

# Newham to Woodend Shared Trail



Initial Planning Report by

Rec Relief

2009/2010

## 1 EXECUTIVE SUMMARY

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A shared recreational trail between the township of Woodend and Hanging Rock has been a priority for local residents for many years. More recently, Newham residents have expressed interest in continuing the proposed trail from Hanging Rock to Newham.

Two options have been identified for the development of a shared recreational trail between Newham and Woodend. The options are:

- 1) Newham to the back entrance of Hanging Rock, heading in a westerly direction from Hanging Rock to Woodend via Five Mile Creek.

Estimated cost: \$1,087,901

- 2) Newham to Anderson Road, heading in a westerly direction along Anderson Road, then south along Boundary Road to Woodend.

Estimated cost: \$869,671

Option 1 is the preferred option of the Newham Community Planning Group.

This report provides information regarding the planning process and other issues relevant to the development of a shared recreational trail between Newham and Woodend.

A number of recommendations are proposed to further advance the project if approval is given to proceed with the project.

Any further feasibility and design works required to advance the project would require a \$25,000 contribution from the Newham Community Planning Group to match a dollar for dollar grant of \$25,000.

\$50,000 would be used to complete a number of tasks associated with the planning of the project including:

- Native vegetation assessment
- Cultural heritage management planning
- Feature surveying of the site
- Feasibility including consultation
- Land management planning
- Design

## 2 BACKGROUND AND HISTORY

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In 2003, Council commenced planning for a shared bicycle/pedestrian path linking the Woodend Township (Tennyson Street) and Hanging Rock. Based on a long held desire of the Woodend Community, an advisory group was developed to help guide the planning of the shared path. The Advisory Group included representatives of the community including groups such as the Woodend and Five Mile Creek Landcare Group, Cycopaths Bicycle User Group, Macedon Ranges Cycling Club, Woodend Bike Shop, Councillors and interested residents.

The purpose of the Advisory Group was to assist in the development of the plan and to rank in order of favour path alignment options, consider Council and Authority comments on the preferred path, consider preliminary designs and endorse the final plan.

Four path options were considered, in summary, these included:

1. Off road path on the southern side of Romsey Road with the last section of track directly opposite the entrance to Hanging Rock.
2. Off road path starting on the southern side of Romsey Road, crossing over to the Northern side (just after Boundary Road), then crossing back over the road at Coach Road, continuing along the South side of South Rock Road.
3. Same as above however, the first crossing to the Northern side of the road takes place closer to Coach Road (opposite house closest to Romsey Road).
4. Same as above however, the crossing is located past South Rock Road heading east along Romsey Road then backtracking along Romsey Road to South Rock Road.

The Advisory Committee preferred Option 1, however, the ability to extend the path along Romsey Road to Straws Lane would be the next best option if land acquisition issues were to be a problem.

### 2.1 Consultation

A number of departments and authorities were consulted regarding the four options including:

- VicRoads
- Goulburn Murray Water
- DSE
- NWCMA
- Macedon Ranges Planning Department
- Macedon Ranges Asset Management Department

Written feedback was received from the above authorities regarding issues for further consideration.

A public consultation period was conducted in June 2004 whereby the preferred option was presented to the community for consideration. 36 submissions were received from local residents supporting the project and providing feedback or recommendations for

further consideration. All landowners along the preferred route were contacted and many took up the opportunity to meet with Council officers.

### **3 BICYCLE PATH WORKS COMPLETED SO FAR**

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Federal funding of \$158,000 was received in 2004 to complete the first stage of the project which was to connect the existing bike path in Ruby McKenzie Park in Woodend to the Romsey Road overpass.

This section now completes the 2.7km section of trail along Five Mile Creek from the Romsey overpass to the town centre.

A plan of the existing bike track network in Woodend is attached in Appendix 1.

#### 4 NEWHAM COMMUNITY ACTION PLAN

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In April 2007, Macedon Ranges Shire Council accepted a recommendation that the township of Newham be the second community to be involved in a community planning process in this Shire and to commence the development of a Community Action Plan for Newham.

