

September 16, 2016

Ms Margaret Abbey,
Chief Executive Officer,
Murrindindi Shire Council,
PO Box 138,
ALEXANDRA 3714

Dear Ms Abbey,

PLANNING SCHEME ANOMALY

I am writing on behalf of Hancock Victorian Plantations Pty Limited (HVP) with respect to the anomalous zoning of certain land in the Murrindindi Planning Scheme. HVP requests that the rectification of this zoning anomaly be included in the next general amendment of the Murrindindi Planning Scheme, and that the land be rezoned into the Farming Zone. Similar anomalies in the planning schemes for the Alpine, Towong, Baw Baw and Mitchell Shires, the City of Ballarat and the Rural City of Wangaratta have already been fixed by those municipalities.

HVP is the holder of a licence granted under Part 3A of the *Victorian Plantations Corporation Act 1993* over land vested in the Victorian Plantations Corporation. Around 5,509 hectares of the licensed land is in the Murrindindi Shire. All of this area of land is presently included within the Public Conservation Resource Zone. The land in the PCRZ is listed at the end of this letter and is shown in maps that I have attached to the letter.

Nature of the Company's Licence Rights

The licence gives the company exclusive occupancy in perpetuity over the licensed land. The licence may be assigned in whole or in part at any time without consent of the licensor. There is no right of public access to the licensed land. The purposes for which the licensed land may be used are defined by section 27B of the Act as follows:

- (a) *to establish, maintain and manage timber plantations on that land;*
and
- (b) *to take or convert forest produce on that land—*
and to do all other things necessary or convenient to be done for or in
connection with, or as incidental to, paragraph (a) or (b).

In short, the land is permanently allocated to the commercial use of a private party for plantation forestry.

Appropriate Zoning for Licensed Land

Within the Victoria Planning Provisions, Timber Production is included within Crop Raising, which in turn is included within Agriculture. Land which is intended for agricultural use will in almost all cases be appropriately included in the Farming Zone.

The licensed land in your municipality is presently zoned in the Public Conservation and Resource Zone. In this zone, Timber Production falls within the category of “any other use not in Section 2 or 3.” Land uses in this category are Section 1 uses if conducted by or on behalf of a public land manager operating under one of a series of statutes, but are Section 3 (prohibited) uses if this condition is not met.

Because HVP, as a private company is not operating under any of the listed Acts, the effect of including licensed land in the Public Conservation and Resource Zone is to render the only allowable use to which the land can be put as a non-conforming use, which is only permitted to continue by virtue of existing use rights. I suggest that this represents a material anomaly in the existing planning scheme, and one which could frustrate desirable development.

Planning Practice Notes

The Planning Practice Note *Applying the Public Land Zones* indicates that “it is intended that a public land zone be applied where the surrounding zoning is inappropriate or where there is a special reason to identify separately the public land for planning purposes.” It goes on to say that “a useful test in considering if a public land zone is appropriate is to determine if a public land manager needs some level of flexibility, protection or exemption different from the surrounding zone provisions because of the special nature of the public land or asset and its control (in a land use or management sense) under another Act.”

The licensed land has been permanently appropriated to a private party for commercial use. The land is no longer public, and cannot sensibly be maintained in any of the public land zones. Planning considerations applying to this land are not materially different from those pertaining to the areas of freehold land in the municipality that are used for Timber Production.

The Planning Practice Note *Applying Rural Zones* sets out the purposes of the Farming Zone. These include:

- To provide for the use of the land for agriculture;
- To encourage the retention of employment and population to support rural communities; and
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

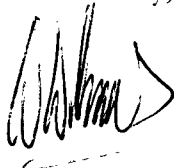
I submit that these objectives are perfectly suited to land subject to a perpetual licence for private sector timber production. The area of licensed land in the municipality that is presently within the Public Conservation and Resource Zone is located in a rural area where nearby freehold land is included in the Farming Zone. This zoning appears to be far more appropriate for the licensed land than its present public land zoning.

I have attached a letter from Mr Peter Beaumont, the Executive Director Land Management Policy with the Department of Environment, Land Water and Planning, indicating that the Department has no objections to such a rezoning.

Conclusion

HVP requests that the municipality include the rezoning of the area of licensed land presently included within the Public Conservation and Resource Zone into the Farming Zone in the next general amendment to the Murrindindi Planning Scheme.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Warwick Williams', with a stylized flourish at the end.

Warwick Williams
CORPORATE COUNSEL



Department of Environment, Land, Water & Planning

8 Nicholson Street
East Melbourne, Victoria 3002
PO Box 500
East Melbourne, Victoria 8002
www.delwp.vic.gov.au

Mr Warwick Williams
In-House lawyer
HVP Plantations
PO Box 40
WENDOUREE VIC 3355

Dear Mr Williams

LAND ZONED PUBLIC CONSERVATION AND RECREATION ZONE

Following our meeting on 10 August 2015, and further to your emails of 12 August and 8 September 2015, we have considered your request regarding the areas of land that you subsequently confirmed with me. I can advise that no significant public land management concerns were identified with these areas, and therefore I have no objection to HVP Plantations working through the appropriate processes to seek a zoning amendment for the subject land.

