion, be it Melbourne Water or otherwise, to create larger lots because a new zone is being applied (which might have a larger minimum lot size). Minimum lot sizes are for the purpose of future subdivision control.
101. Perhaps of more relevance to the consideration of the suitability of lots is the overarching intent for land in Melbourne's green wedges and whether, as a

Government entity; Melbourne Water is actually satisfying Government policy by way of disposing of land incrementally, rather than consolidating lots for agricultural or other rural purposes. We refer back to our earlier comments in respect of State policy. The point to make here is that once that is sold – it will forever fragment the Christmas Hills project area and any opportunities to achieve cohesive policy outcomes will, at best, be diluted.

102. In this regard, the issue is perhaps one about the acceptability of the historic lot pattern and whether it would be considered acceptable against current policy – if the lots were being created today.
103. Ordinarily, such a question would largely be a philosophical one given the rights conferred by legally established lots; however – it is once again reiterated that as a single land owner – the State Government has all the ability to start afresh if it decided that green wedge policy and implementing it was a key outcome in Christmas Hills. In this regard – the existing lot pattern need not be the lead factor if policy considerations say otherwise.
104. This is not to say that some of the outcomes proposed are bad outcomes – it is to suggest that the level of rigour and assessment against key policy objectives has not been sufficiently explored and evidenced in the work undertaken to date to support why residential uses are the only outcome being considered.
105. Residential outcomes are not the primary focus of Green Wedge policy and for this reason – it is considered that sufficient work is necessary to first discount all of the other policy objectives, strategies and outcomes referred to herein in the following sections.

Is Melbourne Water confined by the Policies and Guidelines around selling Government Land?

106. The Victorian Government's *Landholding and Policy Guidelines*³ (the **LPGs**) are considered to be reasonably clear in respect of when a Victorian Government Agency should seek to retain land in its ownership. The conditions include, amongst others, that it (land) should contribute to service delivery or is central to core business for example.
107. Council notes, however; that there are circumstances where land can be considered for retention by the State under specific circumstances, such as that set out at page ii of the LPGs, under Section 2C (*Policy*) where land can be retained where it:
- C. has been considered for community uses and is necessary to provide for occupation by other government or community organisations where:
 - land is sold or transferred for a public or community purpose and the terms of sale include a restriction on title that reflects the public or community purpose so that any future change in the use of the land requires the State's consent;
 - the State receives market value rent; or
 - where the State receives less than market value rent, the social, environmental or community benefits of occupation are considered to justify the costs to the State;
 - D. is financially beneficial to the State when compared to alternative investment of State funds;
- (iii) is considered by the acquiring or landholding Minister to contribute to other Government objectives as may be set from time to time.
108. The LPGs provide further guidance around the above on pages 1-3, indicating that land can be retained in State ownership if some of the above benefits can be realised.
109. As an example, under the heading '*Community use*' on page 2/3 it states:

Community use

With the approval of the acquiring or landholding Minister, State ownership of land or an interest in land, is necessary to provide for use by other government or community organisations where:

- *land is sold or transferred for a public or community purpose and the terms of sale include a restriction on title that reflects the public or community purpose so that any future change in the use of the land requires the State's consent;*
- *the State receives market value rent; or*
- *where the State receives less than market value rent, the social, environmental or community benefits of use are considered to justify the costs to the State.*

Where it is considered desirable for other government or community organisations to occupy land that is held by the State but it is unfeasible for that other organisation to acquire the land, the landholding Minister may approve the retention of the land for the purpose of enabling occupation. The agency must justify that the other government or community occupation of the land is the most efficient and sustainable manner that

³ '*Victorian Government Landholding Policy and Guidelines*' (September 2017), State Government of Victoria.

enhances economic and social outcomes. Occupation should only be granted where the State receives market value rent or the landholding Minister is satisfied that the social, environmental or community benefits of occupation justify the costs incurred by the State of providing such accommodation. When considering the retention of land on the basis of environmental benefits, reference should be made to the Strategic Crown Land Assessment, which will provide evidence of the presence of public land values associated with the environmental benefit. The explicit approval of the landholding Minister is required if land is to be retained for this reason.

