

Project: **Ballarat
North**

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1406062	Coulter Legal	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	Coulter Legal represents the [REDACTED]. Please find attached our submission to Amendment C265ball in relation to the Ballarat North PSP.	https://engage.vic.gov.au/dash/project/1771/submission/survey/1406062/attachment/dxbsb2fkojiwmjutmdkmtzumdu6mtq6ndmundu1wg-0-[REDACTED]-201025-sub-c265.pdf/download	2025-10-20 10:35:57

20 October 2025

[REDACTED]
[REDACTED]
Victorian Planning Authority

Sent via email: [REDACTED]

Dear Noor

SUBMISSION TO AMENDMENT C256BALL - BALLARAT NORTH PRECINCT STRUCTURE PLAN - [REDACTED]

INTRODUCTION

Coulter Legal represents [REDACTED] referred to as [REDACTED], in making this submission to Amendment C265ball ('the amendment') to the Ballarat Planning Scheme.

Our client maintains a strong interest in the property and the planned outcomes of the PSP. As such, while [REDACTED] generally supports the intent and vision of the Ballarat North Precinct Structure Plan. Our review of the proposed amendment raises a number of matters which warrant further consideration by the VPA. It is our submission that changes are required to the PSP and its associated documents and respectfully request that these be incorporated as part of finalising the PSP and associated amendment documents.

THE SUBJECT SITE

The subject site is located at [REDACTED]. It is also referred to as [REDACTED]. Within the Ballarat North PSP (**BN-PSP**), the subject site is referenced as Parcel 46. and Parcel 49. per the property specific land budget plan (Plan 13).

A description of the subject site is outlined below:

- The [REDACTED] holds two parcels of land at [REDACTED].
- The property has a total area of approximately 50.19ha (Parcel 46. ~25.65ha and Parcel 49. ~24.58ha).
- Parcel 47. and 48. appear to be in public ownership and not controlled by the Trust.
- The subject site has a number of notable features which includes:
 - The Mt Rowan hill rising to an elevation of ~518m.
 - Mid-19th century bluestone buildings considered to hold local heritage significance.
 - A number of large significant trees including remnant indigenous and exotic species.
 - The subject site is currently an operating farm comprising crops, livestock, and horse agistment.
 - A family home and other structure including non-heritage sheds and buildings.

Sims Road is currently a no-through road leading to gates controlled by Ballarat Grammer Mt Rowan Campus immediately south of the subject site.

Figure 1: Extract Plan 13 – Subject Site



Source: Draft BN-PSP – Plan 13 (emphasis added)

Draft Ballarat North PSP - Planned Outcomes

- It is understood that the exhibited PSP envisages residential land uses on the subject site and accommodates a mix of standard or conventional density and medium density in areas considered to have higher amenity based on proximity to future land use outcomes,
- As per the proposed parcel specific land budget, Parcels 46 and 49 have a Net Developable Area (**NDA**) of 19ha and 14.58ha respectively.
- Approximately 15.69ha of the subject site is deemed encumbered land associated with the Mt Rowan Hill (Parcel 46 - 6.15ha and Parcel 49 – 9.54ha). The area of encumbered land matches the area mapped as having cultural heritage sensitivity.
- The subject site has a number of structures and trees which have been identified as having local heritage significance.
- The proposed amendment applies Heritage Overlay Schedule 252 (**HO252**) to the subject site. The Heritage citation prepared by RBA on behalf of the City of Ballarat states that it did not gain access to the property to inspect the heritage features.

Figure 2: Subject Site – Aerial Image



Our submission to the BN-PSP is focused on 4 key areas outlined below and includes:

- Submission A - The extent of land encumbered for landscape values
- Submission B - Implementation of a Heritage Overlay within the site.
- Submission C - Staging and Sequencing
- Submission D – Affordable Housing

SUBMISSION A - LANDSCAPE VALUES AND ENCUMBERED LAND

1. Without seeking to diminish the significance of cultural heritage value associated with Mt Rowan, we submit that development should be considered up to an area that interfaces with the 480m AHD contour with the area of encumbered open space reduced on the eastern and western aspects of Mt Rowan.
2. The ACHS mapping triggers the need for a cultural Heritage Management Plan which is the appropriate process to consider any impacts on cultural heritage values.
3. The PSP inconsistently leaves parts of other properties mapped with the same layer as unencumbered developable areas.
4. The Significant Landscape Overlay should be reshaped to follow the existing extent of the of the area mapped as the Aboriginal Cultural Heritage Sensitivity polygon. This in combination with an appropriately drafted requirement/guideline within the PSP and UGZ application requirements would ensure that future subdivision and development considers and responds to the landscape features of the subject site.