Please contact me on (03) 9637 9807 or by email to peter.beaumont@delwp.vic.gov.au if you would like to discuss this matter further.

Yours sincerely

Peter Beaumont
Executive Director Land Management Policy

181 9 115

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**LICENSED LAND IN THE SHIRE OF MURRINDINDI IN THE PUBLIC
CONSERVATION & RESOURCE ZONE**

Parish of Derrill

That part of CA 5^b of A that is within the Murrindindi Shire.

Parish of Flowerdale

CA 9^M of C
CA 14^I of C

Parish of Glendale

CA 56
CA 57
CA 58

Parish of Granton

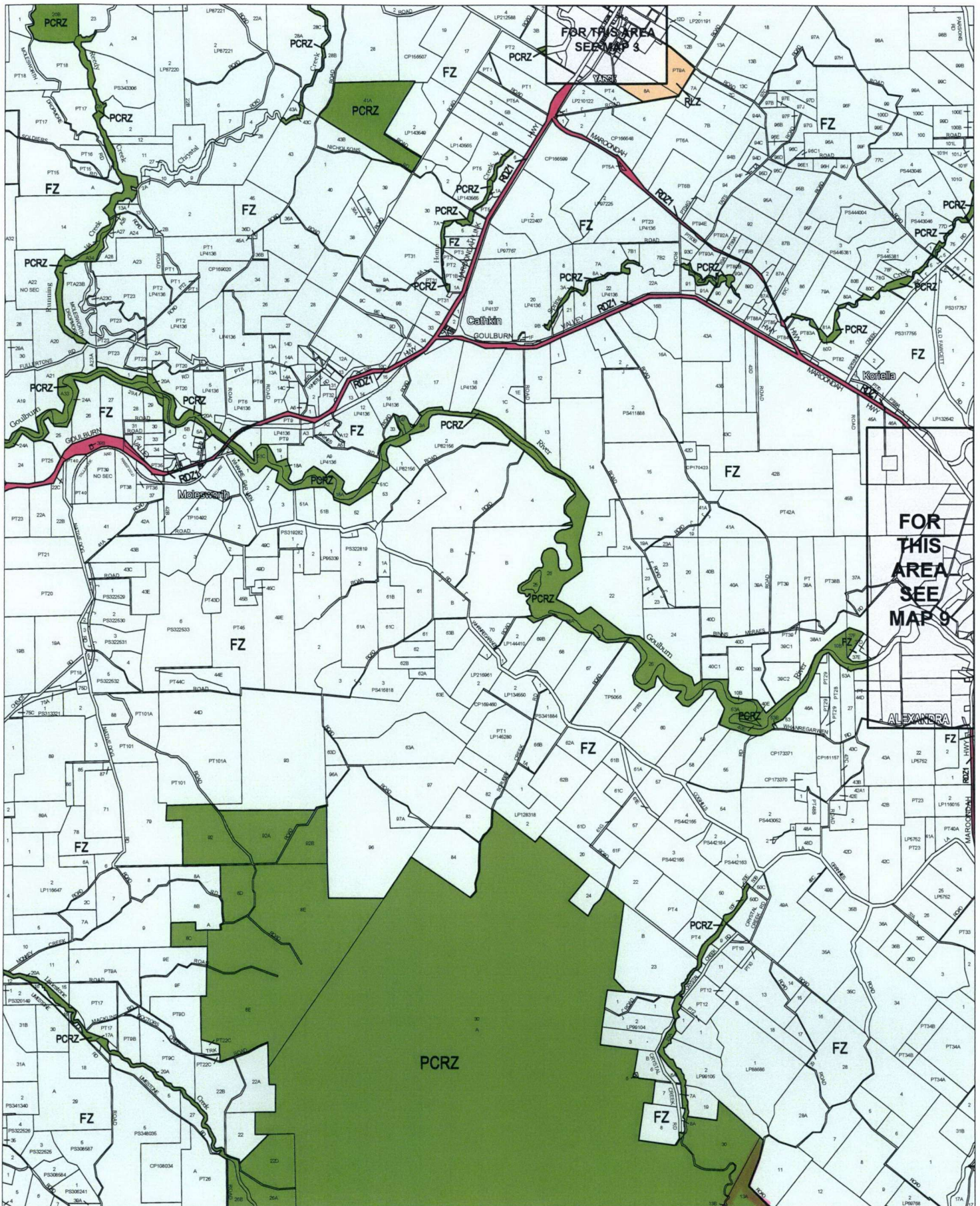
CA 9^A of B
CA10 of B
CA 11 of B
CA 13 of B

Parish of Kinglake

CA 4^G

Parish of Niagaroon

CA 13^A of A
CA 13^B of A

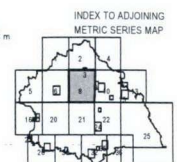


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This map should be read in conjunction with additional Planning Overlay Maps (if applicable) as indicated on the INDEX TO MAPS.