110. The Council acknowledges and welcomes Melbourne Water's stated intent to approach the State Government with a proposal to transfer the Rob Roy Hill Climb site (at Clintons Road) to the Crown. This would enable the Council to become a committee of management for the land and to ensure the use of the historic site can continue.
111. Council is financially not in any position to acquire further land at Christmas Hills at market rates, particularly at residential value. This would prevent Council having an ability to acquire land adjoining Rob Roy to provide appropriate buffers to it. Government land policies, however, provide exemptions to achieve broader objectives. Council would welcome the opportunity to explore these further.
112. In addition, the land to the east of Clinton's Road and west of Rob Roy Road (generally to the north-west of the Rob Roy Hill Climb site in Precinct 2 shown in the ODR) may also present future interface issues if land were provided to the market for residential purposes. Again – we reiterate the purpose of green wedge policy, which is sometimes to provide appropriate buffers to certain uses. In this instance, the historic significance of the Hill Climb site and the future use of the land could be protected by the retention of the adjoining land as either pasture or land that could be used for recreational purposes.
113. Supporting not only the preservation but the continued operation of the hill climb would be an example of 'other Government objective' under Section 2C of the LPG policy.
114. Council also remains concerned about the future of existing farming land and rural businesses in Christmas Hills and whether these uses may be lost.
115. The potential loss of these farming and business operations presents both policy and economic concerns to Council. As per the comments at paragraph 86 of this assessment, consideration of the potential agricultural and economic impacts of the ODR is considered necessary. Whether the exemptions within Government land policy can assist in this regard is a matter that should be explained further – as appropriate within broader policy objectives.

6. Statutory planning considerations - level of information provided to determine the suitability of lots for intended use

116. Assuming that Melbourne Water responds to the earlier requests made in this assessment to consider the suitability, or otherwise, of the land for rural purposes, environmental protection etc, another major consideration to Council would be the suitability of lots to contain development shown in the ODR (dwellings).
117. This is the key area of interest to Council and one with the greatest sensitivity given the challenges associated to a typical planning permit process for establishing new dwellings in rural parts of the Shire. These challenges include considerable cost (specialist reports); time; applicant anxiety; lack of certainty of outcome and appeals to VCAT.
118. It is Council who will assume the responsible authority (RA) role for future receipt and determination of planning permit applications when lots have been rezoned and sold.
119. Both the 2017 Background Report and the ODR are based on high level assessments to identify the capability of land to accommodate a dwelling.
120. The comments contained herein under the specific headings of Environmental and Statutory Planning reveal that, in practice and based on our experience as the responsible authority; a much more rigorous assessment of land capability will be required under a planning permit process than has been undertaken to date.
121. Indeed, Melbourne Water's own background report, at Section 5.3.2, references previous discussions with Council Officers and the range of challenges that exist when contemplating land for dwelling suitability.
122. The Background Report also refers to the previous Melbourne Water land sales at Watsons Creek and the fact that a number of properties previously disposed of have still not realised development outcomes, as was perhaps intended. A summary of relevant VCAT cases was also included in the Background Report that testify to the challenges ahead for land disposal. VCAT cases are prioritising the key role and objectives of the zone ahead of a need for incremental residential development.
123. While it is reinforced that it is VCAT making key judgements about policy; it is suggested once again that this means that there should be a higher level of responsibility upon a Government authority to consider the implications of State policy and to be comfortable that it has taken every possible step to ensure outcomes that can have a realistic opportunity to be realised under the planning system.
124. Since the previous Melbourne Water land sales, it is also the case that Bushfire Mapping Overlays have become much stronger and now include the presumption in favour of protecting human life ahead of development outcomes.
125. Council's environmental; statutory and transport planners have provided the comments on the following pages. It should be noted that these comments are made notwithstanding the broader policy questions asked by this assessment:

6.1. Environmental considerations – general comments.

126. At this stage there is concern over the placement of building envelopes – albeit high level at this stage until the options are further refined.
127. The options appear to be largely in response to bushfire requirements, and based on a preliminary review, and with information provided to date, these have been placed outside of vegetated areas where possible.
128. In some areas it is likely there will be losses of native vegetation and habitat. The information provided is not easy to read in that the plans showing the proposed building envelopes do not include areas covered by native vegetation, nor the quality of that vegetation.
129. There is a concern that the proposed building envelopes, where they impact on native vegetation; may require further study to ensure high biodiversity values are avoided. The area is known to contain habitat for a range of threatened species and it is important to avoid these areas.
130. Ideally, a more detailed ecological assessment, following on from the earlier report prepared by Ecology Australia, is required to make a more informed assessment. It would be ideal to have this covering the whole study site, but as a minimum it needs to cover those lots where native vegetation is likely to be impacted. The study should identify:
 - EVC's
 - Vegetation condition – habitat hectare assessment would be ideal, but if access is difficult this may need to be a desktop review
 - Likelihood of the site supporting threatened species
 - Habitat value and connectivity
 - Key habitat features such as large old trees and other fauna values
 - Current DELWP modelled data for permitted native vegetation clearing, particularly the location map, SBV map, extent map and condition map
131. Targeted surveys may be required for those lots which are likely to offer suitable habitat for threatened species.