Community Planning is a “bottom-up” process where the people (i.e. the community) arrive at a group vision and develop priorities and actions to achieve positive change that will enhance the physical, social and economic wellbeing of the community. A key aspect of this community planning is that the process and output is ‘owned’ by the community (not by Council). The Council usually plays a facilitation role, but the community identifies ‘whole of community’ priorities and these priorities can then be utilised as input into local, State and Federal Government planning.

The development of a shared path from Newham to Hanging Rock to Woodend was identified as one of the six priorities to work on. The Planning Group then looked at breaking down the project into smaller parts. This included the following priorities:

- Link from Newham to Hanging Rock – shared off road pedestrian/bicycle track;
- Off road shared bicycle/pedestrian path between Hanging Rock and Woodend;
- Pedestrian access to Hanging Rock (back entry).

The following option has been included in the investigations as a fall back option if VicRoads funding became available. This option was not identified as a priority of the Planning Group.

- On road bicycle path from Coach Road along Romsey Road to Woodend.

## 5 INITIAL PLANNING PROCESS

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Preliminary investigations were undertaken to gain an understanding of the current situation and the factors that should be considered for the various options.

The following was completed:

- Identification of land owners along various path options;
- Physical inspection of road reserve widths and features (power poles, drainage, trees, vegetation etc) for various path options; and
- Review of relevant road side vegetation plans.
- Review of the Austroads Standards – Guide to traffic engineering practice for engineers.

All road reserves in the proposed route areas ranged from 19.33m to 20.6m in width. Various sections of the proposed routes were explored in more detail to identify the following:

- Location of power poles
- Location, size and quantity of trees
- Location of other vegetation
- Drainage issues
- General condition of road reserve including steepness, banks or levels
- Distances from solid objects

From this exercise, it was determined that some areas of road reserve could accommodate a shared recreational trail of 2.5 meters in width, however, further consideration would need to be given to engineering solutions to issues such as drainage, steep banks, position of power poles and vegetation that would require removal to construct the track.

## 6 USE OF PRIVATE LAND

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It was determined that the need to acquire, lease or access privately owned land along the various path options would require further consideration given the trail alignment priority of Five Mile Creek.

Further consideration of the process and likely costs associated with the acquisition/lease of privately owned land was undertaken. It was identified that a greater understanding of the Land Acquisition Act and Regulations be obtained and a process be outlined informing Council of its responsibilities.

Therefore, Council's solicitor was briefed regarding the project and was instructed to provide advice to Council regarding the process and responsibilities in relation to the following:

- Non compulsory acquisition and compulsory acquisition of land
- Leasing or licensing options
- Easement
- Gift
- Other

Guidance notes for the Acquisition of Private Land for Public Purposes and a Memorandum of Legal Advice was prepared by Town and Country Legal for the Council on the present statutory process and procedures applicable to acquisition of land under the Land Acquisition and Compensation Act 1986 and the Land Acquisition and Compensations Regulations 1998. The following information was extracted from the information provided by Town and Country Legal:

According to the substantive advice, Council has the power to acquire land by either the compulsory process or by the agreement process. Under Section 187 of the Local Government Act 1989, "A Council may purchase or compulsorily acquire any land which is or may be required by the Council for or in connection with, or is incidental to, the performance of its function or the exercise of its powers".

The acquiring of land must be carried out in accordance with the provisions of the Land Acquisitions and Compensation Act 1986 and the Regulations and must be for a public purpose.

### **Acquisition Method**

"Where the private land to be acquired by a Council for a particular project is to come from many different land owners, it is strongly arguable that very serious consideration should be given to adopting from the very start, the **compulsory acquisition** process provided for in the LACA"

Where Council may only need to acquire a single piece of private land from one land owner, the Council could well favour using the **agreement method** in the first instance. It may switch to the compulsory process if a binding agreement cannot be reached by negotiation.

If the compulsory process is used, all of the land required can be acquired in a relatively short time. This is expected to be approximately 12 – 18 months.