- Public Land**
- Public Conservation and Reserve
 - Zone
 - Public Park and Recreation Zone
 - Road Zone Category 1
 - Residential
 - Township Zone
 - Rural
 - Farming Zone
 - Rural Living Zone

13A of FA
 Nragaroon



26 April
Page 7



This map should be read in conjunction with additional Planning Overlay Maps (if available) as indicated on the INDEX TO MAPS.

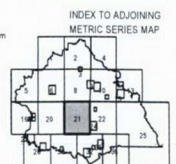
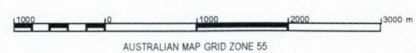
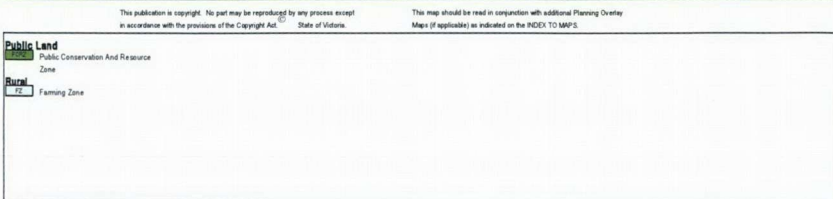
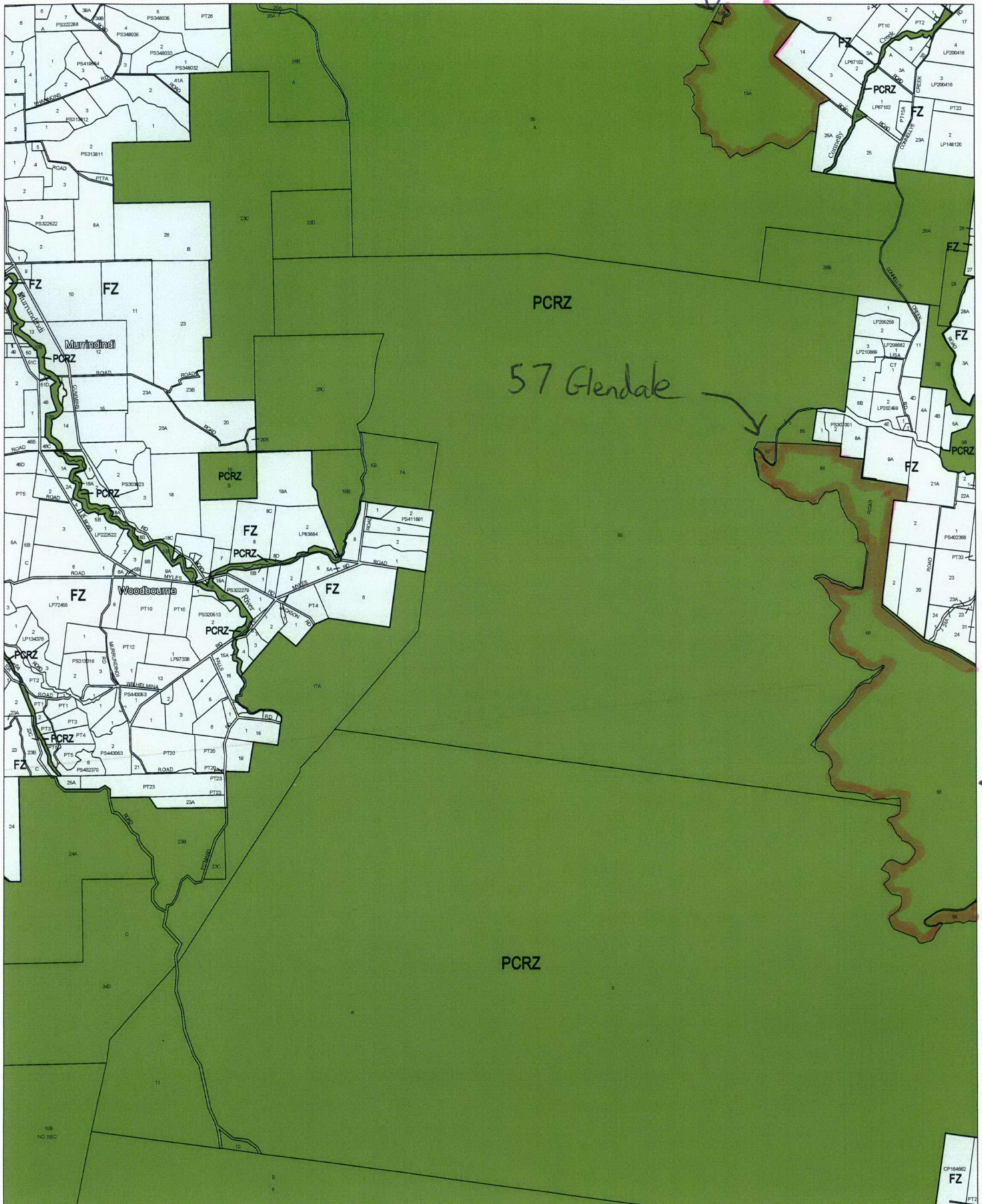
Metric Series Map