6.2. Statutory Planning Considerations

132. Statutory planning has conducted a preliminary review of each precinct. It should be noted that detailed site assessments for each potential dwelling site have not been provided to Council. As future recipients of potential planning permit applications, it is considered important that some of the known challenges are highlighted before further progress is made on the options. Comments are provided in precinct number order as follows:

Note: Images provided herein are to provide a quick snapshot, please refer to the ODR for more detailed plans.

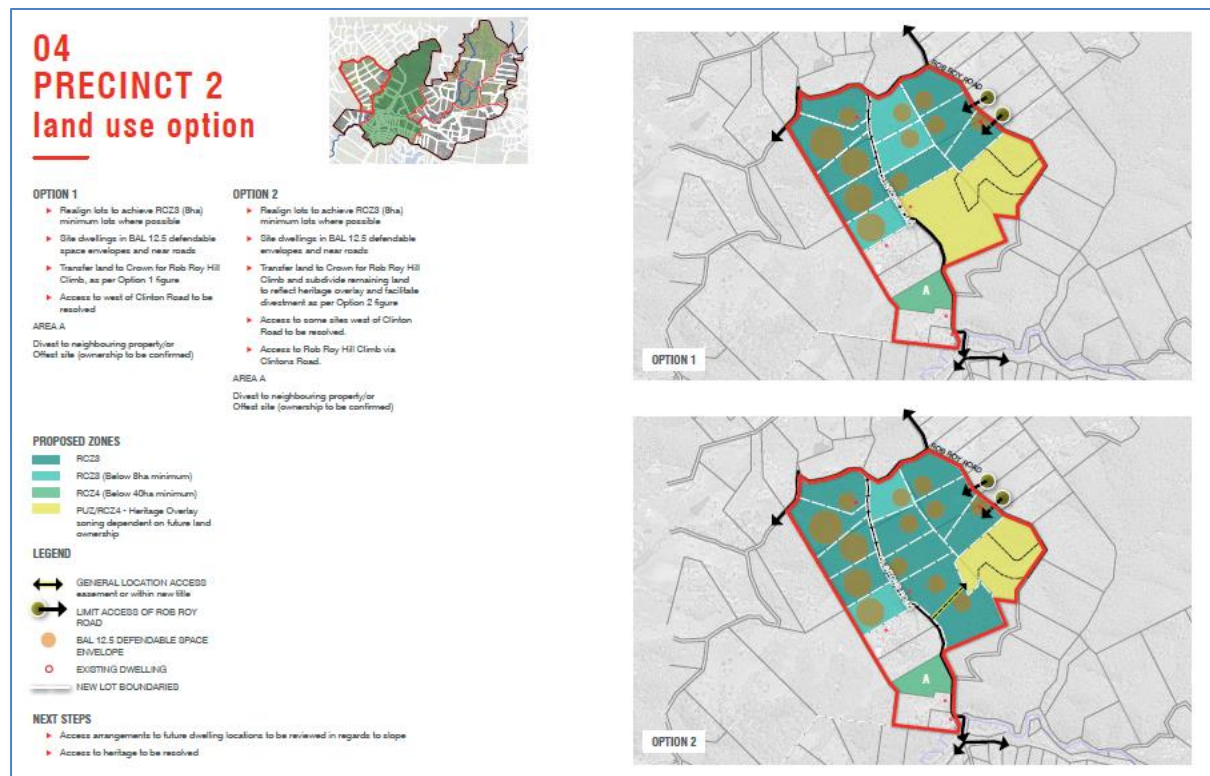
Precinct 1



Commentary

133. Vegetation, land slope, bushfire risk, the absence of vehicle access presently, and proximity to Watson Creek, all pose significant constraints to any future development and/or subdivision.
134. Option 2 is preferred, which is to consolidate titles to create one parcel zoned RCZ4. However, residential development should be discouraged due to the above mentioned constraints, particularly concerned with a residential lot only having one vehicle access point in the BMO. Land should preferably remain in public ownership and be zoned PCRZ, linking into precinct 3.

