9.5 PROPOSED PLANNING SCHEME AMENDMENT C138 - CORRECTIONS OF VARIOUS ZONING ANOMALIES

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File No: *PL/05/272*

Attachments: *1. Draft Planning Scheme Amendment C138 Documentation*

SUMMARY

Proposed Planning Scheme Amendment C138 seeks to correct various zoning anomalies/inconsistences that have been identified. These anomalies have been raised by either affected landowners, VicTrack or identified as actions by a township structure plan for the area.

This Amendment proposes to change the *Mitchell Planning Scheme* by rezoning multiple land areas to reflect current land use. Most of these scenarios relate to a public zone affecting private land or public land being incorrectly identified by the planning maps.

The draft documentation for Planning Scheme Amendment C138 forms Attachment 1 to this Report.

This report recommends that Council request authorisation from the Minister for Planning to prepare Mitchell Planning Scheme Amendment C138 generally in accordance with Attachment 1.

Following receipt of authorisation, the Planning Scheme Amendment will be placed on public exhibition in accordance with the requirements of the *Planning and Environment Act 1987.*

RECOMMENDATION

THAT Council:

1. Council Officers seek Ministerial Authorisation in accordance with Section 8(A) of the *Planning and Environment Act 1987* for the preparation of Mitchell Planning Scheme Amendment C138 generally in accordance with Attachment 1.
2. Subject to Ministerial Authorisation being granted, Council Officers prepare and exhibit Mitchell Planning Scheme Amendment C138 in accordance with the requirements of the *Planning and Environment Act 1987*.

BACKGROUND

Councils are required to undertake ongoing monitoring of their planning schemes to improve the accuracy and effectiveness of planning controls. This monitoring results in minor amendments being required from time to time which make corrections that are considered to be policy neutral.

Proposed Amendment C138 seeks to correct anomalies that have either been raised by affected landowners, requested by VicTrack or identified as actions by a township

structure plan for the area. These changes will provide greater clarity and transparency for all users of the *Mitchell Planning Scheme*.

ISSUES AND DISCUSSION

Proposed Amendment C138 seeks to correct various zoning anomalies (detailed below) which will ensure the planning provisions are up to date, accurate and effective. The draft amendment documentation is provided at Attachment 1 to this report.

Proposed Amendment C138 comprises four (4) parts which are summarised as follows:

Part 1: Wandong, Bylands & Kilmore: Former Railway Reserve

It is proposed to rezone a strip of land currently within the Public Use Zone (PUZ4 – Transport) to the Farming Zone (FZ) as shown in Figure 1. This land formed part of the decommissioned railway line that connected Heathcote Junction to Heathcote.

