

# PEGZ RURAL ZONES AUDIT

BAW BAW SHIRE

**DRAFT**

## Acknowledgements

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### Acknowledgment

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We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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# 1. Summary of findings

This file audit is intended to form part of the strategic justification for C139bawb, the Planning in the Economic Growth Zone (PEGZ) – Planning Scheme Amendment for Baw Baw Shire by providing an evidence base for proposed threshold variations. The audit presents recommendations based on permit triggers considered low value by Baw Baw Shire Council and consistent with advice provided by consultant planners engaged through the PEGZ project. The Planning and Building Approvals Process Review 'Discussion Paper' by the Commissioner for Better Regulation reinforces this approach under recommendation B6 of the permit approval process to stream applications according to risk.

This planning permit file audit focusses on applications which triggered buildings and works in the rural zones of Baw Baw Shire with quantitative analysis and qualitative judgment to identify where the processing of a planning application was not corresponding to a planning objective or adding value to the development process.

The audit addressed three distinct sets of triggers:

- Building size triggers in the Farming Zone, Rural Activity Zone and the Rural Living Zone.
- Building setback triggers in the Farming Zone and Rural Activity Zone
- Earthworks in the Farming Zone.

## Building size triggers

Building floor area did not appear to bear any correlation to a planning officers decision. Sheds were the subject of most rural buildings and works applications. Whether termed as an outbuilding associated with the dwelling or an agricultural outbuilding, they were generally proposed to be used for the storage of machinery.

Consideration of buildings and works in excess of 100m<sup>2</sup> focussed primarily on appearance, particularly the colour palate. Conditions were standardised and generally did not include secondary consents.

An updated schedule to exempt buildings and works associated with a dwelling of up to 200m<sup>2</sup> would be unlikely to have a significant impact on land use beyond those already facilitated by the current controls.

## Building setback triggers

A building which was captured by a setback was generally considered for its appearance and visual impact on the amenity of adjoining properties. There was no substantive change in officer assessment between the different setback triggers or the distances proposed where a building was over five metres from a boundary.

Setbacks triggered most applications for buildings and works in the Farming and Rural Activity Zones between 1/01/2018 and 1/01/2019. Long prescriptive distances and vague or no policy positions create applications adding little value to the development process. Conditions and reports were standardised through repetition.

An updated schedule to exempt buildings and works located over 5m from a property boundary, 15m from council roads and 50m from a Road Zone Category 1 would be unlikely to have an impact on land use beyond those already facilitated by the current controls.

## Earthworks

There were no instances during the review period where earthworks independently triggered a planning permit. Officers reports made comment on earthworks with respect to building footprint or site cut/fill. The trigger was not observed to be a specific consideration and no technical information was evident in the decisions.

The earthworks schedule could be rationalised to none-specified and rely on existing flood and environmental management overlays to determine where these triggers are appropriately activated.

## Background

### Planning in the Economic Growth Zone

From the Premier's declaration of an Economic Growth Zone. The 'Planning in the Economic Growth Zone' initiative comprises a series of projects in connection with governance, statutory planning and strategic planning. A scoping study was completed by Urban and Regional Planning Solutions to inform the strategic components of the PEGZ project.

This project has the imperative to support economic development through a simpler, more consistent, and less cumbersome planning system in the region. It is targeted at making the Wellington, Latrobe, and Baw Baw Planning Schemes more efficient by ensuring that permit assessment processes add value to the development process, and fast track or exempt matters that needlessly soak councils' resources.

The Latrobe Valley Planning Schemes Review Report (Mesh, November 2018) identified the earthworks trigger as "*problematic for interpretation and planning compliance*" recommending that council nominate a threshold under which a planning permit would not be required.

The Baw Baw and Latrobe Zones and Overlay Schedules Review (Glossop Town Planning) identified the opportunity to vary triggers in the schedule to the Farming, Rural Activity and Rural Living Zones (Rural Zones) specifically by conducting file audits to determine appropriate schedule changes for:

- Extensions and outbuildings associated with a dwelling in the Farming, Rural Activity and Rural Living Zones.
- The appropriate setback of buildings from the Road Zone Category 1.
- The trigger for earthworks.