### Acquisition Type

The **acquisition of freehold private land** for the path would give the Council the maximum control and legal rights once the Council becomes the owner. If part of an allotment is acquired, a plan of subdivision is necessary and will require certification and registration.

**Comment:** Freehold acquisition is the best option for security of tenure.

The acquisition of **an easement** over private lands for the provision of the path is one of the options available. An easement will give the Council an *interest* in the servient land but not a right to possession of the land itself to the exclusion of the owner of the servient land. The Council will have no power to exclude the owners from the land, except where the servient owner is obstructing or interfering with the Council's right to use the easement for the designated purposes.

**Comment:** The easement option is the next best option to acquisition of freehold private land based on cost. However, this option lacks the security of tenure or the "autonomy factor" of the freehold option.

Acquisition of freehold land for **a lease** (a leasehold estate) is an *interest* in land under the Act. Leasehold is a segment of time. Although the lessee owns the leasehold estate created by the lease, the lessee has limited domain over the leased land and is subject to many restrictions and conditions.

**A licence** is merely written or spoken permission given by the land owner to someone else to do something on the owners' freehold land. It would be trespass if something was done on the land without that permission. If the land owner sells the freehold land or the lessee assigns the lease to another person, the licence terminates.

**Comment:** The licensing option for a public path on the areas of the various private lands would be fragile and a very risky proposition. It would be unwise for the Council to adopt the licensing option for any project except for a very short term process that involve minimal financial input by and risk to the Council. The security of tenure is minimal and may be short lived as it will generally terminate if the licensor sells or leases the "licensed land"

It is possible that one or more generous private land owners could see fit to **gift** some of their land to the Council. The Council has power to accept gifts of land.

**Comment:** Probably an unlikely option.

### Costs Associated With Acquisition

Council could be responsible for the following costs (and possibly others) associated with the acquisition process:

- All legal costs
- Land and title fees
- Land valuation costs including valuations undertaken by the land owners
- Surveyor costs
- Fence replacement
- Driveway and gateway relocation/replacement
- Possible replacement of tree belts (wind breaks)
- Bank costs if there are mortgages
- Other services such as power, phone etc
- Compensation of land costs
- Advertising
- Permits
- Tree removal

## 7 PLANNING SCHEME CONSIDERATION

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A review of the Planning Scheme online was undertaken to determine the various planning zones covering the path route options.

The following zones exist within the area:

- RDZ1 – Road Zone 1. This is a road managed by VicRoads.
- RDZ2 – Road Zone 2. This is a road managed by Council.
- RCZ1 – Rural Conservation Zone 1.
- RCZ1 – Rural Conservation Zone 2.
- PCRZ – Public Conservation and Resource Zone.

Whilst none of the above zones preclude the construction of bicycle and walking facilities, all plans to construct such a facility would require planning approval if vegetation were to be removed.

## 8 CONSERVATION PLANNING

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The areas under consideration are covered by the following overlays:

- Environmental Significance Overlay
- Vegetation Protection Overlay
- Significant Landscape Overlay
- Wildlife Management Overlay

Under the ESO, VPO and SLO a permit is required to remove, destroy or lop any vegetation including dead trees. Therefore it is not only native vegetation that's requires a permit for removal or lopping. A planning permit is required both on private land and the road reserve.

Under clause 72 of the Planning Scheme, Native vegetation is defined as, 'Plants that are indigenous to Victoria, including trees, shrubs, herbs and grasses'.

### 7.1 Relevant Legislation to This Project

#### Victoria's Native Vegetation Management – A Framework for Action

Establishes the strategic direction for the protection, enhancement and revegetation of native vegetation across the State.

Council must consider the goal of the Net Gain outcome expressed in 'Victoria's Native Vegetation Management – A Framework for Action' when assessing land use development proposals that involve native vegetation removal (Clauses 15.09-2 & 52.17). Net gain is the outcome for native vegetation and habitat where overall losses and individual losses are avoided where possible. This is achieved through the Three Step Approach as set out in the Framework.