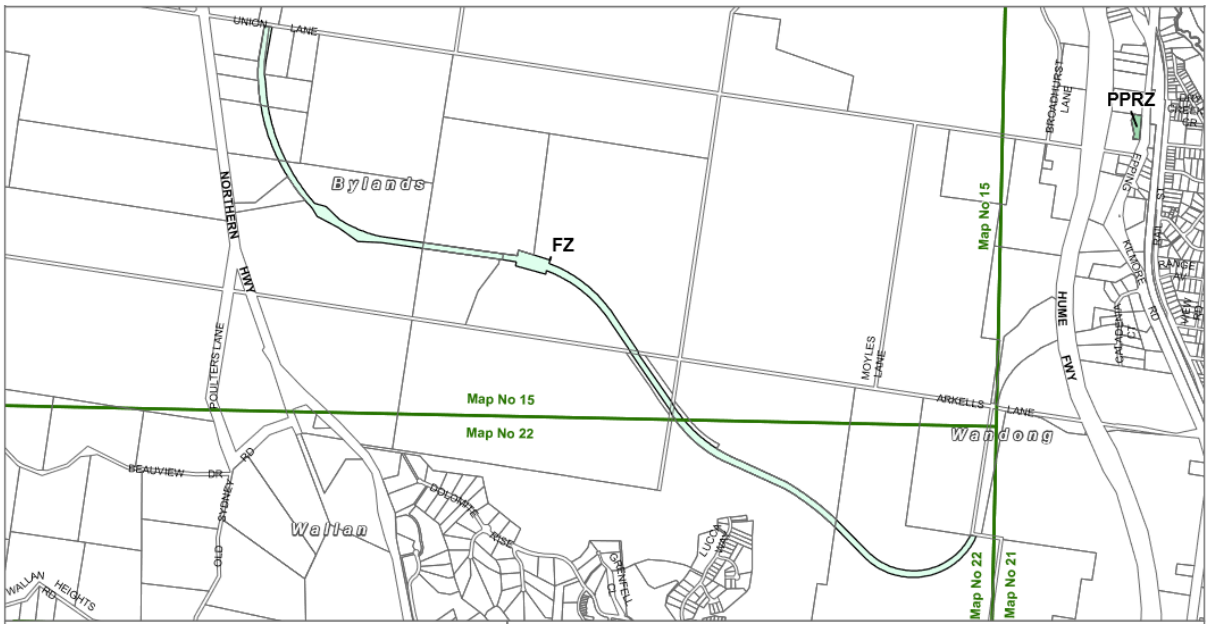


Figure 1: Former Railway Reserve in Bylands, Wandong and Kilmore

The portion proposed to be rezoned is between Union Lane in Bylands and land south of Arkells Lane in Wandong. There are ten (10) properties affected, which include:

- Six (6) properties are within private ownership and some of the affected landowners have requested the removal of the PUZ4 from private land,
- Four (4) properties are owned by VicTrack and have been declared surplus to requirements. The rezoning of this land is required prior to VicTrack being able to sell off the land which is why VicTrack have requested the properties be rezoned to FZ to match the surrounding area.

At its Ordinary Council meeting on 19 March 2018, Council (amongst other things) resolved to endorse the findings of the *Wallan to Heathcote Rail Trail Feasibility Study*, prepared by RMCG, dated October 2017 and the identified proposed route. The land proposed to be rezoned via Amendment C138 forms part of the rail trail proposed route. It is considered that correcting the zoning on these properties will have no implications on any future discussions with affected landowners around delivering the

rail trail route. The strip of PUZ4 land on these properties is a clear anomaly and does not reflect the land's current status or ownership.

Part 2: Road reserve at Sutherland Street and Rutledge Street and adjoining VicTrack land, Kilmore

The mapping of the Road Zone Category 2 (RDZ2) at Rutledge Street and Conway Street does not align with the constructed road reserve and the mapping shows the road alignment traversing through private property. As a result, the abutting property identified as Piper Street, Kilmore is currently affected by three (3) zones being the RDZ2, Special Use Zone – Schedule 4 (Private Educational or Religious Institutions – SUZ4) and the General Residential Zone (GRZ1).

VicTrack have requested the correction of this anomaly on the road reserve and abutting property. It is proposed to rezone part of the VicTrack owned land fronting Rutledge Street (Figure 2) from RDZ2 and SUZ4 to General Residential Zone (GRZ) to reflect its ownership.

This rezoning is identified as a short-term action within the Kilmore Structure Plan:

"Correct Rutledge Street Road Zone Category 2 Zone and Special Use Zone Schedule 1 (sic) *mapping anomaly"* (Action A15).