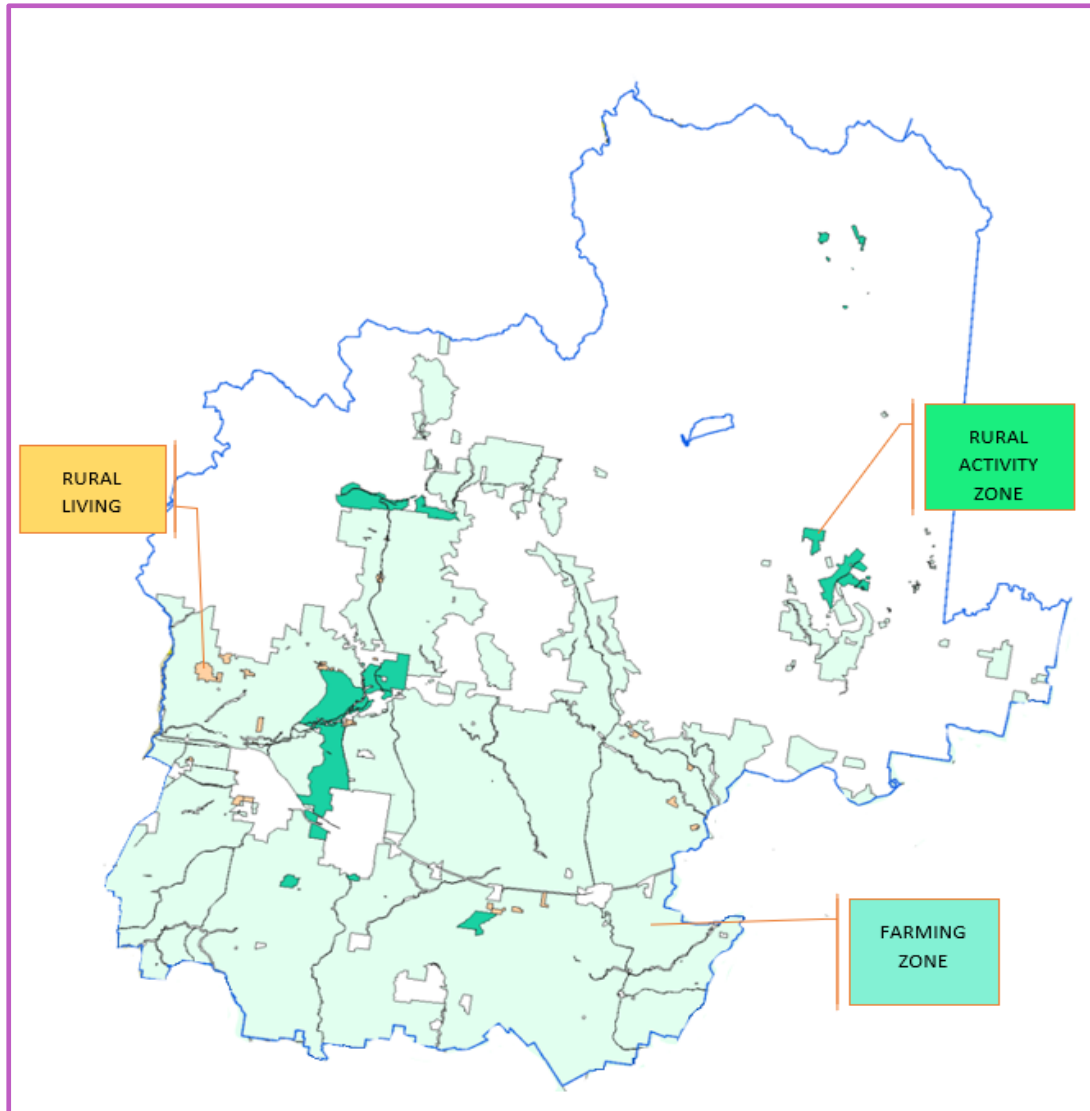
The file audit was expanded to capture information on:

- The setback of buildings from the Road Zone Category 2.
- The setback of buildings from other roads.
- The setback of buildings from boundaries

The audit of planning permit files was to identify the level of consideration given to these triggers, what was considered, and to what extent conditions on the permit responded the trigger with the overarching purpose of identifying opportunities for streamlining processes based on risk.

### Buildings and works triggers in Rural Zones

The Farming Zone is the largest planning control by area affecting privately owned land in Baw Baw Shire. The other Rural Zones affect only small isolated pockets as illustrated below.



