

Mildura Planning Scheme

Amendment C116mild

Explanatory Report

Overview

The amendment is required to address a zoning anomaly by rezoning private land with an area of 8,018 square metres at 174 Cootamundra Avenue, Red Cliffs from the Public Conservation and Resource Zone (PCRZ) to the Farming Zone (FZ). The PCRZ is intended to apply to land owned by a State or Local Government authority or utility provider and is not intended to apply to land owned by a private company or person. The current PCRZ is restrictive in nature, with most uses prohibited and requiring a planning permit for land use and development.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Mildura Rural City Council website at <https://www.mildura.vic.gov.au>.

And/or

The amendment is available for public inspection, free of charge, during office hours at the following offices and library of Mildura Rural City Council:

- Madden Avenue Service Centre, 108 Madden Avenue, Mildura
- Deakin Avenue Service Centre, 76 Deakin Avenue, Mildura
- Ouyen Service Centre, 79 Oke Street, Ouyen
- Red Cliffs Library, Jamieson Avenue, Red Cliffs

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person may make a submission to the planning authority about the amendment. Submissions about the amendment must be received by 14 April 2025.

A submission must be sent to:

Manager Strategic Planning

Mildura Rural City Council
PO Box 105
Mildura VIC 3502

Or submit by email to:

strategic.planning@mildura.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions hearing: week commencing 21 July 2025.
- Panel hearing: week commencing 25 August 2025.

Details of the amendment

Who is the planning authority?

This amendment has been prepared by the Mildura Rural City Council, which is the planning authority for this amendment.

The amendment has been made at the request of Mildura Rural City Council.

Land affected by the amendment

The amendment applies to land at 174 Cootamundra Avenue, Red Cliffs (within blue dotted line) and land in the abutting road reserve to the south, as shown outlined in red on Figure 1 below.



Figure 1 – Land affected by Amendment C116mild

The land is affected by the Environmental Significance Overlay, Schedule 1 (ESO1 – Murray River Corridor) and Floodway Overlay (FO) and is in a designated Bushfire Prone Area.

What the amendment does

The amendment addresses a zoning anomaly by rezoning privately owned rural land from a public land zone to the FZ.

Specifically, the amendment rezones land at 174 Cootamundra Avenue, Red Cliffs and part of the abutting road reserve from PCRZ to FZ.

Strategic assessment of the amendment

Why is the amendment required?

Under the *Ministerial Direction – The Form and Content of Planning Schemes*, a planning scheme may only include land in a Public Use Zone, Public Park and Recreation Zone or PCRZ if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.

The amendment is seeking to correct a zoning anomaly by rezoning privately owned land at 174 Cootamundra Avenue Red Cliffs from PCRZ to FZ so that the land will be able to be used and developed in a manner consistent with the purpose of the FZ. The land was rezoned from Rural Zone to PCRZ in 1999 at the introduction of the 'new format planning schemes' and has not changed since.

The rezoning will ensure that the appropriate zone applies to the land to reflect its private ownership and guide the use and development of the land in accordance with the purpose of the zone, providing greater certainty to the landowner, planners and the community and resulting in net community benefit.

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

The amendment implements and is consistent with the following objectives of planning in Victoria identified in sections 4(1) and 12(1)(a) of the *Planning and Environment Act 1987* as follows:

4 (1) The relevant objectives of planning in Victoria are -

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land.
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
- (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.
- (f) to facilitate development in accordance with the [above] objectives...
- (g) to balance the present and future interests of all Victorians.

12 (1) A planning authority must -

- (a) implement the objectives of planning in Victoria.

The amendment corrects a zoning anomaly by rezoning privately owned land to provide for the fair, orderly, economic and sustainable use and development of the land, while protecting the local environment and biodiversity of the area.

This will ensure that future development of the land will be integrated with existing land use and future development, while balancing the present and future interests of all Victorians.

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

Environmental effects

An assessment of the environmental, social and economic effects (sections 12(2)(b) and (c) of the *Planning and Environment Act 1987*) indicates that the proposed rezoning will result in a net community benefit. The reasons for this are as follows:

The rezoning of the land is anticipated to have minimal negative effect on the:

- air, land and water quality

- health and biodiversity of the existing ecological systems
- natural environment and aesthetic value of the forest, parks, lake system, flora and fauna

The proposed rezoning of the land from PCRZ to FZ is consistent with the zoning of surrounding privately owned land to the south. The amendment will encourage the retention of productive agricultural land and development that is appropriate within the rural context. It is expected that the proposed rezoning will have little impact on adjacent public land to the north and the Murray River to the east.

Social and economic effects

The amendment corrects a zoning anomaly, which is expected to create certainty for the landowner, planners and general community.

The amendment is not expected to adversely affect the use of abutting public land.

The rezoning of the land to FZ may make an economic contribution to agriculture.

Due to the relatively remote location and small size of the land, minimal demand for additional services and infrastructure is expected.

Does the amendment address relevant bushfire risk?