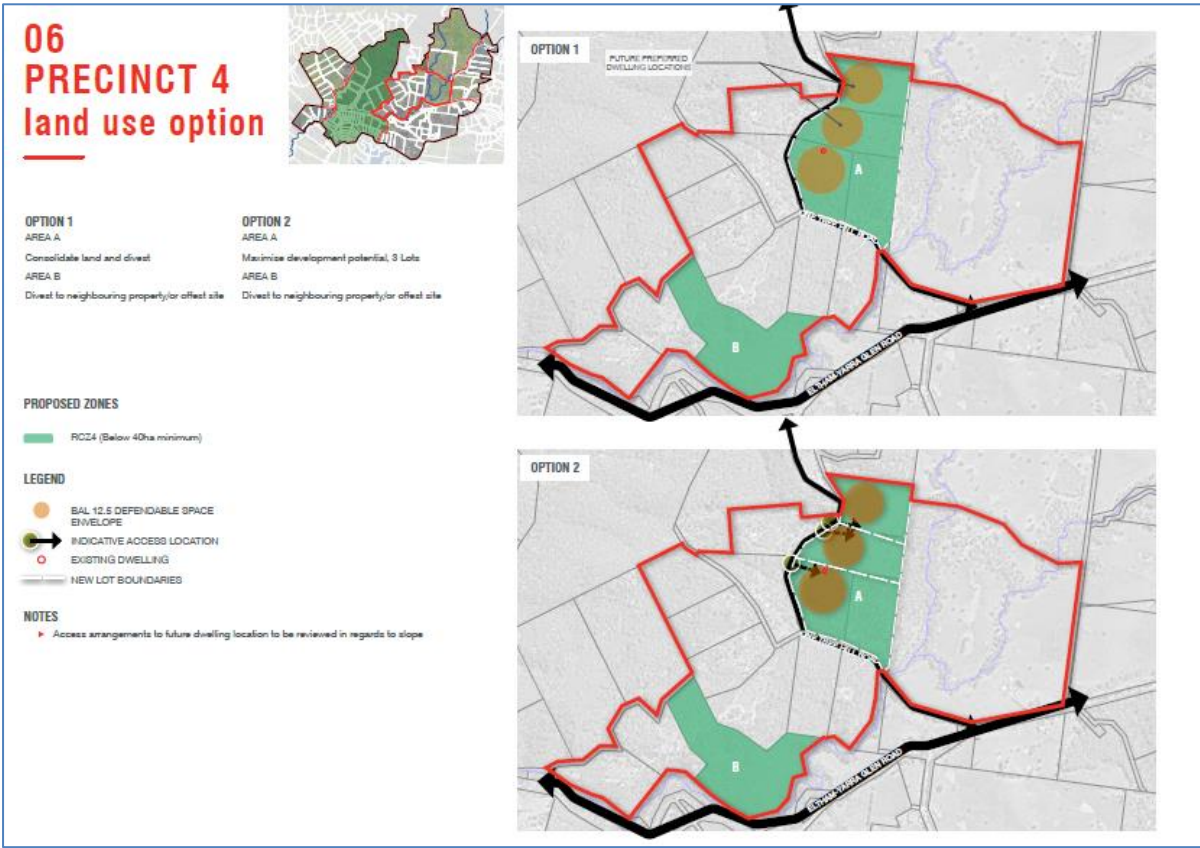
Precinct 2



Commentary

135. Land slope and the Rob Roy Hill Climb pose constraints for future development and subdivision. The Hill Climb track is one of the last, if not the last such facility close to the Melbourne CBD. Caution should be exercised increasing the density of residential use close to the track for reasons of likely conflict between future occupiers and the established use of the Rob Roy site. The justification for putting residential use alongside the Rob Roy site is questionable – for the reasons outlined in the previous section.
136. Of the options presented in the ODR, Option 1 that rezones all of the land Rob Roy site to PUZ is the preferred option, PPRZ should also be considered. The existing dwelling should be demolished.
137. Zoning context is RCZ3 to the north and east, and RCZ4 to the south and west. The Study suggests five lots on the western side of Clintons Road, however four lots zoned RCZ3 would appear to better respond to the topography and the challenges of vehicle access. More detailed engineering assessment should be provided by Melbourne Water to test any preferred options.
138. The north-western lot that is 19.8 hectares should remain with a one dwelling restriction, due to the limited development opportunities on this lot.
139. Notwithstanding the broader concerns about possible residential use through this precinct in proximity to the Rob Roy site, rezoning the three lots on the eastern side of