In March 2002 then Minister for Planning appointed a reference group to analyse specific issues and provide advice about improvements to the existing rural zones in Victorian Planning Schemes. The review informed the implementation of the Farming Zone and the Rural Activity Zone and of significance changed most of the prescribed setbacks from the head clause of the former Rural Zone (9 July 1998) into variable setbacks contained in a schedule to a new Farming Zone and Rural Activity Zone.

The Farming Zone retained the prescribed setback of 100m to a waterway and a reduced the setback from the Road Zone 1 within the head provision to 50m. A suite of exemptions for the construction of outbuildings associated with Section 2 dwellings and alterations or extensions to agricultural buildings were also introduced with the new zones. As with setbacks the ability to increase the threshold was facilitate by using the schedule. These exemptions were further amended by VC103 (5 September 2013) to double the floor area threshold for each trigger in the header provision. The schedules were not altered by VC103.

## **VicSmart**

VicSmart is a streamlined assessment process for straightforward planning permit applications. Classes of application are identified in the planning scheme as being VicSmart and have specified requirements for information, assessment processes and decision guidelines. The VicSmart planning provisions were introduced into the Victoria Planning Provisions and all planning schemes on 19 September 2014 by Amendment VC114, and were then extended in March 2017 by Amendment VC135, and again in July 2017 by Amendment VC137

Key features of VicSmart which have relevance to this audit are:

- A monetary threshold for 'straightforward' planning permit applications;
- Applications are not advertised;
- Information to be submitted with an application and what council can consider is pre-set;
- Decision guidelines are set by the VicSmart Procedure and not the header provision.

In March 2017, Amendment VC135 introduced new VicSmart classes for:

- a range of low impact developments in rural areas (up to \$500,000 in agricultural settings and \$250,000 in more sensitive rural settings)
- small scale types of buildings and works in selected overlays

For the purpose of this audit – VicSmart is significant for the following reasons:

- It defines what is considered a small scale or straightforward application;
- It removes third party review; and
- It narrows consideration to specific matters.

## Methodology

This planning permit file audit involved desktop assessment at Baw Baw Shire Council Offices to identify and extract information relevant to the targeted triggers. Annual reports over three years of planning permit activity were produced using a function of Councils workflow software TechOne.

The applications decided between 1/1/2018 and 1/1/2019 represented a reasonable cross-section and spread of decisions in the Farming, Rural Activity and Rural Living Zones at Baw Baw Shire and were selected as the primary source for this audit. Those decisions made during 2018 could be further queried and explained where necessary by the Baw Baw planning officers.

Of the 440 decisions made between 1/1/2018 and 1/1/2019:

- 114 decisions were made on buildings and works applications in the Rural Zones (approximately 25% of all applications considered).
- Applications which had been withdrawn or not determined were excluded from consideration.
- The sample was filtered to analyse only those permits which included a 'buildings and works' component relevant to this audit and the reports of the delegate officers were considered.
- 76 planning permits considered triggers under Clause 35.07-4 relevant to the audit and contained enough information to be assessed.
- Each officer report was read through and the planning maps cross checked to overcome limitations in councils operating system.
- VicRoads was consulted on permit triggers which reference a Road Zone.
- Melbourne Water were consulted on the earthworks triggers in the farming zone which referenced salinity and flows.

The analysis drew conclusions on what threshold above which the outcomes changed (i.e. permits start to be refused, objections were received, or conditions become more onerous). This resulting value was considered an appropriate threshold to require control over applications.

Where a consistent approach was not observed in the officer decisions an average of the determinations was taken to educate a generally appropriate threshold for the Baw Baw context using the qualitative assessments of the officer report and discussion to guide.

Table 1 details the scope of the audit in association with each permit trigger being assessed. The tested figures represent the thresholds that are under scrutiny. Information being collected is intended to facilitate analysis of trends and an interpretation of the information.

