

MOUNT ALEXANDER PLANNING SCHEME

AMENDMENT C97malx

EXPLANATORY REPORT

Who is the planning authority?

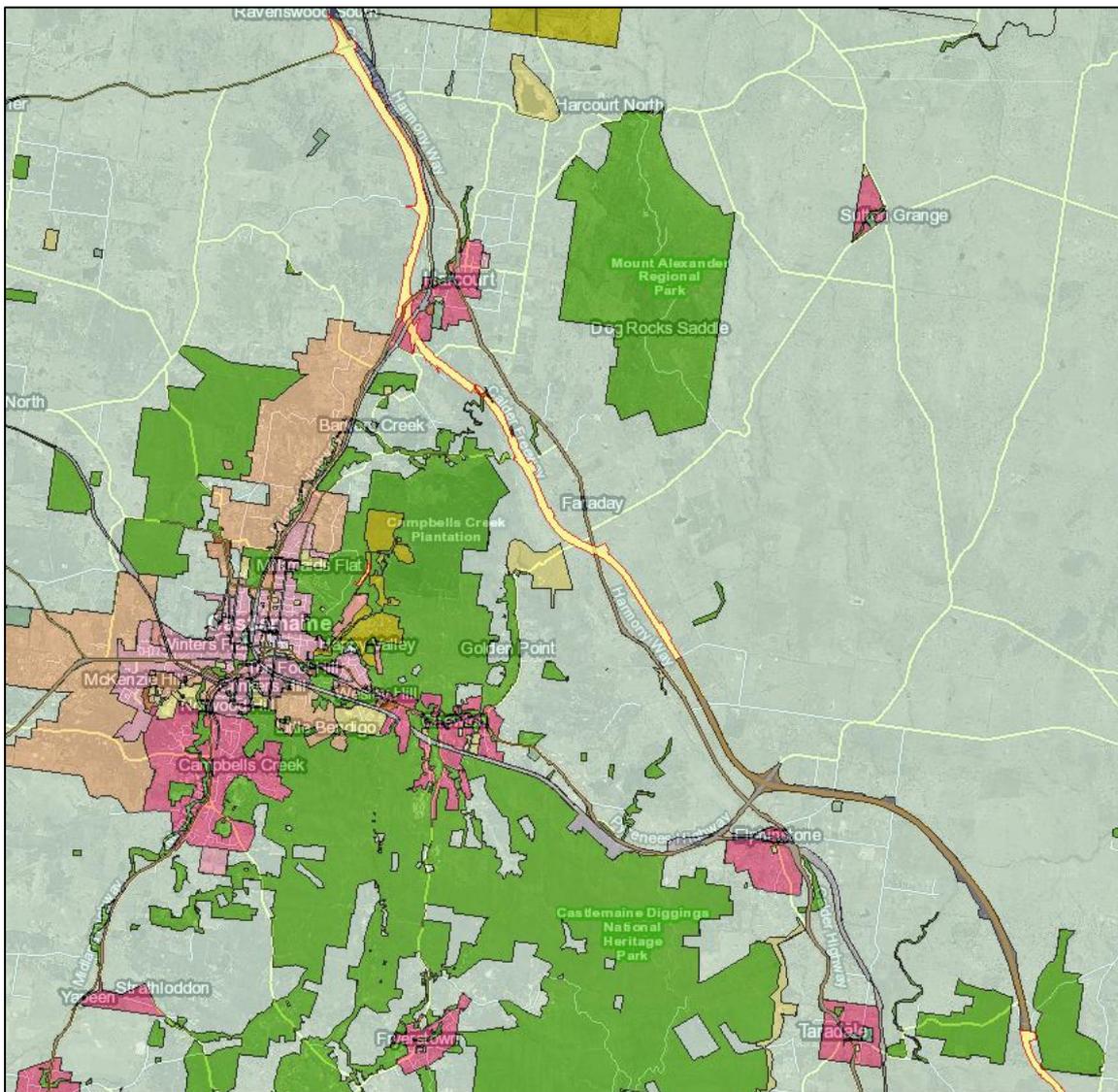
This amendment has been prepared by the Mount Alexander Shire Council, which is the planning authority for this amendment.