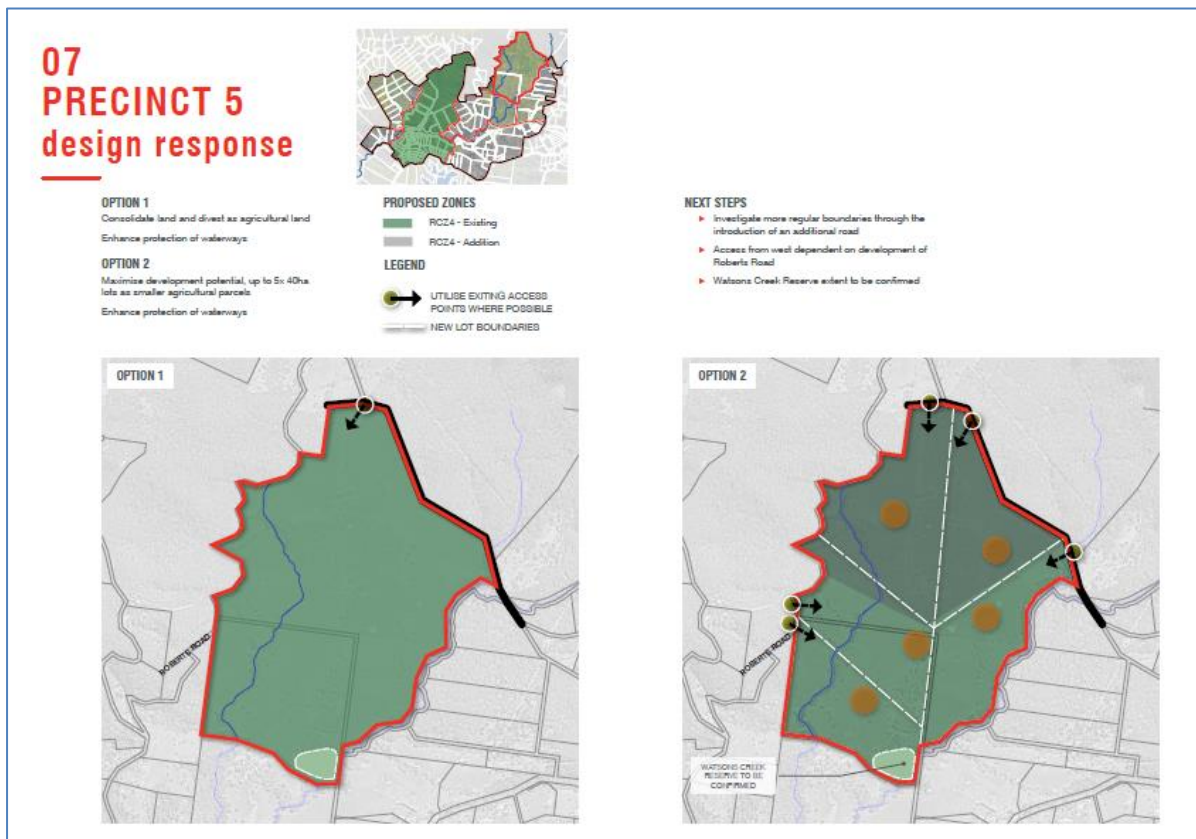
Precinct 4



Commentary

142. One lot maintaining existing dwelling on an undersized (31 hectares) lot zoned RCZ4, which matches surrounding zoning. ODR suggests 3 lots, which can't be supported as surrounding land is RCZ4.