**TABLE 1 – Audited triggers**

Council	Clause	Permit	Tested figure	Source of recommendation	
BBSC	35.03 Rural Living Zone	Buildings and works –		SPECTRUM	
		Dwelling	100m2		
		extension / outbuilding	100m2		
		Agriculture	200m2 (Agriculture)		
BBSC	35.07 Farming Zone	Buildings and works –		SPECTRUM	
		Dwelling	100m2		
		extension / outbuilding	100m2		
			Agriculture	200m2	
			Earthworks		GLOSSOP
			Change to flows	All areas	PEGZ
		Change to saline	All areas		
		Buildings and works-setbacks	Various thresholds	GLOSSOP	
				PEGZ	
BBSC	35.08 Rural Activity Zone	Buildings and works-setbacks	Various thresholds	GLOSSOP	
				PEGZ	
		Buildings and works – extension/outbuilding size	100m2 200m2	SPECTRUM	



## RESULTS

A planning permit is triggered under Clauses 35.03-4 RLZ, 35.07-4 FZ and 35.08-4 RAZ for *A building or works associated with a use in Section 2 of that clause.*

The file audit collected data on all buildings and works associated with a use in Section 2 or triggered only by the setback threshold in the aforementioned zones. The information being collected by the audit did not need to have regard to the variation in uses requiring a permit for each zone.

Low value or straightforward applications are identified in the VicSmart table to Buildings and Works of each zone. Buildings and works triggered in association with a section 2 use are considered low value if they are not used for Domestic animal husbandry, Pig farm, Poultry farm, Poultry hatchery, Racing dog husbandry or Rural industry or within 30 metres of land (not a road) which is in a residential zone and have a value of less than \$250,000 in the Rural Living Zone and less than \$500, 000 in the Farming and Rural Activity Zones.

The audit identified:

- Buildings and works which were associated with a section 2 use in Rural Zones made up approximately 42% of the audit sample and approximately 5% of the total planning determinations in 2018.
- Of these applications most are associated with an existing or new dwelling on small rural allotments.
- No application was made for agricultural building on a vacant rural allotment associated with a Section 2 use.
- The average value of works for a permit application was \$164,219. It is considered that this number is inflated by the number of dwelling applications which appeared in the sample.
- By removing all dwellings and one outlier the average cost of works drops to \$34,734.
- The median value for all works was \$33,650 and \$23,052 where dwellings were excluded.

This does not apply to: –

An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than the area specified in a schedule to this zone or, if no area is specified, 100 square metres. Any area specified must be more than 100 square metres.

Extensions to existing dwellings were triggered less frequently than new dwelling applications. Extensions tended to be single storey and trigger permits based on the cumulative floor area of multiple minor works (veranda, deck and additions) rather than substantial increases in the overall mass of the building. Despite the relatively low sample size, there was little scrutiny of extensions to existing dwellings.

The audit identified:

- Five applications from the sample which included an extension to a dwelling which exceeded 100m2 triggering under this provision.
- Eight applications involving extensions to a dwelling in a Rural Zone (approx. 1.9% of all applications in 2018).

- Two applications which solely concerned the extension of a dwelling in a Rural Zone as the only trigger. Between 1/1/2018 and 1/1/2019.
- A single decision was made solely on this permit trigger and considered colours, materials and the location of waste disposal.
- The other seven extension applications which were identified were triggered by setback provisions.
- The primary considerations were the materials and colours of the exterior being dull and muted, and the compliance of the proposal with EPA requirements for waste water.

### Recommendation

The exemption for a dwelling extension in the Farming, Rural Activity and Rural Living Zones could reasonably be increased to 150m<sup>2</sup>.

An out-building associated with an existing dwelling provided the floor area of the out-building is not more than the area specified in a schedule to this zone or, if no area is specified, 100 square metres. Any area specified must be more than 100 square metres.

Outbuildings ranged in style and size but were predominantly between 4.5 and 5.5m high with hipped and gable roofing. Sizes generally started at 9m wide and 12m long with smaller examples often being described as carports and garages in application materials. Outbuildings associated with a dwelling and the term 'machinery shed' associated with agriculture were indistinguishable within the context that they were being used. There may be nuanced differences in the content of the storage (whether camper trailer or feed trailer, agricultural bikes or recreational bikes), however the officers reports or application materials generally did not delve into this level of detail.

The audit identified:

- Outbuildings made up 73% of the sample with 35% being outbuildings associated with a dwelling on the land and over 100m<sup>2</sup>.
- The average size of an outbuilding associated with a Section 2 dwelling was 246m<sup>2</sup>.
  - > The average size of an outbuilding triggered by any provision of the farming zone was 235m<sup>2</sup>.
- 45% of applications triggered under this provision used the VicSmart process.
- 11% of outbuildings were notified under section 52 of the *Planning and Environment Act 1987*.
- There was little evidence that the floor area of a shed was a significant factor in the consideration of planning decision. There were five applications triggered under this provision over 300m<sup>2</sup>, the smallest at 350m<sup>2</sup> and the largest at 1008m<sup>2</sup>.
- Three sheds were associated with a dwelling a Rural Living Zone and the largest was determined through a VicSmart process. There was no significant difference in the number or complexity of assessment or conditions issued on these permits.
- Detailed analysis was generally limited to the perceived visual impact to adjoining landowners.
- Siting amongst like structures or behind intervening vegetation was given significant weight in the context of the assessment reports.