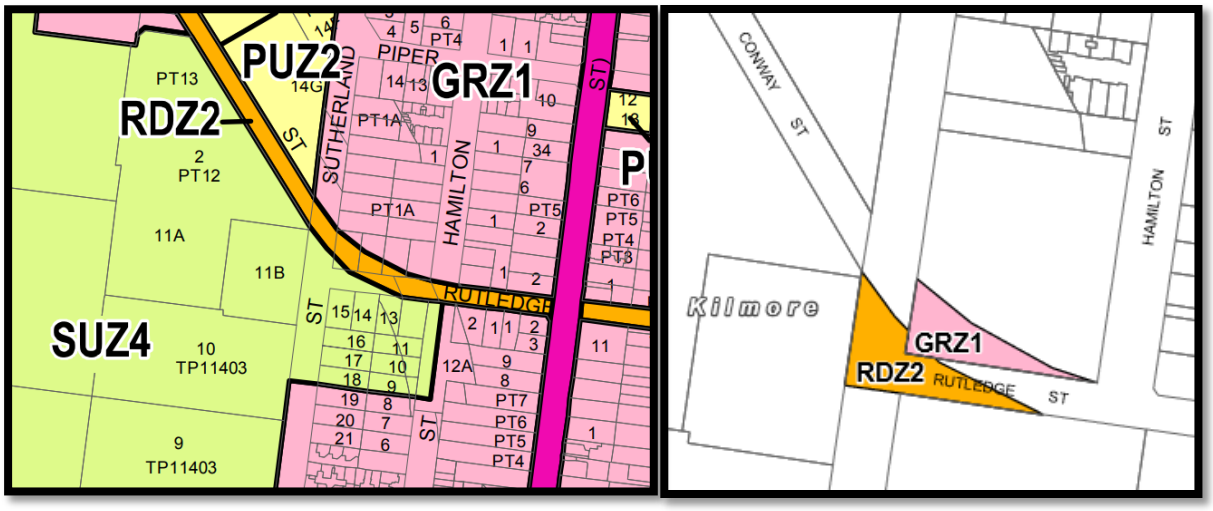


Figure 2: Current Sutherland Street and Rutledge Street anomalies and proposed changes

Part 3: Anderson Road Public Water Utilities and 50 Anderson Road, Kilmore

Two public water utilities managed by Goulburn Valley Water front the eastern side of Anderson Road. These facilities are within the Public Use Zone (PUZ1 – Service & Utility) and the Faming Zone (FZ). It is proposed to rezone all water utilities land within the FZ and managed by Goulburn Valley Water into the PUZ1 to reflect its use and ownership (Figure 3).

Part of the adjoining property at 50 Anderson Road is incorrectly within the PUZ1 despite being private land. It is proposed to correct this mapping error by rezoning from FZ to PUZ1 to reflect the correct boundaries as shown in Figure 3.

This rezoning is identified as a short-term action within the Kilmore Structure Plan:

"Resolve minor Public Use Zone mapping anomalies for 50 Anderson Road and 52-65 Anderson Road" (Action A55).