Discussion

The Landscape Values Assessment (LVA) prepared by *Mesh* overstates the level of impact that residential development within and surrounding the subject site would have on the values of landscape values associated with Mt Rowan. As a result, the BN-PSP seeks to exclude all land identified as an Area of Aboriginal Cultural Heritage Sensitivity (ACHS) from the net developable area.

The LVA identifies Mt Rowan as provided internal views and are noted within the report as *'not being of as high significance or as pronounced as the key views'* however should be *'taken into consideration with any future development.'* While the report correctly identifies Mount Rowan as a prominent landscape feature with cultural and visual significance, its conclusions and recommendations do not fully account for the land's physical context and the ability of sensitive, site specific design to mitigate visual change and maintain appropriate internal views.

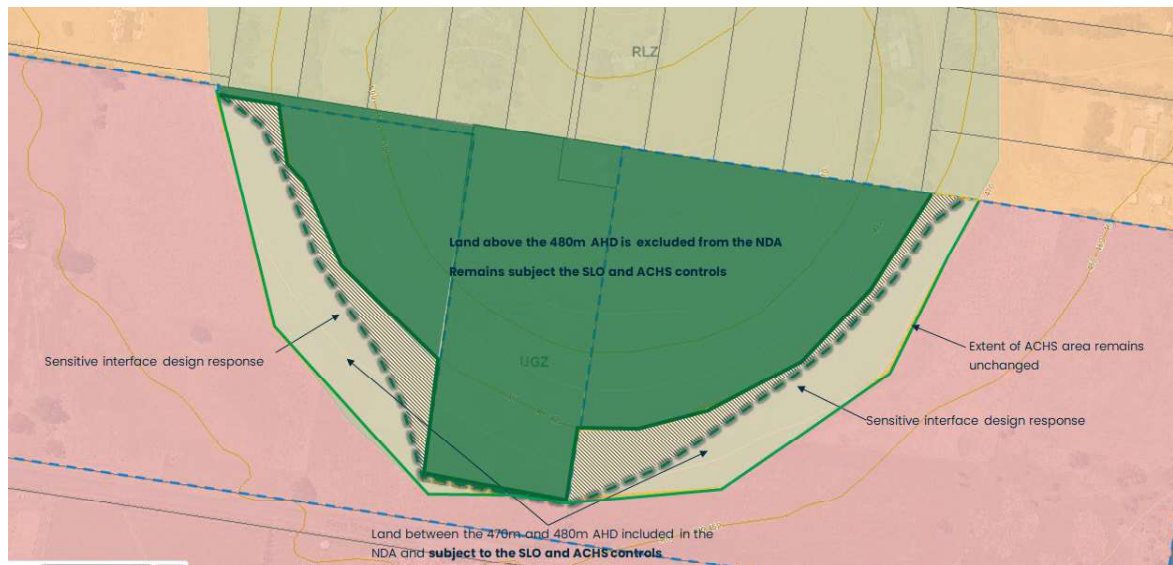
It is submitted that excluding all of the land subject to the ACHS mapping from the NDA is pre-emptive and unnecessary on the basis that the role of the ACHS is to identify areas where a CHMP must be prepared under the Aboriginal Heritage Act 2006.

The BN-PSP should therefore make the following distinctions in relation to how development interfaces with Mt Rowan and addresses the need to consider Aboriginal Cultural Heritage:

- Land between the 460m and 480m AHD contour should be included in the NDA subject to the controls of the SLO and ACHS requirements
- Land above the 480m AHD contour excluded from the NDA and subject to the controls of the SLO and ACHS requirements
- The BN-PSP should include new requirement and guidelines that specify the need for development to provide a sensitive interface treatment having regard to the assessment of development impacts on the landscape values of Mt Rowan including the protection of views.

The diagram below illustrates how this might appear in the mapping.

Figure 3: Changes to encumbered land requirements



It should be noted that this submission does not seek to diminish the cultural significance of Mt Rowan on the basis that the ACHS requirements for a mandatory CHMP remain in place.

We note that applying the 480m AHD contour as the point above which no development should occur is consistent with the stated physical constraints associated with servicing (particularly water supply).

The contours also provide for the site's general balance. The landform rises gradually from the surrounding land, with a gentle slope up to around the 480m AHD before increasing more steeply to the summit at approximately 518m AHD. Because the lower slopes are gradual, the visual relationship between the viewpoint and the upper, steeper section of the hill remains largely unchanged regardless of whether development occurs up to the existing 450m AHD, or extends between the 460m and 480m AHD. In both scenarios, the built form would sit well below the point where the slope begins to steepen, meaning that the upper portion of the hill (which is the most visually prominent) and would remain clearly visible above rooflines.

The gentle gradient in this range allows views to 'carry' over the built form to the more distinctive upper slopes, while allowing for an increase in developable area within the parcel.

Include additional Requirements and Guidelines which seek to maximise the retention of views from the remainder of the PSP area.