- The assessment of outbuildings associated with dwellings and those associated with agriculture were generally indistinguishable. The term 'machinery shed' describing a building used to store 'tractors, cars, trailers etc' was the most frequently used term for both types of associated uses.
- Formal requests for further information were rarely noted amongst applications. Conditional plans were equally rare.
- Five conditions were applied on average to these proposals.
- Based on the pattern of assessment and discretion used;
  - The size of outbuildings associated with a dwelling had no significant relationship to a more intensive assessment up to 280m<sup>2</sup> in floor area.
  - The size of outbuildings associated with a dwelling had no significant relationship to more intensive or numerous conditions up to 350m<sup>2</sup> in floor area.
- Sheds of any size were conditioned or critically assessed for reflective materials, colours and appearance.

### Recommendations

The exemption for outbuildings in the Farming, Rural Activity and Rural Living Zone could reasonably be increased to 200m<sup>2</sup>.

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An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is not more than the area specified in a schedule to this zone or, if no area is specified, 200 square metres. Any area specified must be more than 200 square metres. The building must not be used to keep, board, breed or train animals.

The audit identified:

- There were no applications in the sample to alter or extend existing agricultural buildings associated with a Section 2 use.
- New agricultural buildings were commonly triggered by the scheduled setbacks. Many of these were located amongst clusters of similar buildings or abutting existing sheds.

### Recommendations

Retain the existing permit threshold.

A building which is within any of the following setbacks:

Of the audited 76 files, 53 or (70%) were triggered by the setback provisions of the Farming Zone and its schedule. Many of the setback provisions which populate the schedule to the Farming Zone appear to have come from the header provision of the former rural zone.

The translation of these setbacks from header to schedule facilitates their variation however few councils in Victoria appear to have attempted this. Buildings and works solely triggered by setbacks will generally be assessed under the VicSmart provisions with the specific exceptions listed in the VicSmart table to Clause 35.03, 35.07 and 35.08.

The setback from a Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1 specified in a schedule to this zone or, if no setback is specified, 50 metres.

Schedule 1 to the Farming Zone in the Baw Baw Planning Scheme specifies a setback of 100m from a Road Zone Category 1.

Schedule 1 to the Rural Activity Zone specifies a setback of 100m from a Road Zone Category 1.

The Zones and Overlay Schedules Review 2019 (Glossop Town Planning) identified the scheduled setback of 100m from a Road Zone Category 1 as a trigger which was not adding value through the planning process. The review recommended a file audit and consultation with the relevant road authority to determine whether the scheduled setback could be reduced to the standard set by head provision. The Department of Transport was consulted on this proposal and did not support variation to this provision at this stage, however a variation to this control was not out of question. It would need more time and specifics to review the issues before it could give a position.

The audit identified:

- This provision accounted for 28% of all planning permits triggered under the setback provisions of the Farming Zone.
- Officer's assessment of this trigger is conducted under decision guidelines of the Farming Zone for siting.
- The considerations are predominantly what the impact of the building is on the views (if any) obtained from that road.
- Three examples were identified where an officer would refer the application to the road's authority under Clause 52D. The responses observed were predominantly "no comment – no objection."
- No guidelines have been prepared or issued instructing or directing the attention of the responsible authority in assessing the interests of a Road Authority.
- The average setback permitted across all applications was 59m with a median of 54m from a Road Zone Category 1.
- There was no correlation observed between the permit trigger and the conditions which were applied to permits issued.

## Recommendation

It is recommended that Council maintain a register of applications triggered under this provision and record any response from the roads authority to form a basis for inclusion in a subsequent planning scheme review.

Schedule 1 to the Farming Zone in the Baw Baw Planning Scheme specifies a setback of 40m from a Road Zone Category 2.

There is a single stretch of RDZ2 road in the shire (Queen St, Warragul) and a small stretch of RDZ2 (Moe South Road) within the Latrobe local government area that abuts and affects five properties within Baw Baw Shire. No relevant planning permits had been identified on any of the abutting properties.