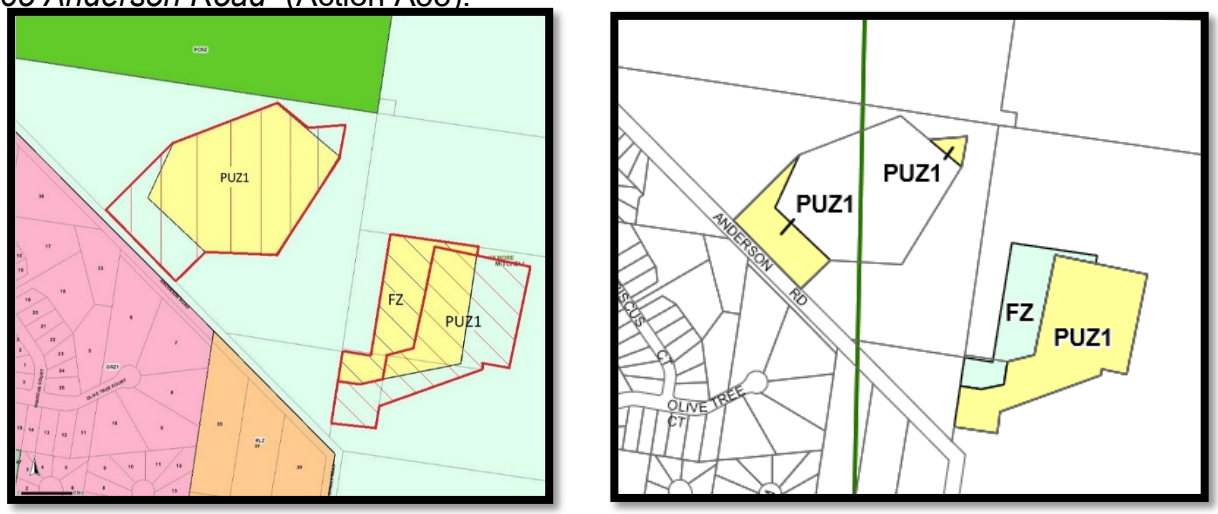


Figure 3: Current Anderson Road water utility anomalies and proposed changes

Part 4: Wandong Memorial Park: 3279 Epping-Kilmore Road, Wandong

3279 Epping-Kilmore Road, Wandong is the property address for Wandong Memorial Park which is Council land. It is proposed to rezone the park from Low Density Residential Zone (LDRZ) to Public Park and Recreation Zone (PPRZ) to reflect its use and ownership.

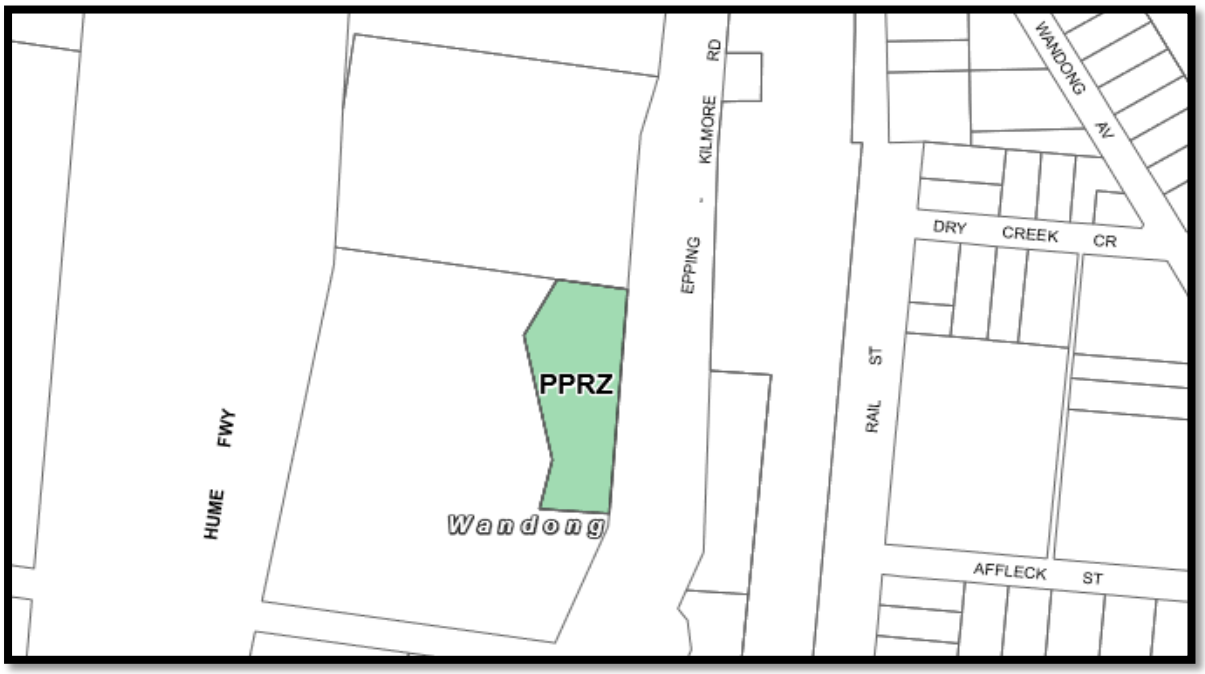


Figure 4: Proposed rezoning for 3279 Epping-Kilmore Road, Wandong

CONSULTATION

If Ministerial Authorisation is received for the preparation of proposed Planning Scheme Amendment C138, public exhibition would be required in accordance with the provisions of Section 19 of the *Planning and Environment Act 1987*.