Land affected by the amendment

The amendment affects approximately 223 properties across the Mount Alexander Shire.

Approximately 100 properties are affected by proposed Heritage Overlay corrections, while approximately 123 properties are affected by proposed zoning and overlay changes associated with the Calder Freeway.

Please refer to Attachments A ('Land to which amendment applies') and F ('Table of actions') for a list of the land to which this amendment applies. The map below identifies the section of the Calder Freeway that this amendment applies to.



What the amendment does

The amendment corrects errors and anomalies within the Mount Alexander Planning Scheme, which are associated with both the mapping (zoning and overlays) and ordinance of the planning scheme. The majority of these errors and anomalies are associated with the Heritage Overlay. Please refer to attachments for additional details.

The amendment also proposes administrative changes to tidy up the zoning and overlay controls along the Calder Freeway (which has been declared a freeway under the *Road Management Act 2004*), to ensure that these are accurate and reflective of the current land use, road manager and conditions. Specifically, this includes the deletion of the Public Acquisition Overlay – Schedule 2 (PAO2). Schedule 2 of the PAO nominates the acquiring authority as ‘Roads Corporation’, and the purpose of acquisition is ‘*proposed alignment of the new Calder Highway/Freeway*’. The land has since been acquired by the authority and used for the acquisition purpose, and the purpose of the overlay is therefore no longer applicable. Where the land has been acquired and the PAO2 is proposed to be deleted, it is proposed to rezone the land to Transport Zone 2, to reflect the use and road manager, and its role as part of the ‘principal road network’.

In relation to the Calder Freeway alignment, the amendment also proposes to rezone land to Transport Zone 1 (state transport infrastructure), as well as Public Conservation and Resource Zone (PCRZ), Farming Zone (FZ) and Township Zone (TZ) where the land is not included within the boundary of the declared freeway and is therefore proposed to be rezoned to the underlying and corresponding zone.

Refer to table at Attachment F for further details regarding the proposed changes.

NOTE: a separate planning scheme amendment (C94malx) that is currently underway includes the rezoning of Harmony Way (old Calder Highway) from Road Zone – Category 1 to Road Zone – Category 2 (zones which have since been replaced by Transport Zone 2 and Transport Zone 3 respectively) as it has been revoked as an arterial road/freeway and declared a municipal road.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to give effect to a series of corrections of errors and anomalies in the Mount Alexander Planning Scheme (refer Attachment A to see a list of these errors), to ensure the scheme remains current and provides a clear basis for decision-making. The amendment also includes the administrative tidy up of zoning and overlays where the current zoning/overlays are not accurate or reflective of current land use and conditions, specifically relating to the zoning and overlay controls associated with the Calder Freeway alignment.

The correction and administrative tidy up of these anomalies, minor errors and inaccurate or redundant zoning/overlays will contribute to the more effective operation and administration of the Mount Alexander Planning Scheme, and will help ensure that the planning scheme is correct and up to date. Given the last planning scheme amendment to correct errors in the planning scheme was approved in 2016 (Amendment C77), and the one before that in 2015 (Amendment C49), it is timely that another corrections amendment is completed.

A summary of the reason for each category of change is provided below (please refer to Attachments B and F for further details):

Correction of errors associated with the Heritage Overlay schedule and mapping:

- ensure Heritage Overlays are mapped to the correct property
- ensure that the heritage place/building is referenced correctly in the schedule

Administrative tidy up of the Calder Freeway zoning and overlay application:

- The Calder Freeway has been declared a freeway under the *Road Management Act 2004*. The amendment seeks to ensure that the zoning and overlays of this land and its surrounds are accurate and reflective of the current land use, road manager and conditions.
- This includes the deletion of the PAO2 where the land has since been acquired by the authority and used for the acquisition purpose, and is therefore no longer applicable.
- Where the land has been acquired and the PAO2 is proposed to be deleted, it is proposed to rezone the land to Transport Zone 2 to reflect the use and road manager of this principal road network.

