

## Critique of Mitchell Shire Council Resolution Endorsing Landscape Assessment Study 19 August 2024



THAT Council:	Protect Our Farm Comment
1. Endorse the <i>Landscape Assessment Study Volumes 1-3</i> to progress to the next stage conditional on the attached actions.	The resolution’s premise is flawed. The Landscape Assessment Study (LAS) comprises three volumes prepared by Claire Scott. The “attached actions” are not defined but presumably refer to items 4-8 which are inconsistent with the LAS itself, which makes endorsing the study with these “attached actions” contradictory and illogical. Items 4 to 8 fail to address fundamental concerns regarding methodology, inconsistencies between included and excluded areas, and the lack of distinction between locally and regionally significant landscapes. Moreover, Significant issues in the LAS, particularly with Claire Scott’s methodology, remain unresolved, and Mitchell Shire must address past planning panel critiques that flagged these methodological flaws.
2. Proceed with preparing the statutory documentation with the eventual aim to implement the <i>Landscape Assessment Study Volumes 1-3</i> into the <i>Mitchell Planning Scheme</i> .	These resolutions are not contingent on the subsequent items (4-8), which were last-minute additions. This disconnect suggests that council intends to proceed with the statutory implementation regardless of whether these new conditions and concerns are addressed. It highlights the rushed and piecemeal approach that undermines any claim that council is genuinely reconsidering the LAS based on feedback or the additional actions.
3. Progress this work through a future Planning Scheme Amendment process.	
4. The statutory documentation to accommodate the following changes or actions:	

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a) Modify the native vegetation permit requirements to cross reference the appropriate exemptions already outlined in the provisions of Clause 52.17 (Native Vegetation) of the Mitchell Planning Scheme, addressing the exemptions for regrowth and fire safety.

The SLO wording creates both a conflict and a duplication with s52.17 of the Mitchell Planning Scheme which breaches Rule 3 of the Victorian "Rules for Writing a Planning Scheme Provision" which states that "a provision must not conflict with or duplicate other legislation, instruments, or planning scheme provisions."

The SLO should not restate the requirement for a permit to "lop, remove, or destroy any native vegetation", which is already required under Clause 52.17 of the Mitchell Planning Scheme. Restating the requirement while excluding the exemptions that would otherwise be available under Clause 52.17 creates a conflict.

Rather than removing the duplication (which would also remove the conflict), Council's new condition deepens the conflict between Clause 52.17 and the wording of the SLO.

Council's resolution selectively cross-references just two of the exemptions at s52.17 — regrowth and fire safety.

There are at least 16 other permit exemptions at s52.17 which are used on farming properties that are excluded by Council's resolution. Exemptions that will be unavailable for properties under the proposed SLO wording include those for removal of native vegetation for grazing, fencing, emergency works, pest control, and routine maintenance.

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b) Propose any permit triggers for buildings and works after appropriate benchmarking against existing SLOs from other local nearby rural council planning schemes. The benchmarking findings be tabled as an attachment to any future Council report for a future Planning Scheme Amendment associated with the proposed SLOs.

The resolution to benchmark building controls against other councils is fundamentally flawed. SLOs are intended to be bespoke, reflecting the specific landscape characteristics and objectives of each area. Benchmarking across local government areas undermines this principle, as SLOs should be guided by the unique sensitivities and threats in each significant landscape. Furthermore, farms are not a homogeneous category; they vary widely in terms of soil types, livestock, scale of operation, productivity per hectare, and the nature of farming enterprises. Given that Item 4(c) already specifies that permit exemptions and decision guidelines will include language ensuring that “where it is demonstrated the buildings and works are directly related to an agricultural activity occurring on the site,” this benchmarking exercise appears redundant. This approach adds unnecessary layers of bureaucracy while failing to address the specific and varied needs of stakeholders.

c) Insert in permit exemptions and decision guidelines, “where it is demonstrated the buildings and works are directly related to an agricultural activity occurring on the site”.

Cr Stevens spoke stridently in support of this resolution stating:

*“Where it is demonstrated the buildings and works are directly related to the agricultural activity occurring on the site. I don't think we should tell you what size shed you need, depending on whether you're cropping, whether you've got sheep, whether you've got cattle, whether it's a chemical shed, whatever the shed is. There's a variety of sizes. I don't believe we should tell you what size to make your shed.”*

However, the motion’s language is unclear. It is unclear how this resolution will be implemented within the permit requirements of the proposed SLO as currently drafted. For example, what impact will this have on the 5m height limit in the draft SLO? Additionally, will these exemptions extend to other essential farm infrastructure like fences? If these exemptions are intended to be included, it raises the question of why the benchmarking exercise in Item 4(b) was endorsed. This inconsistency further complicates the practical implications for farmers and adds unnecessary uncertainty.

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5. Write to all stakeholders and interested parties who have already contributed with a project update and acknowledge their contribution to the preparation of the *Landscape Assessment Study Volumes 1-3*. Furthermore, advise them of the proposed ongoing process and the opportunities for additional input.

The resolution is vague. It provides no detail of the “proposed ongoing process” and “opportunities for additional input” or how additional input will be gathered and considered. Without clear guidelines or a structured plan, this resolution risks being an empty gesture. Effective consultation requires more than vague commitments; it needs a transparent framework with clear milestones, timelines, and genuine engagement with those directly impacted.

6. Seek input to compile an extended list, with the intention to broaden awareness and opportunity for increased input, mutual education, effective consultation and representation.

Meaningful consultation requires much more than just expanding the contact list. Effective engagement demands clear, timely communication and consideration of all perspectives, something the council has consistently failed to provide.

7. Within 6 months commence to undertake an impact assessment of the proposed permits and application process. This assessment to address any identified impacts either positive or negative to the environment; farming and agricultural practices; vistas and rural amenity; efficient and best practice planning; or any other matters deemed relevant to the objective of the Mitchell Shire Planning Scheme amendment. The results to be tabled as an attachment to future reports coming before Council.

Councillor Stevens admitted when speaking in support of this resolution that the necessary groundwork hasn’t been done, stating: “*Positive or negative, the impacts... We haven’t done that work.*” However, conducting an impact assessment after endorsing the LAS renders it meaningless. If the LAS has already been endorsed, how can any findings from this assessment influence decisions that have effectively already been made?

Unlike Items 4(a)-(c), this resolution provides no link between the assessment and the statutory processes. Furthermore, there is no timeframe for when the assessment must be concluded, revealing this as a box-ticking exercise rather than a genuine effort to evaluate the impact and shape the planning provisions accordingly.

The council has already resolved to implement the amendments in the SLO provisions, making this exercise pointless. It appears designed to give the impression of engagement

while offering no real opportunity to influence outcomes, wasting both time and ratepayers' funds.

8. To insert the following landscape character objective into the proposed relevant SLO schedules ...” balance the protection of rural vistas and rural amenity while recognising the important role that agricultural and farming practices have in contributing towards the rural amenity.”

Each SLO is required to include a statement of landscape character objectives. These objectives define the most significant aspects of the landscape and guide the permit requirements for that landscape. It's concerning that the LAS recommended removing the reference to “rural amenity” from the current Tallarook SLO objectives. The author of the LAS stated in Volume 3 of the LAS that “rural amenity” wasn't fully articulated, but instead of refining it, chose to exclude it from the objectives entirely. This exclusion suggests an ideological bias that prioritizes landscape aesthetics over the practical needs of farmers.

Council's last-minute decision to insert references to the role of agriculture and farming in the objectives is welcome. However, agriculture and farming are important in their own right – not as contributors towards “rural amenity” a concept which remains undefined but does not appear to capture livelihoods.