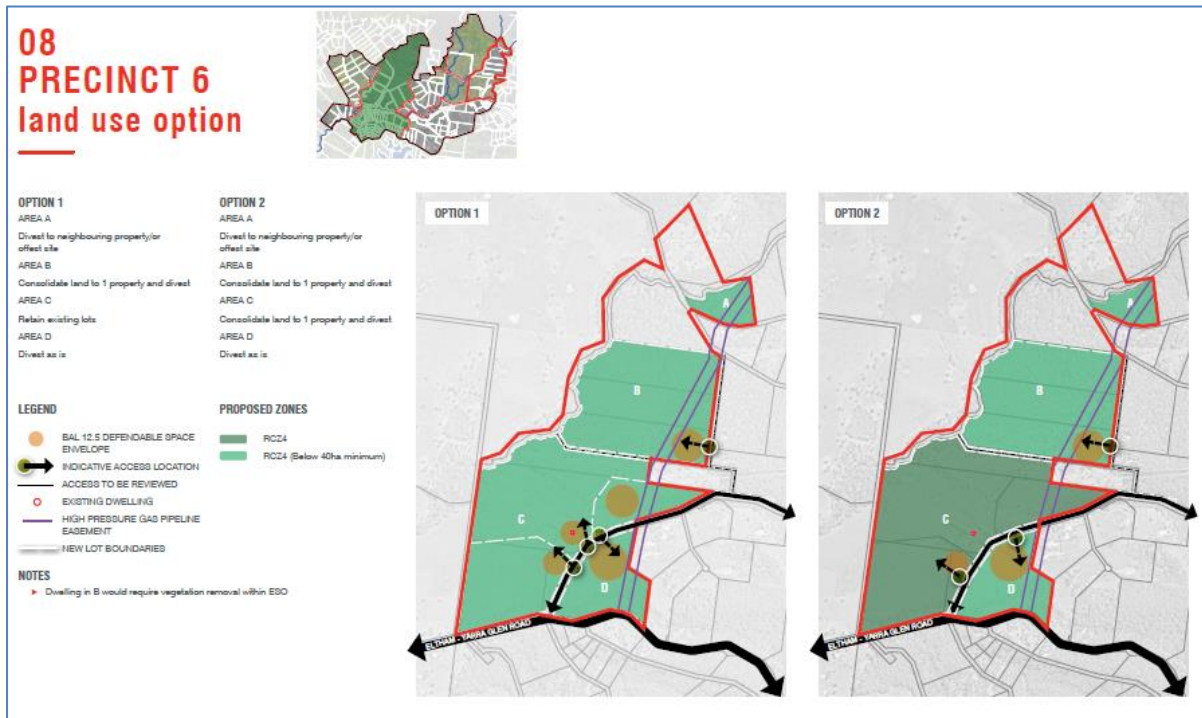
Precinct 5



Commentary

- 143. Maintain as one allotment as per option 1, retaining Wanneroo farm property. Land is heavily constrained by the gas buffer, Watson Creek and the unknown condition of Roberts Road. The design response clearly shows that there is limited development opportunities for this precinct.
- 144. See also discussion with Strategic Planning Considerations relating to agricultural role of the land and purpose of Green Wedge policy.