1. **Avoid:** To avoid adverse impacts, particularly through vegetation clearance.
2. **Minimise:** If impacts cannot be avoided, to minimise impacts through appropriate consideration in planning processes and expert input to project design or management.
3. **Offsets:** Identify appropriate offset options to achieve Net Gain across the region.

Any decision making by planning and responsible authorities should assist in the conservation of habitat of threatened and endangered species and communities and address potentially threatening processes identified under the Flora and Fauna Policy Framework, Macedon Ranges Shire Council Planning Scheme.

#### Victorian Flora and Fauna Act

The FFG Act is the key piece of Victorian legislation for the conservation of threatened species and communities and for the management of potentially threatening processes.

It is unclear at this stage as to any requirements under this Act that may impact on this project.

### **Environment Protection and Biodiversity Conservation Act (EPBC)**

The EPBC Act is the Australian Government's central piece of environmental legislation. It provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places.

It is unclear at this stage as to any requirements under this Act that may impact on this project.

### **Aboriginal Cultural Heritage Act**

The Aboriginal Heritage Act 2006 commenced operation on the 28 May 2007 and provides for the protection and management of Victoria's Aboriginal heritage with streamlined processes linked to the Victorian planning system.

The proposed route along the creek is identified as an area of Cultural Heritage Sensitivity and would trigger a Cultural Heritage Management Plan. This is required to be prepared prior to lodging a Planning Permit.

## 9 VISUAL INSPECTION

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A planning permit is required where removal of vegetation is concerned whether it be on private land or public road reserve.

DSE were invited to provide advice based on an initial inspection of the options. A visual inspection of the various path options was carried out to assess the impact of constructing a shared path.

From the initial inspection with DSE, it was identified that the majority of the road reserves contain significant vegetation including kangaroo grasses.

The following is a summary of the various path options:

### 1 Newham to the back entrance of Hanging Rock

- Newham Hall to Koala Drive – Sections of this path option contain high levels of significant vegetation.
- Koala Drive (unsealed road) – considered not necessary to construct a shared path. The road is not busy enough to warrant an off road facility. Consider sealing the shoulders if necessary.
- Hyland Way (Highland Way) – a formed roadway partially down Hyland Way exists for property access. As with Koala Drive, it is not considered necessary to construct a shared off road path along this section of the route. However, a path would need to be extended along Hyland Way where the road finishes meeting up with the road at the other end (off Colwells Road). There appears to be significant vegetation in this area and a flora and fauna survey is recommended.
- Colwells Road – it was not considered necessary to construct an off road path along this section of road due to low traffic volumes.

### 2 Option if Koala Drive Along Hyland Way is Not Feasible

- Koala Drive to Andersons Road – evidence of kangaroo grasses.

### 3 Hanging Rock to Woodend

- Coach Road (Smokers Creek) to Andersons Road – there is evidence of kangaroo grasses within the road reserve along the length of this route.
- Andersons Road – Hawthorn Hedges and scattered trees.
- Boundary Road – there is a considerable amount of gorse on the east side of the road. Within private land there were sections of land containing sedges, rushes and native trees. From where the creek crosses the road to the end of Boundary

Road, land owners have been planting native vegetation (on their own land) adjacent to the native vegetation along the road reserve.

#### **4 Hanging Rock to Woodend via Five Mile Creek**

- Five Mile Creek and Smokers Creek were not inspected due to access being through private property.

Whilst there may be some small sections of the road reserve not containing native vegetation, it is not feasible to propose non connecting sections of path in any location. Nor is it feasible to suggest multiple crossings over roads.

Areas of private land inspected appeared to be a better option than the road reserve however, further investigation and consideration would be to be given by DSE prior to any approval.

It was suggested that a vegetation assessment be completed prior to submitting a planning permit for works as well as a Cultural Heritage Management Plan for proposals along the creek or near creek crossings.

## 10 PATH OPTIONS

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Two options have been identified for further investigation. These are:

- Option 1 – Newham to the back entrance of Hanging Rock, Hanging Rock to Woodend along the 5 Mile Creek.
- Option 2 – Newham to Anderson Road, west along Anderson Road, south down Boundary Road to Woodend. A small link along Colwells Road to the back entrance of Hanging Rock is required to connect this attraction.
- There are some alternative links along Colwells Road, Coach Road and Rochford Road if necessary.