- In relation to the Calder Freeway alignment, the amendment also proposes to rezone land to TRZ1, as well as PCRZ, FZ and TZ where the land is not included within the boundary of the declared freeway and is therefore proposed to be rezoned to the underlying and corresponding zone.

Overall, the amendment ensures that the planning scheme mapping accurately reflects the existing use or conditions of the land, and makes sure that where specific protection or requirements are necessary, this is done accurately through the use of overlays.

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

The amendment ensures that planning scheme provisions are correctly applied.

Specifically, this amendment implements the following objectives of planning in Victoria as outlined in section 4 (1) of the *Planning and Environment Act 1987*:

- a) *To provide for the fair, orderly, economic and sustainable use, and development of land;*

The amendment corrects zoning, overlays and planning scheme provisions that impact on the fair and orderly use and development of the land. The amendment corrects anomalies and errors associated with the zoning of land or application of overlays to ensure they are appropriate to the actual conditions of land. It ensures that land which needs to be recognised for a particular reason has the relevant overlay applied to it (specifically the Heritage Overlay).

In addition, the amendment makes administrative tidy ups to zoning and overlays associated with the Calder Freeway (including the deletion of the PAO2 and application of the TRZ2) to ensure that the zoning and overlay controls are accurate. The PAO2 is currently applied to land along the Calder Freeway, for the purpose of '*proposed alignment of the new Calder Highway/Freeway*'. This land has since been acquired and the Calder Freeway has been constructed. The Calder Freeway has been 'declared' as a freeway under the *Road Management Act 2004*, so the overlay is no longer relevant nor required. Additionally, given the land has been acquired and the freeway constructed and declared, it needs to reflect the accurate zoning, being the Transport Zone 2 (TRZ2).

- d) *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*

The amendment ensures that the Heritage Overlay is correctly applied and covers heritage places intended to be protected. These changes and corrections provide for the conservation of heritage places.

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

There are no adverse social, economic or environmental effects arising from this amendment, as the amendment is administrative in nature, correcting errors and anomalies. However, it is expected that the amendment will assist with conservation of elements of heritage significance within the built environment, as well as having a positive social and economic effects through the preservation of historically significant places which often reflect social history, for the benefit of current and future generations.

Does the amendment address relevant bushfire risk?

The amendment is considered to be administrative in nature, and is not considered to result in any increase to the risk to life, property, community infrastructure and the natural environment from bushfire. The changes are corrections or administrative tidy ups, which are not expected to introduce or intensify development, impact on existing bushfire controls, or increase the net risk to life, property, community infrastructure and the natural environment from bushfire.

The views of the relevant fire authority have not yet been sought in formulating the amendment, however the authority will be notified throughout the public exhibition period.

The proposed changes associated with the alignment of the Calder Freeway includes the rezoning of land from TRZ2 to TZ where the land has been revoked as an arterial road and declared as a municipal road, and therefore TRZ2 is not the applicable zone. The TZ is proposed to be applied in certain areas given it is the underlying and corresponding zoning of the immediately surrounding land, located within the Elphinstone township. The land proposed to be zoned TZ is currently used for the purpose of a road (being Diggers Way) and is therefore not expected to increase risk to bushfire or result in the introduction or intensification of development, given it is not likely to be developed.

In further support of the proposed changes, the draft Bushfire Development Report completed by Terramatrix in April 2020 for Taradale and Elphinstone Framework Plans includes a summary on how these framework plans can meet the objectives and give effect to the strategies to address bushfire risk at Clause 13.02 of the Mount Alexander Planning Scheme. Given that the proposed rezoning of land to TZ is not in conflict with the Elphinstone Framework Plan, it is considered to address bushfire risk. The rezoning to TZ within Elphinstone is only proposed where land is within the township boundary.

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

The amendment considers relevant, and complies with, the following Minister's Directions:

- *Ministerial Direction: The Form and Content of Planning Schemes*

The amendment has been prepared having regard to the *Ministerial Direction - Form and Content of Planning Schemes* under Section 7(5) of the Act. The proposed ordinance changes reflect the requirements of this Ministerial Direction.