Legend:

- 1. *Alnus*
- 2. *Betula*
- 3. *Corylus*
- 4. *Fagus*
- 5. *Fraxinus*
- 6. *Juniperus*
- 7. *Larix*
- 8. *Pinus*
- 9. *Populus*
- 10. *Salix*
- 11. *Taxus*
- 12. *Ulmus*
- 13. *Viburnum*
- 14. *Yucca*
- 15. *Zizyphus*
- 16. *Acacia*
- 17. *Eucalyptus*
- 18. *Grevillea*
- 19. *Leucaena*
- 20. *Melaleuca*
- 21. *Myrtus*
- 22. *Nerium*
- 23. *Persea*
- 24. *Quercus*
- 25. *Schinus*

AMENDMENT GC12

MAP No 16

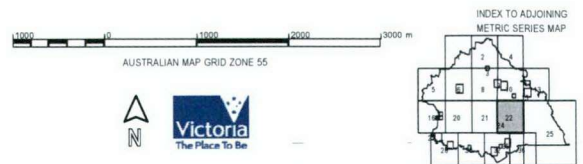
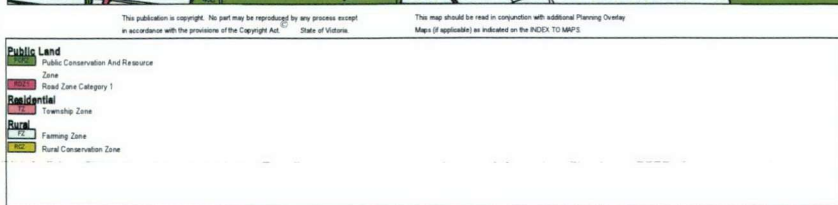
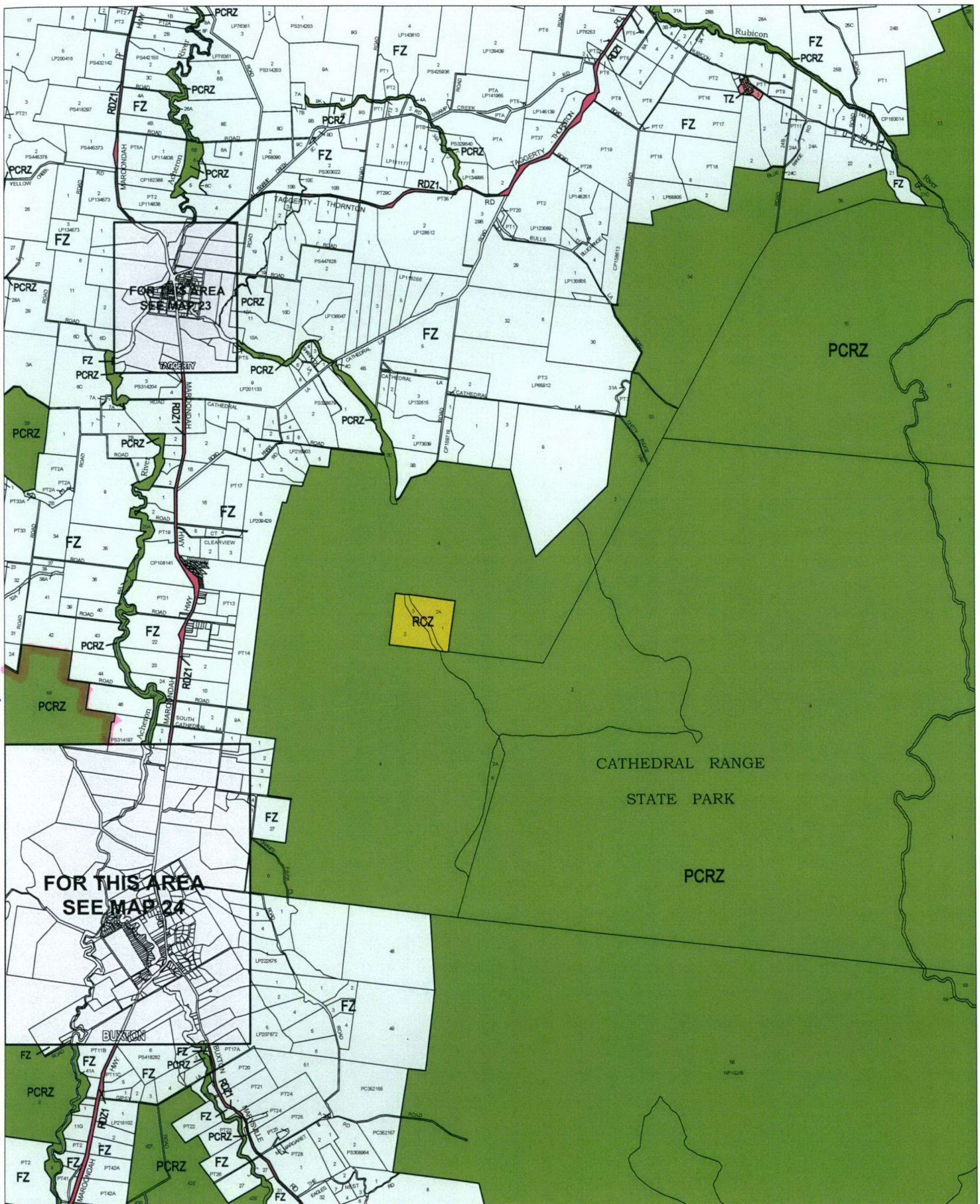