The draft Precinct Structure Plan does not provide specific guidance on how significant internal views to landforms such as Mount Rowan should be addressed in subdivision design. Internal views (those experienced from within the development area itself) should be retained as addressed within the Landscape Values report prepared by *Mesh*. Subdivision patterns and road alignments can be utilised to retain and frame sight lines into Mt Rowan from key internal locations, such as the internal view from Gillies Road and those from Sims Road (and further to the south). Orienting primary and secondary street networks and larger corridors (such as boulevards) toward the landform ensuring that obscurement from typical residential development does not progressively seclude views.

Additional Requirements and Guidelines:

REQUIREMENTS	
R#	Development must not encroach on Mt Rowan beyond the area identified for development as shown on Plan X and as reflected in the property specific land budget to the satisfaction of the responsible authority.
R#	Subdivision, engineering, landscape design and buildings and works must provide a sensitive response to current landforms and minimise the need for excavation and cut and fill earthworks.
R#	Earthworks, retaining structures and embankments must be carefully and sensitively designed to transition gradually into natural contours, and retaining walls over 1 metre must be avoided along the street edge.

GUIDELINES	
G#	Street networks should direct views to the summit of Mt Rowan, surrounding hills, waterways and public open spaces.
G#	Significant elements of the landscape and built form should be used as focal points for view lines along streets.
G#	Aboriginal cultural heritage should be recognised through the design of public places, infrastructure and interpretive installations. Opportunity should be explored through cultural heritage interpretation trails along public path networks in areas of known historic cultural history or areas of Aboriginal cultural heritage sensitivity, in consultation with relevant stakeholders.

Additional requirements similar to those used in the Beveridge North West PSP should also be considered as an appropriate way to manage development and built form outcomes around the base of Mt Rowan (refer R5, R6, and G19 in the Beveridge North West PSP).

To address this, the Urban Growth Zone's schedule should be amended to include provisions which encourage subdivision layouts which maintain views to Mt Rowan from surrounding transport corridors. This would provide a clear design objective for developers and ensure that road orientation, block configuration and open space placement are considered in relation to Mount Rowan's location and topography.

A provision such as this would complement an updated Significant Landscape Overlay boundary (as addressed above). While the SLO would manage development impacts on the landform itself, subdivision design controls would manage how the landform is perceived from within the urban area.

SUBMISSION B – HERITAGE OVERLAY & PUBLIC OPEN SPACE

As part of the background work informing the Precinct Structure Plan, a post-contact heritage study was undertaken by RBA, which identified the Chalmers Homestead at 15 Sims Road, Mt Rowan as a place of heritage significance. The study recommended the preparation of a full citation and the application of tree controls to protect a number of mature cypress trees on the site. These recommendations have been incorporated into proposed amendments to the schedule to the Heritage Overlay, with a defined curtilage of approximately 5,900 square metres. The overlay area includes the bluestone structures and a number of cypress trees. However, because RBA did not have access to the site at the time of preparing the Heritage Citation, meaning that that observations were made from the roadside, it is not clear which buildings, structures and trees hold the most value and which have none.

It is submitted that the area covered by HO252 should be reduced on the basis that it inadvertently impacts areas with no apparent heritage conservation value. The image below illustrates a more appropriate area for HO252 to be applied to.

Figure 4: Changes to HO 252 Curtilage



Within the PSP, an area of credited open space is nominated in close proximity to the location of this applied Heritage Overlay. It is not clear from the PSP mapping whether the open space designation is intended to encompass the heritage place itself. If this is the case, it raises practical and planning concerns. It is submitted that the Chalmers Homestead and its curtilage should remain within a developable area, subject to the controls of the Heritage Overlay, rather than being incorporated into open space. The Heritage Overlay provides a clear

statutory mechanism for managing the conservation, alteration, and use of the heritage place, ensuring its values are protected while allowing for appropriate adaptive reuse.

Including the heritage place within a credited open space area would complicate management and tenure arrangements. Public open space is typically vested in council and managed for recreational purposes, which may not align with the conservation needs or potential private ownership of a heritage property. Separating the heritage place from open space designation avoids these conflicts, ensures clarity in responsibility for maintenance, and allows the heritage controls to operate as intended.

SUBMISSION C – STAGING AND SEQUENCING

The proposed staging and sequencing of development in the BN-PSP is considered unnecessary and counter intuitive to the planned outcomes being sought by the PSP.