Public exhibition will include sending notices to the land owners/occupiers of all properties affected by the amendment, advertising within the local newspapers and on Council's website and the Government Gazette. Hard copies of the Amendment will be made available for public inspection during opening hours at the Wallan Planning and Building Office and the Kilmore Library.

Following completion of the public exhibition period, a report will be provided to Council outlining the exhibition process and any submissions received. All submitters will be notified prior to the formal Council consideration of their submission.

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

In the event a future Planning Panel is required, Council is responsible for the payment of Panel costs, including hearing time, report writing time and expenses (e.g. accommodation and food). The full amount of Panel costs depends on the number of Panel Members required, the complexity of submissions and the length of hearing time. Council's Strategic Planning operating budget includes an allocation of funds for Planning Panels. It is expected that the Panel costs will be within this operating budget.

POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan

Proposed Planning Scheme Amendment C138 is consistent with the relevant objectives of the Council Plan 2017 – 2021, including the following:

Strategic Objective	Responsible Planning *To demand best practice outcomes when planning for future growth.*
Relevant Key Strategies:	*Employ best practice planning tools to achieve desired outcomes.*

RISK IMPLICATIONS

Risk Ranking is determined using ROHS201-G1- Corporate Risk Matrix. Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is minimal risk associated with this planning scheme amendment.	Medium	Not applicable.	Yes, the Strategic Planning team can manage the consultation period and required

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
			reporting to DELWP.

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

It is not expected that the proposed Planning Scheme Amendment will have any adverse effects on the environment or sustainability as the changes are considered to be minor in nature.

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

CHILDREN AND YOUNG PEOPLE IMPLICATIONS

There are no implications for children and young people in terms of correcting the identified anomalies through this proposed Planning Scheme Amendment.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

CONCLUSION

Proposed Mitchell Planning Scheme Amendment C138 seeks to correct a number of current zoning anomalies by rezoning the relevant land areas to reflect current land use.

This report recommends that a Planning Scheme Amendment be prepared and exhibited in accordance with the relevant requirements of the *Planning and Environment Act 1987*.

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

18 FEBRUARY 2019

9.5

PROPOSED PLANNING SCHEME AMENDMENT C138 - CORRECTIONS OF VARIOUS ZONING ANOMALIES

Attachment No: 1

Draft Planning Scheme Amendment C138 Documentation

Planning and Environment Act 1987

MITCHELL PLANNING SCHEME

AMENDMENT C138

EXPLANATORY REPORT

Who is the planning authority?

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

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

Land affected by the amendment

The proposed amendment applies to various parcels of public and private land throughout Wandong, Bylands and Kilmore as shown on the planning scheme maps forming part of this amendment.

Specifically, the proposed amendment affects land as outlined below:

- Former railway line within the Public Use Zone Schedule 4 located in Wandong, Bylands and Kilmore, between Union Lane, Bylands and land South of Arkells Lane, Wandong.
- Road reserve at Sutherland Street and Rutledge Street, Kilmore and adjoining VicTrack land
- Public water utilities located on the east side of Anderson Road, Kilmore
- 50 Anderson Road, Kilmore
- 3279 Epping-Kilmore Road, Wandong

What the amendment does

The proposed amendment rezones land within Wandong, Bylands and Kilmore which are anomalies requiring rezoning as a result of the disposal of land surplus by VicTrack, or where the existing zone does not reflect the existing or intended use of the land.