- *Ministerial Direction No. 11: Strategic Assessment of Amendments*

Ministerial Direction No 11 seeks to ensure that a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces. A strategic assessment of the proposed amendment has been undertaken in accordance with this Ministerial Direction, as outlined in this explanatory report.

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

The correction of anomalies in the planning scheme will improve the implementation of the Planning Policy Framework. Specifically, the amendment is supported by and implements the following clauses of the Planning Policy Framework.

- Clause 13.02-1S *Bushfire Planning*: the amendment has considered the objectives and strategies of this policy, and the proposed changes are not expected to increase bushfire risk.
- Clause 15.03-1S *Heritage Conservation*: the amendment supports the Planning Policy Framework objective to ensure the conservation of places of heritage significance, by correctly and accurately identifying and mapping heritage places within the planning scheme.
- Clause 15.03-1L *Heritage General*: the amendment ensures that the heritage places which are relevant to the provisions contained within this policy are accurately protected and identified.
- Clause 18.1-2S *Transport System*: the amendment supports and implements the objective and strategies of this policy through the correct zoning of the land which has been declared a freeway/arterial road.

How does the amendment support or implement the Municipal Planning Strategy?

The proposed amendment seeks to implement and support the Municipal Planning Strategy of the Mount Alexander Planning Scheme. The specific Strategic Directions at Clause 2.03 of the planning scheme which are supported and implemented include:

- Clause 2.03-1 Settlement: *Discouraging the rezoning of land for urban purposes outside the urban/township boundaries.*

- *Clause 2.03-3 Environmental Risks and Amenity - Bushfire: directing urban development to the lowest risk locations and avoiding development in areas of high bushfire risk where defensible space cannot be provided.* The amendment supports these strategic directions given that the proposed rezoning to TZ is not for the purpose of urban development, but is an administrative change to the corresponding zone where the area has been revoked as an arterial road/freeway. The area proposed to be rezoned from TRZ2 to TZ is used for the purpose of a municipal road (Diggers Way).
- *Clause 2.03-5 Built Environment and Heritage: Protecting and conserving the historic fabric and maintain the integrity of places of heritage and cultural heritage significance.* The amendment aims to support this strategic direction by ensuring places of heritage significance are accurately identified so that they can be protected and conserved in order to allow for their integrity to be maintained.
- *Clause 2.04 Strategic Framework Plans: the amendment proposes changes that are consistent with the township land use framework plans, particularly the Elphinstone land use framework plan.*

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

This amendment also makes proper use of the Victoria Planning Provisions by applying the correct zoning and overlay provisions to the affected land. The document 'A Practitioner's Guide to the Victorian Planning Schemes' has been considered to seek guidance regarding the appropriate use and application of zones and overlays. The guide provides the following guidance regarding public land zones:

The Ministerial Direction – The Form and Content of Planning Schemes specifies that a planning scheme may only include land in a public land zone if the land is Crown land or is owned, vested in or controlled by a Minister, government department, public authority or a municipal council.

The amendment is considered to address the above. Details of the specific zoning and overlay provisions affected by the proposed amendment are provided below:

Transport Zone – 2:

The purpose of the Transport Zone 2 is the 'Principal road network', and is used for roads which are declared as a freeway or an arterial road under the *Road Management Act 2004*, hence the proposed application of the TRZ2 to the Calder Freeway to ensure this declaration is accurately reflected in the zoning of the land.

Public Acquisition Overlay – Schedule 2:

Relevant purposes of the PAO include:

- To identify land which is proposed to be acquired by a Minister, public authority or municipal council.
- To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
- To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

Specifically, Schedule 2 to the PAO has the purpose of '*proposed alignment of the new Calder Highway/Freeway*'. This land has since been acquired and the Calder Freeway has been constructed. The Calder Freeway has therefore been 'declared' as a freeway, so the overlay is no longer relevant nor required.

Public Conservation and Resource Zone (PCRZ):

The purposes of the PCRZ include:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values.
- To provide facilities which assist in public education and interpretation of the natural environment with minimal degradation of the natural environment or natural processes.
- To provide for appropriate resource based uses.

