

Planning and Environment Act 1987

MACEDON RANGES PLANNING SCHEME
AMENDMENT C138
EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Macedon Ranges Shire Council, which is the planning authority for this amendment.

The amendment has been made at the request of the Macedon Ranges Shire Council.

Land affected by the amendment

The amendment applies to 2,387 square metres of land known as Lot 1 on TP879826E, which is located on the northern side of the road reserve of Walshes Road in Woodend. Lot 1 is occupied by the Walshes Road carriageway which does not follow the adjacent Walshes Road reserve. The site has native trees located adjacent to the carriageway.



What the amendment does

The amendment proposes to:

- Rezone 2,387 square metres of land known as Lot 1 on TP879826E from Public Use Zone, Schedule 1 (Service and Utility) to Rural Conservation Zone, Schedule 1 as shown on Planning Scheme Map No. 22.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to rezone a single parcel of Council owned land to match the adjoining land zoning. The rezoning supports the resolution of Council for the 28 August 2019 Ordinary Council Meeting to re-subdivide the land.

The subject site was rezoned from Rural Conservation Zone, Schedule 1 to the Public Use Zone, Schedule 1 under Amendment C109 on the 8 December 2016. It was amended to reflect the land

ownership of Coliban Water. The land was transferred to Council's ownership on 30 October 2015 to allow Council to re-subdivide the land.

Lot 1 on TP879826E will be re-subdivided with 271 Falloons Road Woodend to align the road reserve with the existing sealed carriageway location. Lot 1 on TP879826 is required to be rezoned to the Rural Conservation Zone, Schedule 1 to ensure both parcels are not burdened with two different zonings and to ensure the correct zone applies.

The amendment is consistent with *A Practitioner's Guide to Victorian Planning Scheme (August 2019)*, which outlines that a public land zone may not be the most suitable zone for areas such as roads or remnant parcels of public land in a rural area. It also outlines that privately owned land must not have a public land zoning.

The rezoning of the land will ensure that any land transferred to private ownership will not have a public zoning and that the Public Use Zone, Schedule 1 is not applied to land that will not be used for the purpose of a service or utility.

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives of planning in Victoria as outlined under section 4(1) of the *Planning and Environment Act 1987*.

In particular, the amendment implements objective:

- (b) *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*

The amendment proposes to rezone land to the Rural Conservation Zone, Schedule 1 which is appropriate given that part of the land is intended to be transferred to private ownership. The balance of the land will be declared a road. The zoning will also reflect the adjoining land zoning. A *Practitioner's Guide to Victorian Planning Scheme (August 2019)* outlines that land encompassing a public road reserve does not need a specific public land zoning and a general zoning reflecting the surrounding land is suitable and appropriate.

The amendment meets the above objective as the purpose of the Rural Conservation Zone, Schedule 1 is to protect and enhance natural resources and ecological processes as the site is covered partially by native vegetation. Therefore, it is considered the zoning will strengthen the protection of ecological processes and genetic diversity as it is one of the key purposes of the Rural Conservation Zone.

- (e) *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.*

The proposed amendment ensures that the Walshes Road carriageway maintains its current alignment and supports the administrative re-subdivision of Lot 1 on TP879826 and 271 Falloons Road to ensure any land at 271 Falloons Road is not partly zoned Public Use Zone, Schedule 1. The remainder of Lot 1 on TP879826 will not be used for the purposes of service and utility and the most practical outcome is to also rezone this land to reflect the surrounding zoning.

Under section 46AZC(2) of the *Planning and Environment Act 1987* a responsible public entity which is a planning authority must not prepare an amendment to a declared area planning scheme that is inconsistent with a Statement of Planning Policy for that declared area. The *Macedon Ranges Statement of Planning Policy* (SPP) was approved on 10 December 2019 and gazetted on 12 December 2019.

The proposed amendment is considered consistent with the following objectives and strategies of the SPP:

- Objective 1 – *To ensure the declared area's natural and cultural landscapes are conserved and enhanced.*

The amendment supports the retention of native vegetation that contributes to the natural landscape of the area by rezoning land to the Rural Conservation Zone, Schedule 1, which seeks to conserve the existing forest mosaic of the area.

- Objective 2 – *To ensure that the significant biodiversity, ecological and environmental values of the declared area are conserved and enhanced.*

The amendment assists with conserving and enhancing the environmental values of the land by rezoning the affected land to the Rural Conservation Zone, Schedule 1.

- Objective 6 – *To support and encourage agricultural land uses that strengthen the declared area's economy and contribute to the rural landscape.*

The amendment supports and encourages agricultural land uses by ensuring that the land is in the most appropriate zone compatible with surrounding land. The Rural Conservation Zone provides for agricultural use consistent with the environmental values of the area.

- Objective 9 – *To manage the provision of infrastructure consistent with protection of the area's significant landscapes and protection of environmental values to support the social and economic needs of communities and increase resilience to climate change effects.*

The amendment supports the re-subdivision of the land to align the road reserve with the existing sealed carriageway location, which will retain native vegetation adjacent to the carriageway.

How does amendment address any environmental, social and economic effects?