Printed: 25/7/2008

AMENDMENT C18

ZONES

MAP No 21



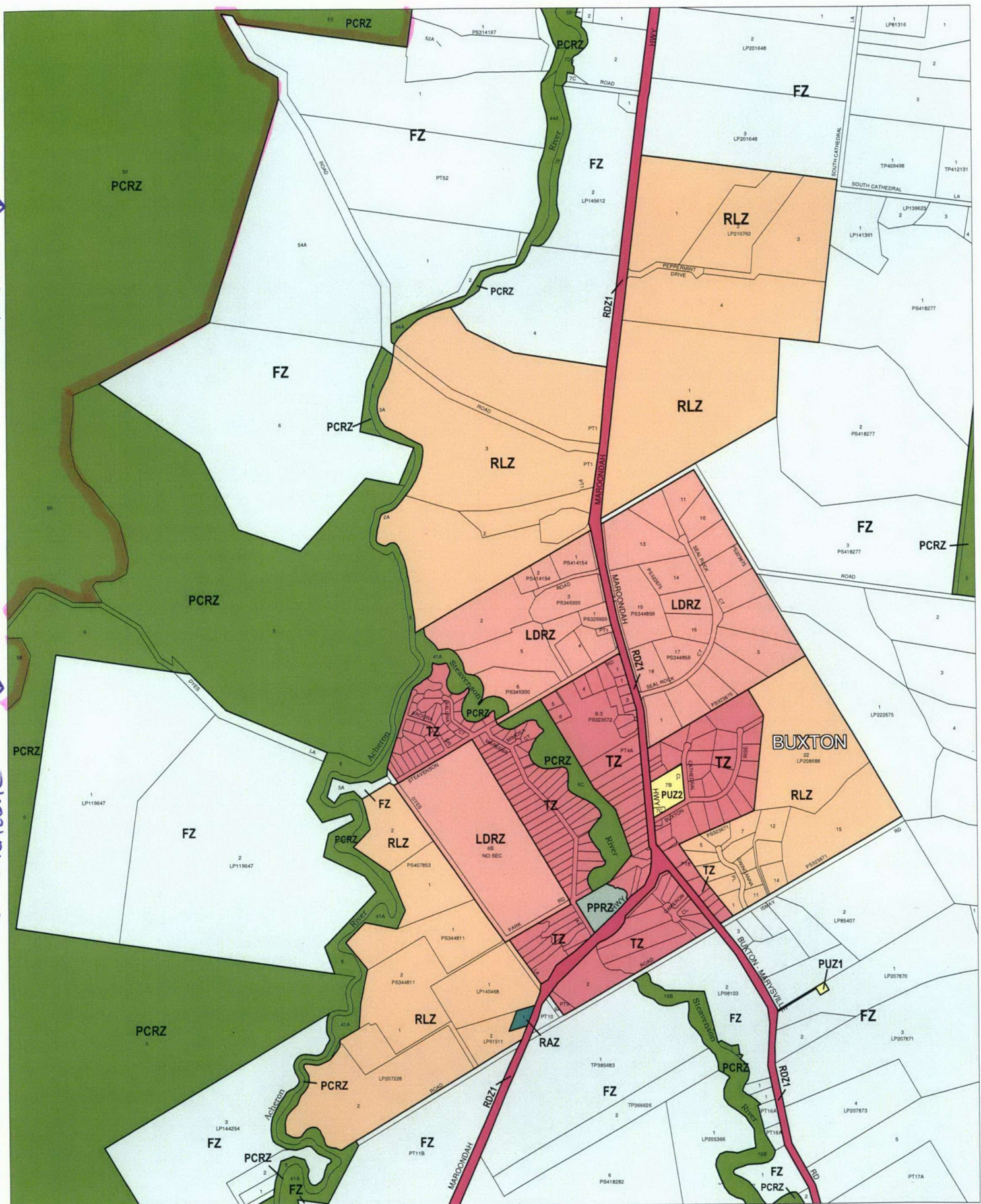
Printed 25/7/2006

AMENDMENT C18

ZONES

MAP No 22

MURRINDINDI PLANNING SCHEME - LOCAL PROVISION



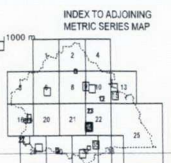
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Public Land
 Public Conservation and Resource Zone
 Public Park and Recreation Zone
 Public Use Zone - Education
 Public Use Zone - Service and Utility
Road Zone - Category 1
Residential
 Low Density Residential Zone