Where land is proposed to be rezoned to PCRZ, it is land surrounding the Calder Freeway area where the land is not included within the declared freeway boundaries, and the land is proposed to be rezoned to the underlying and corresponding zone.

Transport Zone – 1:

The purpose of the transport use of TRZ1 is '*state transport infrastructure*'. A portion of land is proposed to be rezoned to TRZ1 for the purpose of the railway to accurately reflect its use (consistent with the zoning of the surrounding land used for the railway).

Farming Zone (FZ):

The purposes of the FZ are:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

Where land is proposed to be rezoned to FZ, it is land surrounding the Calder Freeway area where the land is not included within the declared freeway boundaries, and the land is proposed to be rezoned to the underlying and corresponding zone.

Township Zone (TZ):

The purposes of the TZ include:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Where land is proposed to be rezoned to TZ, this is to rezone it to the corresponding zone where the road area has been revoked as an arterial road/freeway. The area proposed to be rezoned from TRZ2 to TZ is used for the purpose of a municipal road (Diggers Way). Other municipal roads within the area are also zoned TZ.

Heritage Overlay:

The Heritage Overlay is the appropriate Victoria Planning Provision tool to protect properties identified as being of local heritage significance. This amendment identifies where there are errors or anomalies associated with the application of the Heritage Overlay, either in the mapping of the overlay or the associated schedule, and proposes to correct these.

Environmental Significance Overlay – Schedule 2 (ESO2):

Schedule 2 of the ESO is for the 'Lake Cairn Curran Catchment'. The proposed change to this schedule is a correction of an error contained within the overlay schedule.

The proposed amendment is considered to be consistent with the following relevant Planning Practice Notes (PPN):

- PPN01: Applying the Heritage Overlay
 - The PPN provides guidance about the use of the Heritage Overlay.
- PPN42: Applying the Rural Zones
 - The PPN provides guidance to planning authorities on the strategic work required to apply rural zones, and the purposes and features of each zone and where they may be applied.
- PPN46: Strategic Assessment Guidelines
 - The PPN explains what should be considered as part of the Minister's Direction No. 11 Strategic Assessment of Amendments, which requires a planning authority to

evaluate and discuss how an amendment addresses a number of strategic considerations.

List of Maps Forming Part of the Mount Alexander Planning Scheme

The amendment will result in the deletion of four PAO maps from the Mount Alexander Planning Scheme and replaces the Schedule to Clause 72.03 to update the list of maps forming part of the planning scheme.

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

The proposed changes relating to the Calder Freeway have been prepared in consultation with the Department of Transport (DoT) – refer to Attachment E. DoT will be further notified when the amendment is exhibited.

Other relevant agencies and authorities (including prescribed Ministers, the Country Fire Authority, Environment Protection Authority and the Head, Transport for Victoria) will be given the opportunity to express their views regarding the amendment during the exhibition process in accordance with section 19 of the *Planning and Environment Act 1987*. Given the proposed amendment affects land within a Recognition and Settlement Agreement Area, and affects Crown Land, notice will be given to the Dja Dja Wurrung Clans Aboriginal Corporation during the exhibition period.

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

The amendment will ensure that appropriate planning controls are applied to elements of the transport system, including roads managed by Department of Transport, as constructed and declared arterial roads/freeways will be zoned appropriately and have the Public Acquisition Overlay (Schedule 2) removed where the land has already been acquired.

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

In effect, the amendment will have a positive impact on the Mount Alexander Shire Council's resources as it will reduce the amount of time the planning department spends on the administration and assessment of unnecessary planning permit applications for the affected land as a result of incorrectly applied overlays.

Where you may inspect this amendment

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

- Mount Alexander Shire Council, Civic Centre, 27 Lyttleton Street, Castlemaine.
- Mount Alexander Shire Council's website.

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

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by 4 March 2022.

A submission must be sent to:

Attention: Strategic Planning

Mount Alexander Shire Council

PO Box 185 Castlemaine Vic. 3450

By email to: strategicplanning@mountalexander.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: to commence in the week of Monday, 11 July 2022
- panel hearing: to commence in the week of Monday, 8 August 2022