Regional Roads Victoria were consulted during this process and expressed no concern with the variation of any permit triggers in proximity to the RDZ2.

A concurrent audit of planning permit files at Latrobe City Council identified minimal activation of the planning trigger and with minimal concern regarding reduced road setbacks provided access was provided to local standards.

The audit identified:

- The Baw Baw Planning Scheme did not trigger a planning permit under this provision between 2018 and 2019.
- Officer reports considered the trigger in relation to appearance and impact of buildings on views from the road.
- Consideration of the road itself was limited to access arrangements and land use as distinct from the trigger association with a 'building.'



- Variation of this scheduled setback is dependent on the position of Latrobe City Council for a Road Zone Category 2 within its administrative area.

## Recommendations

The permit threshold of 40m noted in the Farming Zone schedule for Road Zone Category 2 (RDZ2) be deleted and replaced with 'none specified.'

Latrobe City Council be notified during exhibition of the proposed change

Schedule 1 to the Farming Zone and Rural Activity Zone in the Baw Baw Planning Scheme specifies a setback of 20m from any other road.

Buildings which were triggered under this provision were generally considered for their appearance and potential impact on views obtainable from the road. Existing vegetation between the road and a proposed building appeared to give weight to an officer's recommendation.

The audit identified:

- Between 2018 and 2019 this provision accounted for 33% of buildings and works applications in rural areas. Courtesy consideration was given to this planning permit trigger.
- The average permitted setback from a local road was 13.4m.
- Generally, the officer used their own judgement as to whether a building would be considered to affect a view from the road or be a road safety hazard. Internal referrals to engineering or other parties were not recorded in the officers reports.
- Conditions applied to permits did not appear to have a nexus to a reduced setback.
- Discussion in the officers reports predominantly focussed on potential views to be gained from the road and whether the structure was likely to interfere with them.
- Only one example was identified where the proposed setback was varied by a condition of the assessing officer. This proposal sited a large agricultural shed within 1 metre of the road reserve involving substantial site cut to establish access. The building was conditionally setback and repositioned from the boundary to facilitate a better access point and minimise earthworks.
- Council officers have advised that a reduction from 20m to 15m minimum setback from 'any other road' is acceptable.

## Recommendation

The permit threshold of 20m in the schedule to the Farming Zone and Rural Activity Zone be deleted and replaced with 15m.

Schedule 1 of the Farming Zone and Rural Activity Zone in the Baw Baw Planning Scheme Specifies a setback of 5m from any property boundary:

Applications triggered under this provision were critically assessed for their impact on adjoining properties. The level of assessment and detail observed was markedly higher under this permit trigger. An application

was more likely to be notified in response impacts perceived under this provision than the control which annulled VicSmart.

The audit Identified:

- Approximately 14% of the sample triggered a permit for being within 5m of a property boundary.
- The trigger is non-discretionary with respect to ownership of title so being within 5m of a tenement would still trigger a planning permit.
- There were no examples of this planning permit trigger in isolation.
- Of the 11 applications assessed, six were notionally 4.99 metres from a boundary. Only two applications were given permission to further reduce this setback. Three were conditionally forced back to 4.99 from a proposed reduction.
- The number of conditions appeared to increase dramatically (40-50%) where buildings were proposed within the notional 5m setback.
- Buildings within 5m of a property boundary were critically considered and the 5m setback was effectively retained in most circumstances.

### Recommendation

Retain the 5m setback from any other boundary specified in the schedule to the Farming Zone and Rural Activity Zone.

Schedule 1 to the Farming Zone and Rural Activity Zone in the Baw Baw Shire Planning Scheme specifies a setback of 100m from a dwelling which is not in the same ownership.

Applications triggered under this provision were assessed with a targeted consideration of their impact on the amenity of the nearby residence. Views were a specific consideration and if the application was not deemed to be VicSmart, they were more likely to be notified.

The audit identified:

- 56% of the rural buildings and works were triggered by this provision.
- 27% of applications triggered under this provision were notified.
- 50% of applications were VicSmart applications.
- The average setback from other dwellings was 74m.
- The median setback from other dwellings was 90m with a range of 1m to 100m.
- There was no appreciable correlation between the size of works being proposed, the distance from another dwelling or other triggers under the farming zone in the officer determining to notify an adjoining property.
- Objections (where made) were often not directly related to the permit trigger but used as vehicles for other issues.
- Agricultural buildings and outbuildings were assessed more critically when triggered than other dwellings.
- Due to the variance in decisions and a balancing of multiple different issues in each case where this trigger was activated, a clear conclusion could not be reached. Substantial weight was applied to the visibility of a building in determining a decision.