 Township Zone
Rural
 Farming Zone

Rural Activity Zone
 Rural Living Zone

200 0 200 400 600 800 1000 m
 AUSTRALIAN MAP GRID ZONE 55

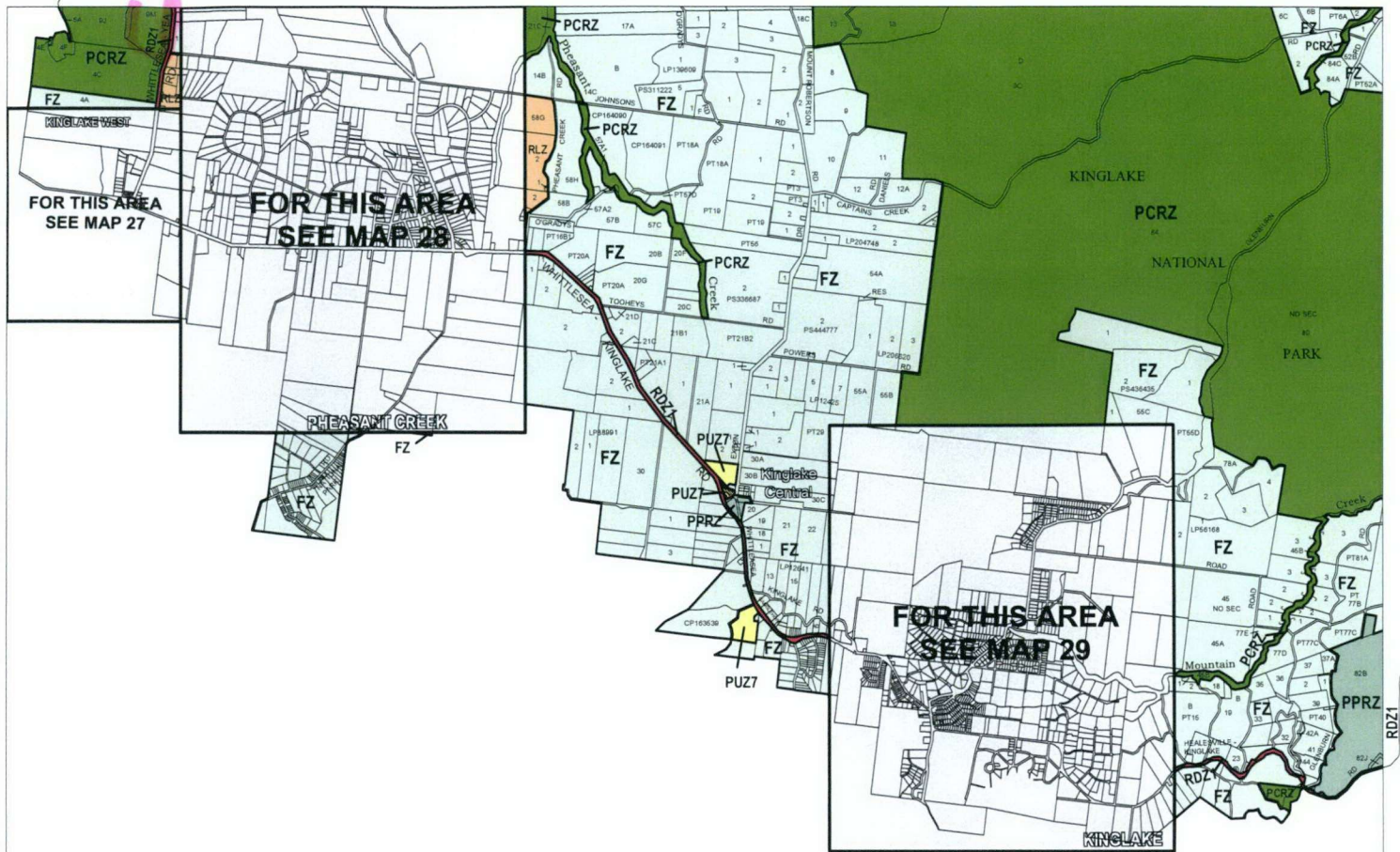


AMENDMENT C28

Printed: 9/11/2010

ZONES

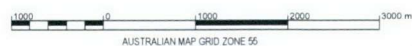
MAP No 24



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Public Land	
	Public Conservation And Resource Zone
	Public Park And Recreation Zone
	Public Use Zone - Other Public Use
Rural	
	Road Zone - Category 1
	Farming Zone
	Rural Living Zone