The amendment proposes to:

- Rezone former VicTrack owned land within the Public Use Zone Schedule 4 located in Bylands and Kilmore (between Union Lane, Bylands and land South of Arkells Lane, Wandong) to Farming Zone and Road Zone Category 1.
- Rezone Anderson Road Public Water Utilities and 50 Anderson Road, Kilmore from Public Use Zone Schedule 6 to Farming Zone, and from Farming Zone to Public Use Zone Schedule 6.
- Rezone land at 3279 Epping-Kilmore Road, Wandong from Low Density Residential Zone to Public Park and Recreation Zone.

- Rezone part of VicTrack owned land fronting Rutledge Street on Sutherland Street intersection from Road Zone Category 2 (RDZ2) and Special Use Zone Schedule 4 to General Residential Zone Schedule 1, and nearby land from SPUZ4 and GRZ1 to RDZ2.

Strategic assessment of the amendment

Why is the amendment required?

The amendment proposes several zone corrections. The reasons for the changes are outlined below.

Wandong, Bylands & Kilmore: Former Railway Reserve

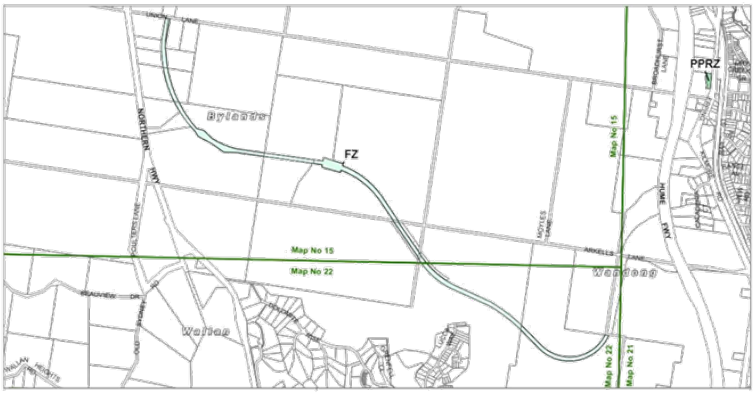
It is proposed to rezone a strip of Public Use Zone Schedule 4 (PUZ4) land affecting multiple addresses within Bylands and Kilmore to Farming Zone (FZ) as shown at Figure 1. The PUZ4 land was a former railway line that connected Heathcote Junction to Kilmore. The railway line is fully decommissioned, with the strip of PUZ4 land either within private ownership, used as a road reserve or surplus to VicTrack requirements.

The Ten (10) properties to be rezoned include:

- 6 which are within private ownership,
- 4 properties are owned by VicTrack and have been declared surplus to requirements. The rezoning of this land is required prior to VicTrack being able to sell off the land.

This rezoning has been requested by some of the affected private landowners and VicTrack.

The Wallan to Heathcote Rail Trail feasibility study Council resolution from 19th March 2018 confirms the endorsement and possibility of a future trail following along the former railway line. Updating the zone to reflect current land use will ensure the acquisition of private land for future uses would become an easier process.



Figures 1: Former Railway Reserve in Bylands, Wandong and Kilmore (Before and After)

Road reserve at Sutherland Street and Rutledge Street and adjoining VicTrack land, Kilmore

Part of the Rutledge Street Road Zone Category 2 (RDZ2) at Rutledge Street and Conway Street does not align with the road reserve. The intersection of Rutledge Street and Sutherland Street has been recently upgraded within the road reserve. Realignment of the Rutledge Street and Sutherland Street intersection to match the current RDZ2 mapping will not improve traffic movement through the intersection.