## Recommendation

Retain the existing 100m setback applying to all land in the Farming Zone and Rural Activity Zone.

A building which is within 100 metres from a waterway, wetlands or designated flood plain.

This trigger was recorded in response to request from Baw Baw Shire Planners concerns that it added little to no value to their processes. Applications were observed to consider waste water areas and including internal referrals regarding effluent and advice on requirements under the *Environmental Protection Act 1970*. No landscape plans or revegetation conditions were identified in any permit audited subject to this trigger.

The audit identified:

- 21% of rural buildings and works applications in 2018 were triggered under this provision with an average approved setback from a waterway of 82m and a range of 30m-100m.
- Applications triggered under this setback were internally referred to the environmental health team.
- Standard permit conditions requiring waste disposal to the requirements of the Environmental Protection Act 1970 are generally applied. This referral response was observed regardless of the habitability of the works proposed.

## Recommendations

This trigger cannot be varied through C139bawb as it is contained in the head clause.



Earthworks which is specified in Schedule 1 as follows and applies to all land in the Farming Zone.

- > Change the rate of flow or the discharge point of water across a property boundary
- > Earthworks which increase the discharge of saline groundwater.

Earthworks is defined in Clause 73.01 as:

*“Land forming, laser grading, levee banks, raised access roads and tracks, building pads, storage embankments, channel banks and drain banks and associated structures”*

Auditing of this trigger was identified in the Zones and Overlays Schedules Review 2019 (Glossop Town Planning). It was initially suggested that a one metre threshold be introduced to provide a finite and certain trigger through which earthworks could be considered. Council officers identified that scrutiny of this trigger was minimal and did not in and of itself trigger a planning permit.

The audit identified:

- Applicants tended to provide a definitive statement to the effect that the trigger was not relevant or did not recognise the trigger at all. Planners adopted the statement or provided their own assessment.
- Planning officer reports did not attach conditions responding to this trigger or described as responding to this trigger.
- Planning officers’ reports made note of earthworks occurring ancillary to other works but did not address them or list them as a specific planning trigger,
- Three reports (approximately 4% of all buildings and works applications in the Farming Zone) identified the occurrence of earthworks associated with a proposal.
- Internal referral conditions responding to water collection from hard surfaces provided the option to divert to a dam potentially conflicting with the requirements of the planning scheme.
- There was no apparent baseline data from which Planning Officers or applicants were presenting to determine the relevance of the salinity trigger.

#### Further research

The triggering of earthworks annuls the use of VicSmart and is problematic in the technical expertise needed to prove activation or non-activation of the permit trigger. This either forces an uninformed decision or alternatively causes unnecessary delay, expense and third-party review for many low-value works such as those being triggered in Baw Baw. There is no description of intent which justifies this scheduled trigger and it is considered that there are more appropriate tools in the VPP and applied to specific areas in Baw Baw to address land management issues such as the:

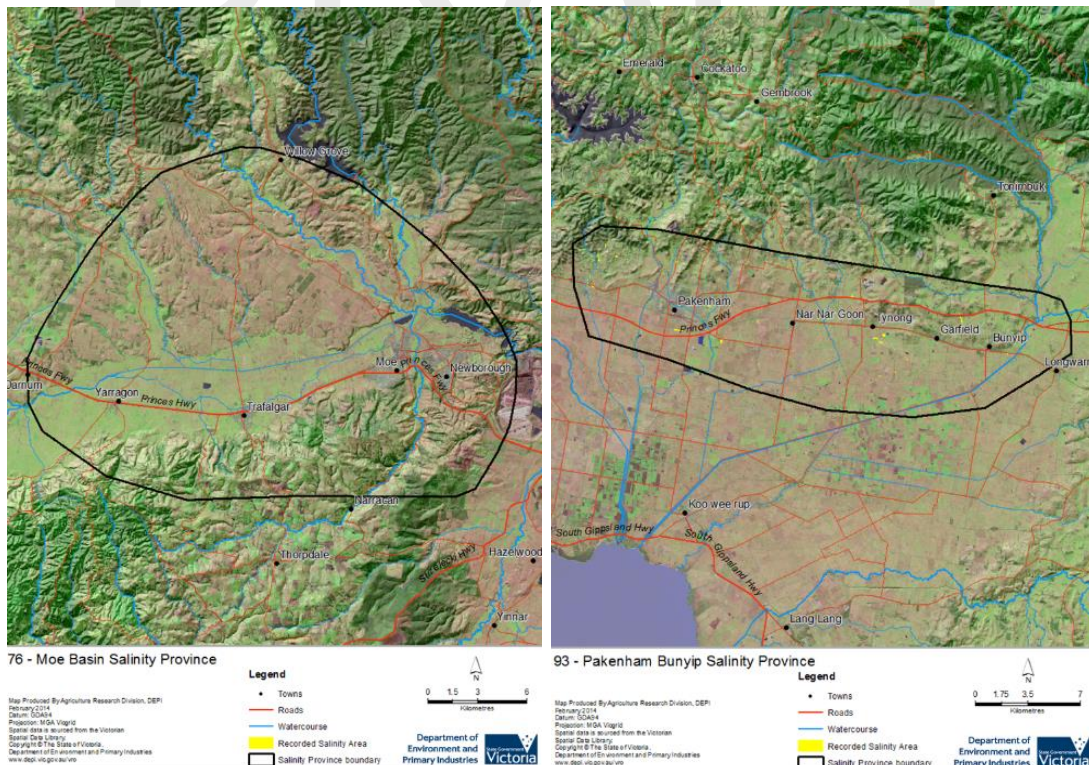
- Environmental Management Overlay
- Land Subject to Inundation Overlay
- Flood Overlay
- Salinity Management Overlay

*Earthworks which change the rate of flow or the discharge point of water across a property boundary.*

- The trigger does not narrow the scope to suggest a threshold for the trigger, nor is it specified that the trigger was introduced with any intent to mitigate a planning issue.
- There is no corporate knowledge available at Baw Baw shire to direct or guide consideration of the earthworks trigger and there is no associated policy to guide a planner's discretion.
- Applicants tended to provide a definitive statement to the effect that the trigger was not relevant or did not recognise the trigger at all. Planners adopted the statement or provided their own assessment.
- Planning officer reports did not contain conditions responsive to this trigger and reported that technical assistance in understanding or applying the trigger was unavailable.
- Melbourne Water have mapped and monitored specific areas requiring management over the rate of flow and discharge of flood waters. These are currently mapped in Baw Baw as the Urban Floodway Zone (UFZ), Flood Overlay (FO) and Land Subject to Inundation Overlay (LSIO).
- The FO and LSIO schedules are proposed to include a 150mm trigger for earthworks as part of this amendment. It is considered that the interest area for this trigger is being mitigated by these controls.

*Earthworks which increase the discharge of saline groundwater.*

- Two Salinity Provinces previously mapped as having, or showing symptoms of, dryland soil salinity at some time (past or present).



- While the above salinity provinces have been identified it is not considered that the Farming Zone trigger is the correct tool to retain for the purpose of mitigating salinity in these provinces.

- There is no corporate knowledge available at Baw Baw shire to direct or guide consideration of the earthworks trigger and there is no associated policy in the Baw Baw Planning Scheme to guide officer discretion.
- There were no technical studies or reports accompanying any of the applications reviewed. *Salinity Information Kit: Volume 1 - A Local Government Planning Guide for Dryland Salinity* (Department of Conservation and Natural Resources, 1995) notes at the top of page 11 “*the assessment of high recharge areas for their potential to contribute to salinity problem either on or off site requires certain training. Similarly, the assessment of discharge areas and the potential for further salinity problems due to high water tables should also be undertaken by a suitably qualified and experienced person.*”
- There were no ameliorative conditions applied to any of the permits reviewed.
- The Victoria Planning Provisions contain appropriate overlays have been applied across areas of the shire as appropriate to the environmental issue. There is no known report or study which justifies salinity warranting such a wide area of control.

## Recommendations

For *Earthworks which change the rate of flow or the discharge point of water across a property boundary* in the Farming Zone - replace the term ‘all areas’ in the schedule with ‘none specified.’

For *Earthworks which increase the discharge of saline groundwater* in the Farming Zone – replace the term ‘in all areas’ in the schedule with ‘none specified’.

Baw Baw Shire should consult with Southern Rural Water on whether there is a need to manage salinity in the two provinces identified with a more appropriately targeted planning tool.