The Newham Community Planning Group's preference is Option 1 with the shared path running along 5 Mile Creek.

A plan outlining the two path options is attached in Appendix 2.

## 11 ESTIMATED TOTAL COSTS PER OPTION

Some very high level costings were provided based on the construction of the shared path along the various path routes. Some broad assumptions had to be made due to the fact that detailed design of the path had not been completed.

An evaluation into the estimated value of land if acquired by Council either compulsorily or under negotiation was also undertaken.

The following table represents the estimated costs of construction and estimated acquisition costs.

### 11.1 Estimated Costs Per Option

The following probable costs of path construction and acquisition costs are provided including a contingency of 30% for construction:

#### Option 1 - \$1,087,901 (Preferred Option by the Community Planning Group)

Section	Estimated Acquisition Cost	Estimated Construction Cost	Total per Section
Newham to Koala Drive	\$100,052	\$94,000	\$194,052
Koala Drive & Hyland Way (to back entrance to Hanging Rock)	N/A	\$104,500	\$104,500
Smokers Creek (Coach Road to entrance to Hanging Rock)	\$91,591	\$120,300	\$211,891
5 Mile Creek (Coach to Boundary)	\$58,781	\$358,000	\$416,781
Boundary Road (from Five Mile Creek to Romsey Road)	\$40,677	\$120,000	\$160,677
<b>Total</b>	<b>\$291,101</b>	<b>\$796,800</b>	<b>\$1,087,901</b>

#### Option 2 - \$869,671 (Second preferred Option by the Community Planning Group)

Section	Estimated Acquisition Cost	Estimated Construction Cost	Total per Section
Newham to Koala Drive	\$100,052	\$94,000	\$194,052
Koala Drive to Anderson Road	\$29,474	\$55,300	\$84,774
Anderson Road (between Coach & Boundary)	\$56,235	\$165,200	\$221,435
Boundary Road (Anderson to Romsey)	\$61,309	\$238,500	\$299,809
Colwells Road (additional link to Hanging Rock)	N/A	\$69,600	\$69,600
<b>Total</b>	<b>\$247,070</b>	<b>\$622,600</b>	<b>\$869,671</b>

## Shared Paths Linking Newham, Hanging Rock and Woodend



The difference between option 1 and option 2 is \$218,230.

The above tables do not include the cost of entry system to the back entrance of Hanging Rock.

## 12 ANALYSIS OF OPTIONS

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### 12.1 Option 1 (Preferred Option)

#### PROS

- Development of the trail along Five Mile Creek will provide opportunity for improvement of the creek through revegetation of indigenous species, weed and rubbish removal and potentially improvement of water flow and quality.
- The proposed trail route provides the opportunity for the future installation of a recycled water pipeline to hanging rock that could service the land owners along the route. Wester Water has already undertaken investigation into this option and whilst not economically viable at present, could become so at some stage in the future.
- The proposed trail could potentially be a significant drawcard for eco tourism.
- The trail provides a safer option for riding or walking to Hanging Rock from Woodend or Newham than the road or road side.
- There is the potential to create supplementary economic benefits to the region including bicycle hire, guided tours, Hanging Rock Cafe patronage and accommodation stays.
- Development of the trail along Hyland Way, Smokers Creek and Five Mile Creek provides the most picturesque and interesting trail option which is likely to attract greater use.
- The potential to increase visitation rates at Hanging Rock is greater with the trail entering the back entrance of Hanging Rock (off Colwells Road). The trail would continue through Hanging Rock along existing maintenance tracks allowing riders or walkers to exit at Smokers Creek.
- There is an opportunity to consider the trail as an emergency access fire trail in the event of fires.

#### CONS

- Hyland Way could be difficult due to significant flora and fauna issues, however, the extent of this will not be known until a flora and fauna study is completed.
- Most sections will need to be constructed on land which is currently in private ownership. There may be some opposition from land owners to this proposal.
- Additional entry gates in the back entrance of Hanging Rock and at Smokers Creek may need to be considered in the future.