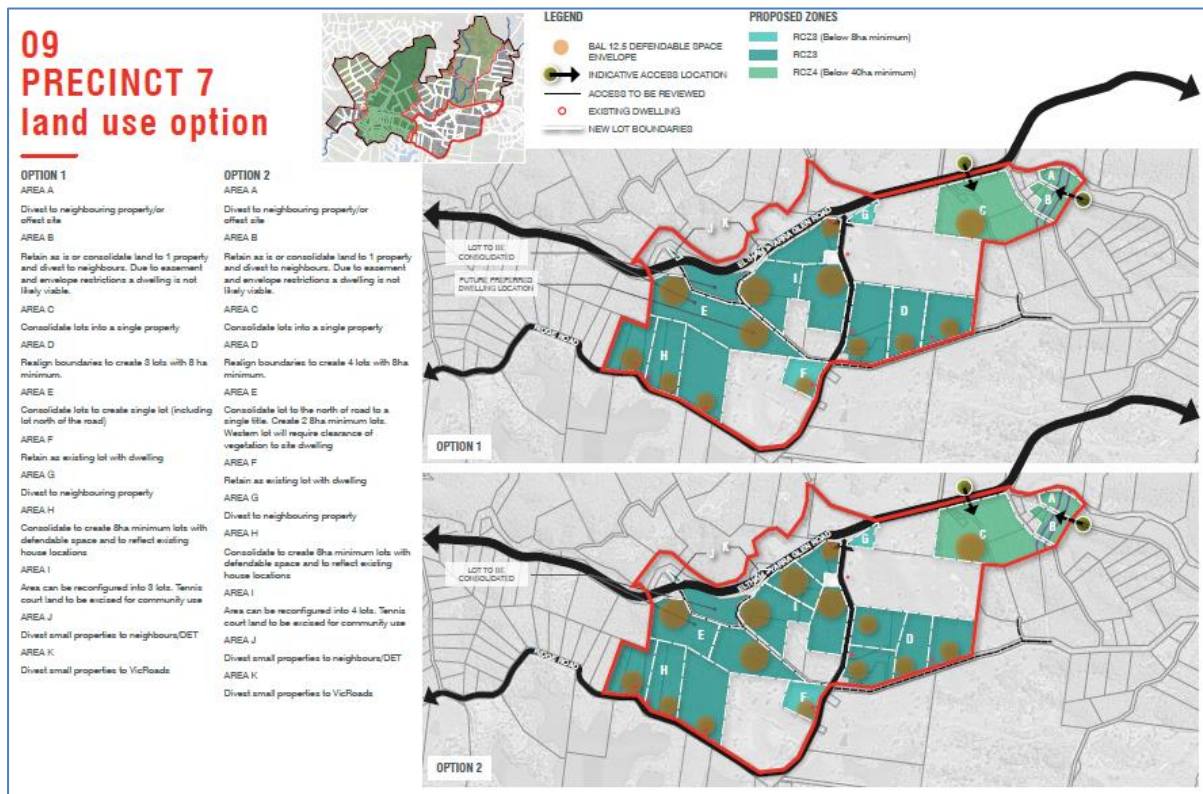
Precinct 6



Commentary

- 145. Gas pipeline a big constraint and one lot identified cannot be developed due to the extreme bushfire risk.
- 146. Option 2 is the best option available, despite area B being undersized and the dwelling location being close to the gas pipeline. Ideally area A and area D should be consolidated into adjoining private lots to avoid the creation of lots that can't be developed.
- 147. Area C already has a dwelling shown it, not sure why a second envelope is shown.

Precinct 7



Commentary

- 148. Probably the most challenging precinct due to existing fragmented small lots, small pockets of extreme bushfire risk and the buffer for the gas pipeline.
- 149. Surrounding land is zoned RCZ4, there doesn't appear to be any planning justification for the RCZ3 proposed in this report.
- 150. However, most of the undersized allotments on Ridge Road already contain a dwelling and in these situations it is appropriate to rezone these to RCZ4 to align with existing zoning in the surrounding area, despite the resultant lots being significantly below the 40 hectares.
- 151. Area C is entirely affected by high pressure gas buffer and any development on this site will need to be scrutinised closely. Also, access from Eltham-Yarra Glen Road will need to be approved by VicRoads prior to any zoning change. It has been suggested by community feedback that Area C may contain nationally significant biodiversity values – however – as no site survey information has been provided this remains unsubstantiated. Nonetheless, it reinforces the comments in the Environmental section of this report that additional survey work should be undertaken for each proposed dwelling envelope site.
- 152. For area D, it should be two lots to facilitate for the two existing dwellings and area F also provides for the existing dwelling. The only disclaimer to this is that Council would need to be confident that the dwellings can handle waste water appropriately and the bushfire risk can be managed.
- 153. Area E at 33 hectares should be zoned RCZ4 and there appears to be sufficient constraint free area to develop a single dwelling. Area I should be kept at one lot with

an area of 31 hectares and zoned RCZ4. Areas A, B and G cannot be developed and should be consolidated into an existing adjoining allotment.

6.3. Other considerations

Development engineering

154. Until such time as Melbourne Water contemplate each dwelling area/ building envelope in more detail, Council's engineers reserve judgement on the ability to access and service each potential lot. There are no immediate or obvious concerns except to say that similar to the comments provided by statutory planning, the challenges that have been illustrated by VCAT decisions indicate that Melbourne Water should have a duty of care to ensure that any future owners of land, should disposal occur, are provided with a significant level of certainty about any built form outcomes. Again – this goes to the core of responsible government and considering the outcomes against policy objectives.

Future trail alignments

155. There are opportunities for future public trail alignments that have not yet been appropriately explored with Council.
156. We would welcome the opportunity to have a working session with Melbourne Water to contemplate some preliminary alignments and the best method of reserving those opportunities (not indefinitely).
157. Council cannot acquire additional land in Christmas Hills at market rate i.e. rural residential values. Despite this, Council would welcome the opportunity to explore the State Government exemptions that might allow Council to acquire land or easements at no cost or significantly reduced rates for future trails (a community objective).
158. Council argue that the chance to secure such opportunities is now while land remains in Government ownership.
159. Council suggest that it would be unfortunate and needlessly expensive to a) close the door currently on using State Government land for trails purposes and b) to require Council and the State to possibly need to fund and re-acquire future trail alignments or easements at higher rates (dollars) back from private owners.

CFA Response

160. Council officers remain concerned that the CFA may not have provided formal feedback into the options yet or if so, they have not been provided to Council or stakeholders.
161. Council encourages MW to seek this feedback and share this with key stakeholders as a matter of priority as it may provide critical for some sites and/ or precincts.