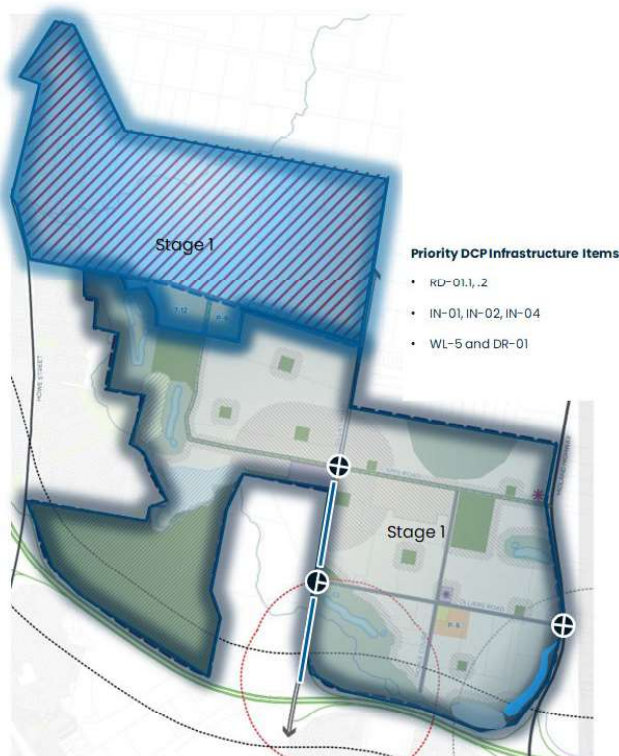
We make this submission on the basis that the orderly and timely development of the PSP is not constrained by the need for State delivered infrastructure that would place a burden on State funding and resources. It is submitted that because the infrastructure items listed in the Precinct Infrastructure Plan require no investment from the State, staging of the precinct is best managed via DCP funded and developer works aimed at progressively upgrading and improving access across the precinct.

The total Net Developable Area of the PSP is a modest 274ha with an estimated yield of approximately 5,200 dwelling. It is submitted that by applying a distinction between stage 1 and 2 as shown on Plan 10, the PSP imposes an artificial and unnecessary restriction on the precinct to develop efficiently.

Applying Stage 2 as currently shown will ultimately have a much greater negative impact on the precinct by slowing the development of residential catchments needed to support the development of the Neighbourhood Activity Centre, schools and community facilities. The delivery timing of these items depend entirely on household formation and population critical mass to either be in place or at the very least to have a sufficient level of planning certainty to generate a feasible outcome. It is submitted that the Staging Plan as presented in Plan 10 ultimately undermines planning certainty and as such will cause a significant delay in the development of the community assets envisioned for the precinct.

Furthermore, we note that while Requirement 27 states that the staging of infrastructure and development must be generally in accordance with Plan 10, Guideline 40 allows for the consideration of out of sequence development. We appreciate that this approach affords a developer an opportunity to seek to deliver an item ahead of the nominal timeframes by agreement with the City of Ballarat; however, there does not appear to be sufficient guidance with respect to how and under what conditions a decision is to be made.

Figure 5: Preferred Staging Plan



Therefore, it is submitted that the area referred to as the PSP Future Residential Structure Plan including the northern P6 and 7-12 Government Schools should form Stage 2 from a staging and sequencing perspective on the basis that the proposed Staging Plan imposes an arbitrary barrier to the delivery of residential development and amenity.

SUBMISSION D – AFFORDABLE HOUSING PROVISIONS

It is submitted that the affordable housing provisions in the PSP are too onerous and unachievable and will lead to poor outcomes and pockets of disadvantage due the isolated nature of development, particularly in the establishment years of the precinct.

It is submitted that Table 5 from the draft PSP should be removed, as its inclusion lacks appropriate strategic justification and does not contribute meaningfully to the planning objectives. Likewise, it is our submission that there should be no requirement in the Schedule to the UGZ to enter into an agreement under Section 173 of the Planning and Environment Act 1987 to deliver the 13% SAH, as this imposes an inflexible and overly onerous obligation on development.

These provisions are inconsistent with how affordable housing policy should be applied in growth areas and risk leading to poor outcomes for future residents, including housing that may not meet long-term needs or quality standards. To support a more balanced and workable approach, the zone's requirements and decision guidelines should be updated so that the provision of SAH is encouraged on a voluntary basis, enabling delivery through collaboration rather than via mandatory requirements that suit neither the developer nor the housing provider.

A voluntary, partnership-based model will better align with strategic objectives, foster innovation in housing delivery, and ensure affordable housing outcomes that genuinely meet the needs of future communities. To achieve genuine community benefit, affordable housing policy in growth areas should be applied flexibly and strategically, fostering collaboration rather than imposing onerous mandates that risk undermining quality and long-term outcomes.

CONCLUSION

We thank you for the opportunity to make the above submission to the draft BN-PSP documents associated with Amendment C265ball. We trust our comments and recommendations assist the VPA in making changes and improvements to the planned outcomes for the PSP.

We reserve our right to make further submissions in response to matters as they unfold and trust that we will be notified of upcoming procedural matters.

It would be appreciated if you could forward all future correspondence to [REDACTED].

Yours sincerely,

[REDACTED]
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