It is proposed to rezone the Sutherland Street and Rutledge Street intersection from Special Use Zone Schedule 4 (SUZ4) to RDZ2, to reflect the status of the road reserve. It is proposed to rezone part of the VicTrack owned land fronting Rutledge Street from RDZ2 and SUZ4 to General Residential Zone (GRZ) to reflect its ownership, surrounding residential zoning and future residential use as nominated by the *Kilmore Structure Plan 2016.*

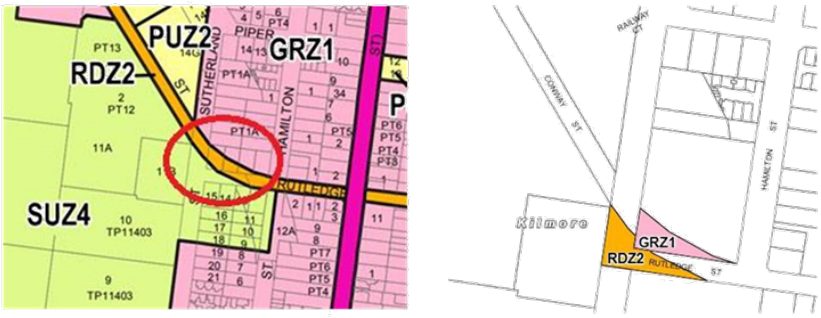


Figure 2: Current Sutherland Street and Rutledge Street anomalies and proposed changes

Anderson Road Public Water Utilities and 50 Anderson Road, Kilmore

Two public water utilities managed by Goulburn Valley Water front the east side of Anderson Road. These facilities are within the Public Use Zone Schedule 1 (PUZ1) and the Farming Zone (FZ). It is proposed to rezone all water utilities land within the FZ and managed by Goulburn Valley Water into the PUZ1 to reflect its use and ownership (Figure 3).

Part of adjoining privately owned land at 50 Anderson Road is within PUZ1. It is proposed to correct this mapping error by rezoning to FZ, and from FZ to PUZ1 to reflect correct boundaries, current site use and ownership.

This rezoning is identified as Action 55 within the Kilmore Structure Plan; *Resolve minor Public Use Zone mapping anomalies for 50 Anderson Road and 52-65 Anderson Road.*

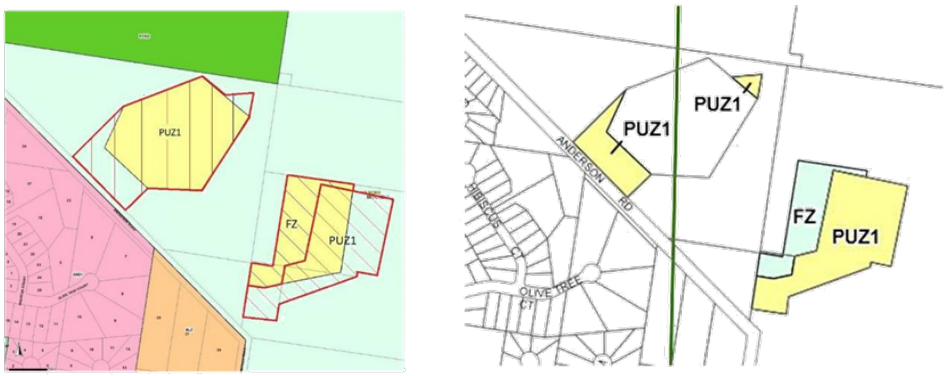


Figure 3: Current Anderson Road water utility anomalies and proposed changes

Wandong Memorial Park: 3279 Epping-Kilmore Road, Wandong

Land at 3279 Epping-Kilmore Road is the Council owned Wandong Memorial Park. It is proposed to rezone the park from Low Density Residential Zone (LDRZ) to Public Park and Recreation Zone (PPRZ) to reflect its use and ownership (Figure 4).

These changes will provide greater clarity for land owners, Council and agencies under the planning scheme. The amendment will enhance the accuracy of planning controls which apply to the land and clarify its intended use and development.