The objective of Clause 13.02 (Bushfire) is:

“To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.”

The affected land has an area of approximately 8,024 square metres and is in a designated bushfire prone area, with vegetated public land to the north.

Although the proposed rezoning of the land would allow an application to be made for a dwelling under the FZ, this does not imply that a permit should or will be granted (e.g., it is noted that the land is also affected by the FO).

In the event of a bushfire on public land to the north, agricultural land to the south is expected to be at lower risk, with access and egress available via Cootamundra Avenue.

The proposed rezoning of the land from PCRZ to FZ will ensure that the zoning of the land reflects its ownership and is consistent with the *Ministerial Direction – The Form and Content of Planning Schemes* but is not expected to result in increased risk to life, property, community infrastructure or the natural environment from bushfire.

No bushfire assessment was prepared for the land as it is situated in a Bush Fire Prone Area.

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

Ministerial Direction – The Form and Content of Planning Schemes

The amendment is accompanied by all the required information and complies with the requirements of the *Ministerial Direction – The Form and Content of Planning Schemes Section* under section 7 (5) of the *Planning and Environment Act 1987*.

Ministerial Direction No. 1 – Potentially Contaminated Land

The council as planning authority has considered the past use of the land and determined that the land is not potentially contaminated within the meaning of *Ministerial Direction No. 1*. The existing use of the land is vacant with no vegetation and the proposed zone will reflect the intended use of the land which is agriculture.

The views of the Environment Protection Authority Victoria (EPA) have been sought and received. It has not raised any concern about this subject property presenting potential risk to the environment, amenity or human health. The Council is therefore satisfied that the land, or parts of the land, are not potentially contaminated.

Ministerial Direction No. 11 – Strategic Assessment of Amendments

The amendment is accompanied by all the required information. As set out in this Explanatory Report, the amendment complies with the requirements of *Ministerial Direction No. 11*, which ensures a comprehensive strategic evaluation of the amendment and the outcomes it produces has been undertaken.

Ministerial Direction No. 15 – The Planning Scheme Amendment Process

The amendment is required to comply with set times for completing steps in the planning scheme amendment process, as specified in *Ministerial Direction No. 15*.

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

The proposed amendment is consistent with the Planning Policy Framework as follows:

- Clause 12.05-1S (Environmentally sensitive areas), which aims to protect and conserve environmentally sensitive areas. The land is affected by the ESO1 which aims to protect the Murray River environs. The proposed rezoning of the land from PCRZ to FZ does not conflict with the purpose of this overlay.
- Clause 12.05-1L (Environmentally sensitive public land areas), which applies to all land in and abutting a PCRZ. The affected land abuts public land zoned PCRZ to the north. The proposed rezoning of the land to FZ does not conflict with the objective of this local policy of protecting the environmental, landscape, cultural heritage and archaeological values of public land.
- Clause 13.03-1S (Floodplain management), as the rezoning of the land to FZ does not conflict with the purpose of the existing FO on the land, which aims to manage flood risk, protect water quality and maintain flood plain health.
- Clause 14.01-1S (Protection of agricultural land), as it will include privately owned rural land in the FZ, which may facilitate agricultural activity.

How does the amendment support or implement the Municipal

Planning Strategy?

The proposed rezoning of the land from PCRZ to FZ is consistent with the following clauses of the Municipal Planning Strategy (MPS):

- Clause 02.03-3 (Environmental risks and amenity), as the proposed rezoning of the land from PCRZ to FZ will not conflict with the purpose of the FO, which is to manage flood risk, protect water quality and maintain flood plain health.
- Clause 02.03-4 (Natural resource management), as the proposed rezoning of the land from PCRZ to FZ potentially allows for the agricultural use of the land.

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

The proposed rezoning of the land from the PCRZ to the FZ is consistent with the zoning of nearby privately owned rural and with the *Ministerial Direction – The Form and Content of Planning Scheme* and makes proper use of the Victoria Planning Provisions.

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

In early consultation with public sector agencies and authorities, the following input was received:

- Parks Victoria did not identify any issues, provided there is no impact on adjacent parks or reserves.
- VicTrack had no comment, as the site is located away from railway land.
- The former Department of Transport also had no comment, as the site is located away from land in a Transport Zone.
- The Country Fire Authority had no comment
- DTP advised that any planning scheme amendment should consider that the LSIO is being removed and replaced by the FO. This has since occurred.

Amendment Exhibition Process (Further Consultation)

Further consultation will be undertaken with relevant agencies during the exhibition of the amendment and considered after the close of the exhibition period.

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

The amendment proposes to rezone rural land on a local road and is not expected to have any significant effect on the transport system as defined in the *Transport Integration Act 2010*.

Resource and administrative costs

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

The amendment is not anticipated to have any significant cost impact on the resource and administrative costs of the responsible authority, as it is not expected result in a significant increase in the number of planning permit applications and may reduce administrative costs by ensuring that the land is appropriately zoned.