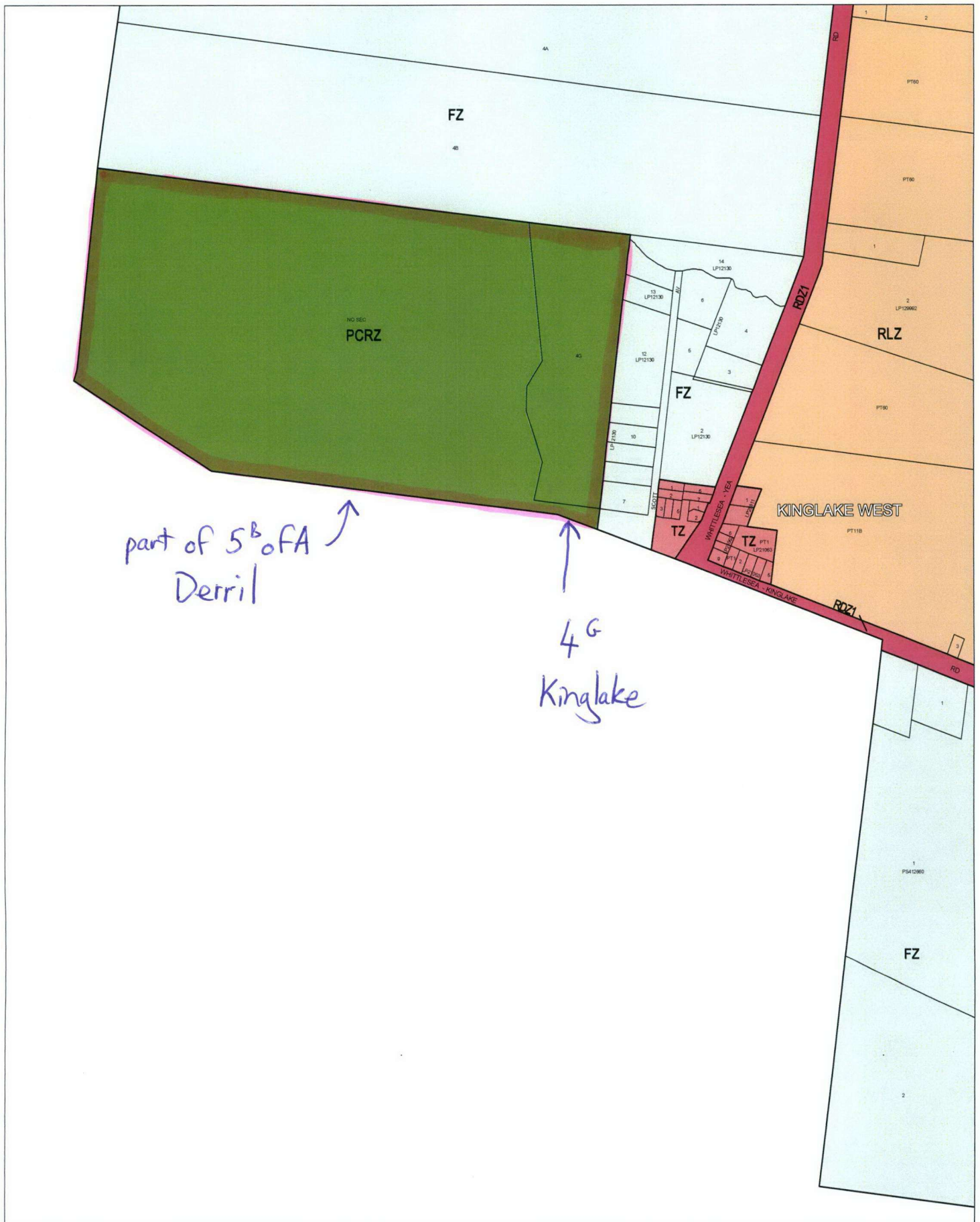


Printed 4/11/2010

AMENDMENT C28

ZONES

MAP No 26

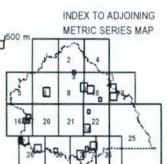


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Public Land
Public Conservation And Resource Zone
Residential
Rural Zone - Category 1
Township Zone
Business
Farming Zone
Rural Living Zone