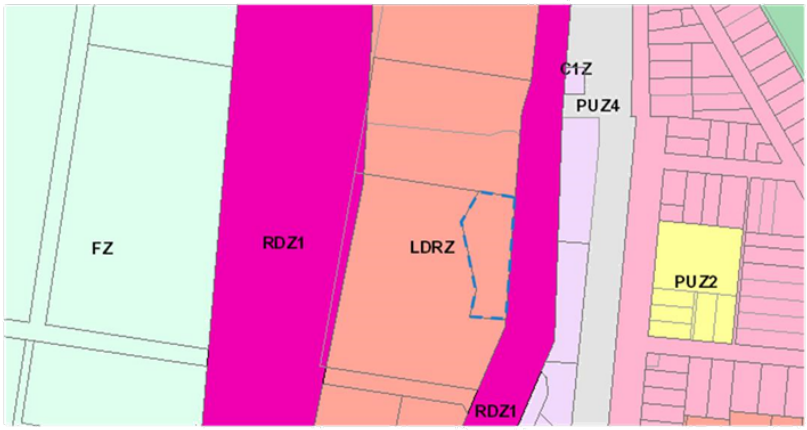


Figure 4: Proposed Rezoning for 3279 Epping-Kilmore Road, Wandong

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

The proposed amendment implements the objectives of planning in Victoria under section 4(1) of the *Planning and Environment Act 1987*, which includes the key objective 'to provide for the fair, orderly, economic and sustainable use, and development of land'. The proposed amendment is expected to achieve this by enabling the affected land to be appropriately used and developed in accordance with the proposed zoning provisions. Under the current zoning of the affected land, some preferred uses and developments may be restricted or prohibited due to mapping errors or anomalies.

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

The proposed changes are generally administrative in nature and are not likely to have any adverse environmental effects. The amendment is expected to have positive social and economic implications as it seeks to ensure that the overall zoning and application of overlays are consistently and appropriately applied.

The proposed amendment will provide greater clarity for Council, the community and land owners and enable the land to be developed in an appropriate manner.

Does the amendment address relevant bushfire risk?

The proposed amendment is not expected to result in an increased risk to life, property, the natural environment or community infrastructure as a result of bushfire. The proposed amendment rectifies zoning anomalies and will allow existing uses to continue.

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

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act. The amendment has been prepared in accordance with the requirements of Minister's Direction No.11 – Strategic Assessment Guidelines.

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

The proposed amendment is consistent with the following clauses of the Planning Policy Framework:

Clause 71.02-1 Purpose of the Planning Policy Framework

The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

The amendment is consistent with this objective as it ensures that the planning controls which apply to land within the municipality are accurate, appropriate and consistent with the SPPF

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

The amendment accords with the Department's requirements for consistency across all Victorian planning schemes. There are no specific local planning policy issues affected by the changes and therefore the amendment is Consistent with the Local Planning Policy Framework

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

By correcting the identified zoning anomalies in the planning scheme the amendment makes proper use of the Victorian Planning Provisions.

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

The amendment does not impact any external agencies.

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

The amendment is not considered to have a significant impact on the transport system.

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 expected to have 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:

- Mitchell Shire Council, 113 High St, Broadford
- Mitchell Shire Council, Planning and Building Services, 4A and 4B, 61 High Street, Wallan

The amendment can also be inspected free of charge at the Mitchell Shire Council website at www.mitchellshire.vic.gov.au. 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.

ATTACHMENT 1 - Mapping reference table

Location	Land /Area Affected	DELWP Mapping Reference
Wandong	2977 Epping-Kilmore Road	15,21,22
	3279 Epping-Kilmore Road	21
	Arkells Lane, Lot 1, TP956960,	15
	Arkells Lane Lots 1 and 2, TP554198	15
Bylands	470 Arkells Lane	15
	510 Arkells Lane	15
	530 Arkells Lane	15
	1040 Northern Highway	15
	335 Union Lane	15
Kilmore	50 Anderson Road	15, 16