### 12.2 Option 2

#### PROS

- This is not the preferred option however, it is an opportunity to extend the existing trail network from Woodend to Newham.
- A road frontage trail may be more acceptable to land owners rather than creek frontage.
- A small link up Colwells Road could still be achieved to connect Hanging Rock to the trail.

- As with the preferred option, there is the potential to create supplementary economic benefits to the region including bicycle hire, guided tours, Hanging Rock Cafe patronage and accommodation stays.
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#### CONS

- All sections of this trail will need to be constructed on land which is currently in private ownership.
- This option would not provide the best riding/walking experience as compared to the creek option, however, it is still a safer option than no trail at all.

## 13 RECOMMENDATIONS

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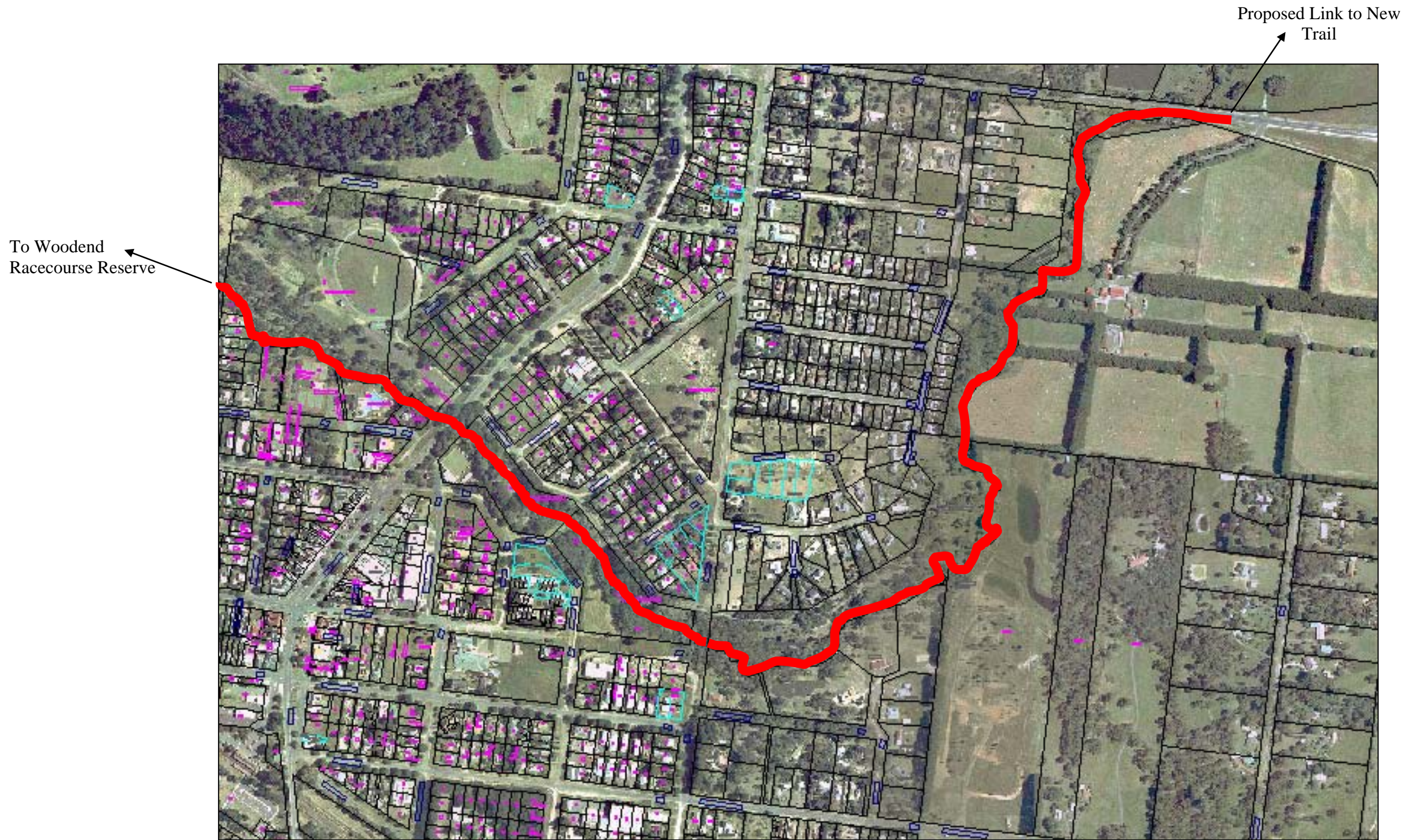
As a result of the outcomes of the preliminary investigations, the following process is recommended:

1. Brief **Senior Management and the Macedon Ranges Shire Council** on the planning completed to date and outline the process for land acquisition and associated issues. Advise of estimated cost of proposed routes including construction and acquisition. Seek direction to proceed or not to proceed with further planning for the project.
2. Seek approval from the Newham Community Planning Group for endorsement of this report. If the Planning Group would like to continue the detailed planning for the project, approval is required for \$25,000 to be set aside from the current budget for further planning to be matched by a dollar for dollar grant. This would involve:
  - Development of a feasibility and design report including:
    - ✓Community consultation regarding path alignment options.
    - ✓Stakeholder group consultation including Rotary Club of Woodend, Bicycle User Groups, Bicycle Victoria, Landcare, Fire Brigade, Walking Groups, Hanging Rock Advisory Committee, Tourism Operators, Bicycle Shop etc.
    - ✓Identification of the strengths and weaknesses of the two trail options.
    - ✓Identification of potential trail users and estimated usage.
    - ✓Identification of key trail construction methods and maintenance considerations.
    - ✓Recommendations on appropriate supporting infrastructure such as entry and exit points, facilities, signage, information, emergency access
    - ✓Identification of the preferred trail option.
    - ✓Feature survey of preferred trail option.
    - ✓Careful consideration of a proposed trail alignment by a qualified botanist with Native Vegetation Assessment Training with DSE on the preferred route option.
    - ✓Initial Cultural Heritage investigations for the preferred trail option if applicable.
    - ✓Provision of preliminary design plans (concept).
    - ✓Proposed implementation plan and funding opportunities for construction of the trail.
    - ✓Ongoing responsibilities and monitoring.

- Further planning is recommended including the following:
  - ✓Native Vegetation Assessment of preferred route – estimate \$10,000
  - ✓An offset plan may be required depending on the outcomes of the Native Vegetation Assessment.
  - ✓A land management plan may also be required depending on the outcomes of the Native Vegetation Assessment.
  - ✓Cultural Heritage Management Plan (if applicable) – estimate \$13,000 - \$15,000)
  - ✓Final design plans and documentation sufficient to call for tenders and construction – estimate would depend on option chosen.
  
- The \$25,000 Council/Community contribution could need to be matched by a further \$25,000 from another funding source such as Sport and Recreation’s Community Facilities Funding Program. This would provide a total budget of \$50,000 to commence the above mentioned tasks.
  
- The exact cost of undertaking the required plans and assessments is unknown until the outcome of each assessment is completed.
  
- Further funds may be required dependant on the outcome of each assessment completed.
  
- 3. Re-establish the **Woodend Trail Support Group** spearheaded by Woodend Rotary including representatives of community groups such as the Woodend and Five Mile Creek Landcare Group, Cyclopaths Bicycle User Group, Macedon Ranges Cycling Club, the Woodend Bicycle Shop, Councillors and interested residents. This group will work together with the Newham Community Planning Group on the development of the path.

If further planning is supported, the following tasks will need to be completed:

1. Source and apply for funding.
2. Complete the feasibility and design report as outlined above.
3. Initiate land acquisition process with land owners.
4. Submit planning application when designs and planning completed.
5. Construct when funding becomes available.



➡ Preferred Option along Creek   ➡ Second Option   ➡ Alternative Links   ● Hanging Rock   - - - Five Mile Creek