The amendment will ensure the zoning of the land is suitable for land transferred to private ownership. It will also ensure a public road is located on land set aside as a road reserve without having to realign the carriageway into the existing road reserve land which will likely require the removal of native vegetation. It is deemed that there will be minimal impact or wider social or economic effects from the proposed rezoning and is largely administrative in nature.

Overall, the amendment is expected to have positive social and economic benefits for landowners, Macedon Ranges Shire Council and the general community. Positive social and economic effects will accrue from the amendment through correct zoning application to match the ownership, use and intention for land and surrounding land use activities, thereby removing unnecessary planning restrictions that stem from incorrectly applied zoning.

Does the amendment address relevant bushfire risk?

The amendment has considered bushfire risk. The policy under Clause 13.02-1S *Bushfire planning* applies to all planning and decision making under the *Planning and Environment Act 1987* relating to land within a designated bushfire prone area, subject to a Bushfire Management Overlay or proposed to be used or developed in a way that may create a bushfire hazard. The subject land is within a designated bushfire prone area and is not proposed to be used or developed in a way that may create a bushfire hazard.

The objective of Clause 13.02-1S *Bushfire planning* seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. The policy outlines that planning must give priority to the protection of human life over all other policy considerations, directing population growth and development to low risk locations and reduce the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.

The amendment proposes to rezone land no longer required for service and utility from Public Use Zone, Schedule 1 to the Rural Conservation Zone, Schedule 1 to ensure that the land is in the correct zone consistent with adjoining land, which is also within the Rural Conservation Zone, Schedule 1. The rezoning supports the proposed re-subdivision of the land by ensuring the land is in the most appropriate zone. Part of the land is proposed to be transferred to private ownership and consolidated with land at 271 Falloons Road, Woodend whilst the balance will continue to be owned by the council and used as the road reserve for Walshes Road. The land at 271 Falloons Road is already occupied by a dwelling and associated outbuildings.

The amendment does not result in the introduction or intensification of development in the area. No alternative locations have been considered given the amendment is administrative in nature.

It is therefore considered that the amendment will not increase the risk of bushfire to human life and furthermore does not direct population growth into a high-risk area.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment complies with the requirements of:

- The Ministerial Direction - The Form and Content of Planning Schemes. The amendment ensures that the planning scheme does not include land proposed to be transferred to private ownership in a Public Use Zone.
- Minister's Direction No. 11, Strategic Assessment of Amendments. A strategic assessment of the proposed amendment has been undertaken in accordance with this Ministerial Direction in this explanatory report

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment supports one of the purposes of the planning scheme as outlined at Clause 01, which is to provide a clear and consistent framework within which decisions about the use and development of land can be made. The amendment rezones land no longer required for service and utility to the Rural Conservation Zone, Schedule 1, which has been applied to surrounding land as well.

The amendment is consistent with:

- Clause 12.01-2S *Native vegetation management*, which seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. The amendment supports this clause by ensuring that the existing native vegetation on the land is protected and that development does not compromise native vegetation.
- Clause 12.05-1S *Environmentally sensitive areas*, which seeks to protect and preserve environmentally sensitive areas. The amendment contributes to the protection of an environmentally sensitive area in Macedon Ranges by supporting the protection of conservation values on the land.
- Clause 13.05-2S *Bushfire planning*, which seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. See comments above.
- Clause 18.02-3S *Road system*, which seeks to manage the road system ... by developing an efficient and safe network and making the most of existing infrastructure. The amendment supports the exchange of land to accommodate an existing carriageway.

It is not expected that the amendment will have a significant impact on the implementation of the Planning Policy Framework or any adopted State Policy.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The amendment supports the Local Planning Policy Framework, including the Municipal Strategic Statement (MSS) as follows:

Clause 21.12-2 (Development infrastructure) identifies that the Public Use Zone be applied to recognise public land use for public utilities in the Shire. The proposed amendment acknowledges that the affected land is no longer required for the purposes of service and utility.

Clause 21.12-3 (Rural infrastructure) outlines the need for careful management of rural roads. The amendment supports a land swap to accommodate the continued operation of the existing carriageway alignment on Walshes Road.

The amendment generally improves land use and development directions and outcomes, considers the effectiveness and need for land use and development controls, as well as streamlines the administration of the planning scheme. The amendment is consistent with the Local Planning Policy Framework with no significant impact on the implementation of the Local Planning Policy Framework or MSS.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment rezones land to accurately reflect the ownership and use of the land. It will ensure the planning scheme makes better use of the Victoria Planning Provisions and that the correct zoning applies to private land.

How does the amendment address the views of any relevant agency?

It is considered there are no relevant agencies applicable for this type of amendment.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment is rezoning land to ensure that the most appropriate planning controls apply to the affected land. It is considered that the amendment will not have a significant impact on the transport system.

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The nature of the amendment is administrative, with the proposed Rural Conservation Zone having no significant increase or impact on the resource and administrative costs of the responsible authority.

Where you may inspect this amendment

The amendment is available for public inspection, free of charge, during office hours at the following places:

Macedon Ranges Shire Council offices and Service Centres at:

- Kyneton Council Office, 129 Mollison Street, Kyneton.
- Gisborne Council Office, 40 Robertson Street, Gisborne.
- Woodend Library, Cnr Forest and High Streets, Woodend.
- Romsey Library, 96-100 Main Street, Romsey.

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.