7. Conclusions and recommended position or actions required of Melbourne Water in response to the ODR

162. Overall, Council continues to welcome the opportunity to be involved in the preparation of the emerging master plan for the Christmas Hills area. The ODR presents a number of complex opportunities and challenges, many of which are recognised by Melbourne Water.
163. Council will become the future custodian of any planning framework that is created for the area as the RA who will receive and determine future planning permit applications.
164. Council wants to ensure that the proposed planning framework is based on the best possible strategic outcome within the green wedge.
165. Having considered the ODR, Council is concerned that the current approach for Christmas Hills has not been fully considered and evidenced against the intent and purpose of green wedge policy and its various objectives, strategies and policies – as set out in Plan Melbourne, the State Planning Policy Framework (the SPPF) of the Victorian Planning Provisions and other State policies.
166. Further, the State Government's own land policies and guidelines referenced herein, indicate that a holistic longer term approach should be adopted when considering the use and disposal of Government land.
167. Land can only be sold once by the State Government.
168. It is emphasised that Council has the ambition of becoming Australia's most liveable shire. The Council Plan supports the notion of 'Living in the landscape' – which, using the words of the Council Plan (pages12-13) is:
- 'Council's way of articulating that the Shire of Nillumbik is not just about the Green Wedge and the Natural Environment but also the people who live in it'.*
169. It continues by saying:
- The natural environment and the protection of the Green Wedge is very important to this Council – it's what contributes to our lifestyle and makes Nillumbik a great place to live and raise a family. At the same time, we also recognise that the people who live in the Green Wedge are just as important. That's why our Council Plan goals detail engaged, connected communities and active, creative people living in safe and healthy environments.*
170. All of these higher level objectives were relevant to the consideration of the ODR.
171. As a State Government authority, Melbourne Water has a unique opportunity to put the existing lot pattern to one side and contemplate the overall fabric of the green wedge into the future and how the 1000 hectares can support the delivery of higher order policy outcomes for the Green Wedge.
172. At present, Council and its officers feel that the proposed outcomes shown in the ODR is not sufficiently justified by evidence or examination against policy. Residential

outcomes are not the priority set out in any of the green wedge zones. Accordingly – we would expect Melbourne Water’s response to reflect the State’s policy ambitions for the Green Wedge – even if that is to justify why particular options have been discounted through an evidenced based approach.

173. It is accepted that the options presented by the ODR remain that – options. For this reason, the comments included herein are based on what has been put forward to date. The options have been justified by looking at residential land capability – however – the capability of the land to meet green wedge policy has been given limited consideration.
174. The community feedback provided during the 22nd and 23rd May 2018 sessions generally echoes many of the concerns set out herein – notably lack of justification for the final outcome; appropriateness of land to accommodate dwellings; ability to preserve agricultural use of land and other businesses and questions of the appropriate zone(s) being contemplated.
175. It is recommended that Melbourne Water:
- Consider the feedback provided herein and undertake appropriate additional work to consider:
 - The agricultural use of land alongside Victoria’s emerging food production need; emerging farming technologies etc.
 - In conjunction with the above, undertake an economic assessment of the proposed outcomes against the capacity of land to be used for rural purposes, such as agriculture and other rural businesses
 - Consider the site specific issues in more detail where proposed dwellings are being contemplated – including additional environmental survey and development engineering assessment. This should, in specific areas also consider the landscape and visual impact of any future dwellings (as proposed) that would build on previous landscape assessment work.
 - Demonstrate robust consideration and evaluation of all relevant State Government Policy, notably all relevant Victorian Government land policies and guidelines relating to the use and sale of land.
 - Related to the above, demonstrate what efforts have been made to retain existing agricultural and rural businesses, including exploration of possible exemptions (within Victorian Government land policy and guidelines) to enable current tenants and businesses to remain in operation. This is an important vitality and diversity issue for this Council in terms of green wedge outcomes.
 - Ensure or confirm that cross-government department discussions are held about the appropriateness or otherwise of the proposed outcomes against Green Wedge Policy. Subject to the further research that is required - a working session with various parties may be considered appropriate. Council should be a party to such discussions.
 - Ensure that CFA feedback is provided to all relevant stakeholders as a priority.
 - Arrange a meeting with Council’s statutory planning officers to discuss the comments contained herein once all feedback has been collated.
 - Arrange a working session with Council to discuss opportunities to preserve future trail alignments through the precinct before land is divested into private ownership.

- Provide clear feedback on the community consultation to the community and then undertake meaningful further options refinement with the community to demonstrate a truly collaborative approach.
176. Council trusts that this assessment and recommendations are received in good faith given our role in terms of administering the planning framework that will eventuate at Christmas Hills and to represent the community.
177. We look forward to continuing the positive relationship we have had with Melbourne Water on this project so far.

DRAFT