100 0 100 200 300 400 500 m
AUSTRALIAN MAP GRID ZONE 55

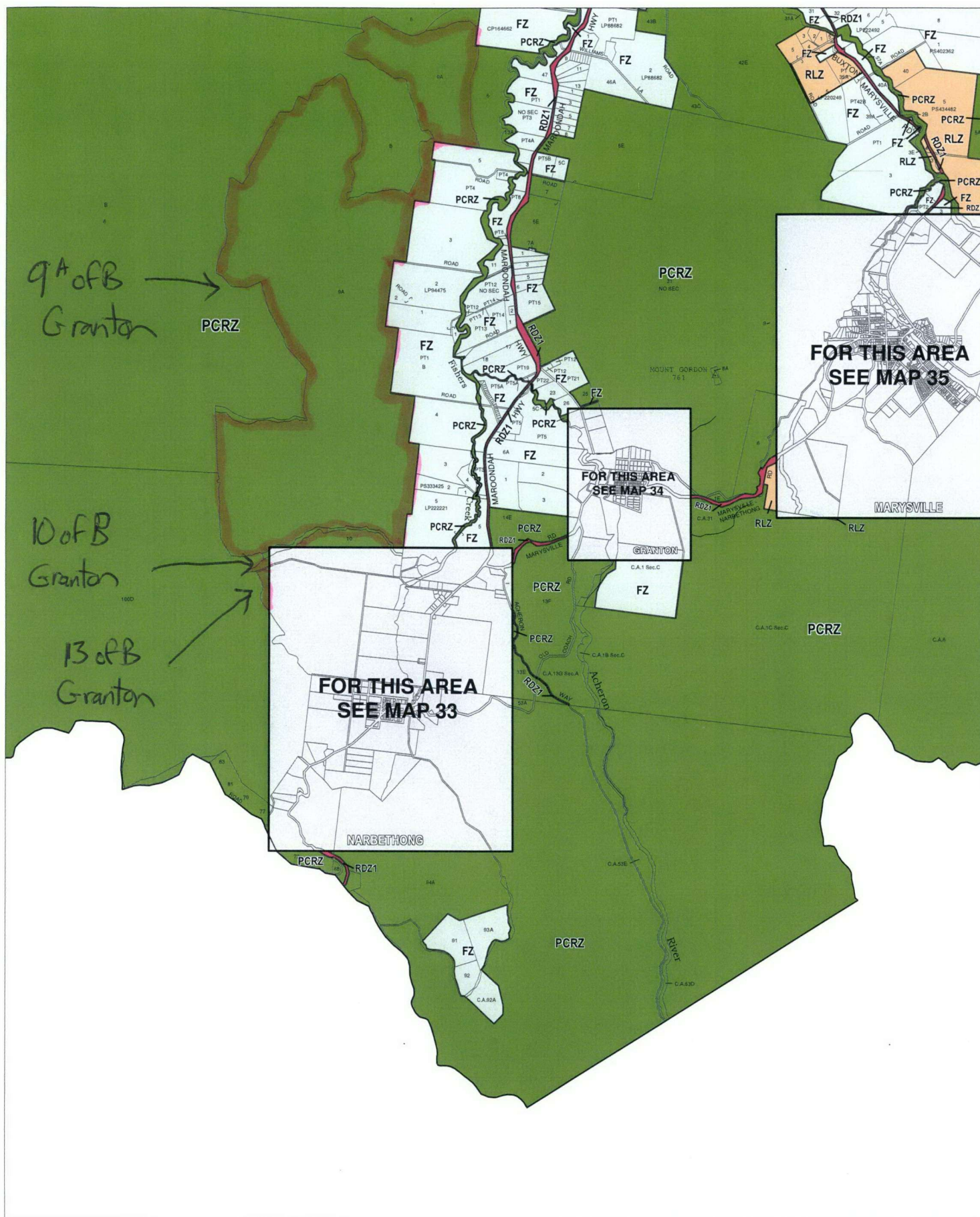


Printed: 13/7/2007

AMENDMENT C12

ZONES

MAP No 27



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Public Land	
	Public Conservation and Resource Zone
Rural	
	Rural Living Zone - Category 1
	Farming Zone
	Rural Living Zone

ZONES



AUSTRALIAN MAP GRID ZONE 55



Printed: 5/10/2012

AMENDMENT C35

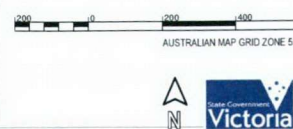




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Industrial	Rural
IN1Z Industrial 1 Zone	FZ Farming Zone
Public Land	RAZ Rural Activity Zone
Public Conservation And Resource Zone	
PPRZ Public Park And Recreation Zone	
PUZ Public Use Zone - Local Government	
PUZ Public Use Zone - Other Public Use	
RZ Road Zone - Category 1	
Residential	
TZ Township Zone	



Printed 29/3/2012

AMENDMENT C29 PART 2

MAP No 33

ZONES