

## **ARARAT PLANNING SCHEME**

### **AMENDMENT C46ARAT**

#### **EXPLANATORY REPORT**

##### **Who is the planning authority?**

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

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

##### **Land affected by the amendment**

The amendment applies to a portion of Crown Allotment 4D Section 12A, Township of Ararat, located on the southwest corner of Queen Street and Moore Street, Ararat. The property is approximately 2,519 square metres and the area to be rezoned is approximately 826 square metres (PPRZ area indicated in Figure 1 below).

The property is Crown land and currently has a dual zoning of PPRZ and C1Z. The land to be rezoned is a former park and is currently undeveloped with scattered trees, grassed areas and a pedestrian footpath along the road frontages.



*Figure 1: Land affected by the amendment*

##### **What the amendment does**

The amendment rezones a portion of Crown Allotment 4D Section 12A, Township of Ararat from Public Park and Recreation Zone (PPRZ) to Commercial 1 Zone (C1Z).

Specifically, the amendment:

- Rezones a portion of Crown Allotment 4D Section 12A, Township of Ararat from PPRZ to C1Z.
- Amends Planning Scheme Map 10.

## **Strategic assessment of the amendment**

### **Why is the amendment required?**

The amendment rezones an unused portion of Crown land to C1Z which was once used as a public park. This property has a dual zoning with the eastern portion designated PPRZ and the western portion designated C1Z. The property is within the Ararat Town Centre Commercial Core and alongside land zoned C1Z to the north and west.

The Ararat Rural City Council resolved in December 2019 to rescind the public park use of the land and requested the sale of the land by State Government. Council relinquished its status as committee of management and subsequently removed the park furniture and playground equipment from the site. The land has been declared surplus for State Government needs and will offer the land for public sale once the land has been rezoned from PPRZ.

The Department of Treasury and Finance has indicated support for council to rezone the PPRZ portion of the land to C1Z to reflect the surrounding zoning and land use pattern and prepare the land for public sale.

The C1Z is considered the most appropriate zone, making the land's future use and development consistent with the remainder of the lot designated C1Z and surrounding C1Z lots. The rezoning allows the whole of the lot and the land alongside it to be used in a more efficient and sustainable way which could support wider uses including larger retail/ commercial development. The land is not potentially contaminated

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

The amendment implements the objectives set out in section 4 of the *Planning and Environment Act 1987*. It supports the objectives to:

- Provide for the fair, orderly, economic and sustainable use and development of land;
- Secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and
- Balance the present and future interests of all Victorians by facilitating the renewal of surplus government land.

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

- The amendment supports the economic growth of the Ararat Town Centre by providing land within the town centre that will support a broad range of land uses.
- Provides an opportunity for infill redevelopment and limits urban sprawl by directing growth into an existing settlement.
- Provides the opportunity for goods and services that require larger floor space to be delivered to the community in the Ararat Town Centre by providing commercial zoned land in the Retail Commercial Core.
- Will ensure the future development of the land will be of an appropriate height that does not encroach on flightpaths or create a hazard to aircraft using the Ararat Hospital helicopter landing site, as the DDO5 will be retained.
- Applies to vacant unused land and will therefore have no impact on significant historical, architectural, environmental or cultural values of the land and its surrounds.
- Applies to land which does not fit the definition of potentially contaminated land under Ministerial Direction No. 1 also noting its extended tenure as crown land containing a bluestone drain and its former use as a park.
- Provides an opportunity to allow use and development which would support employment in the Ararat Retail Commercial Core and support the economic wellbeing of the community.

### **Does the amendment address relevant bushfire risk?**

The subject land is not located in an area subject to bushfire risk and there are no implications for bushfire risk as a result of the amendment.

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

This explanatory report addresses the requirements of *Ministerial Direction No. 1* which requires that where the land has a proposed zoning which allows sensitive uses that a statement is made about its contamination status explaining how this will be suitable for the uses. This site is not potentially contaminated and is suitable for sensitive uses and this is stated in the explanatory report. This explanatory report addresses the requirements of *Ministerial Direction No. 11 Strategic Assessment of Amendments*. This amendment will follow the set times and steps specified for planning scheme amendments under *Ministerial Direction No. 15 The Planning Scheme Amendment Process*. The amendment is consistent with the *Ministerial Direction – The Form and Content of Planning Schemes*. This explanatory report addresses the requirements of *Ministerial Direction No. 19* which requires that the Planning Authority engage with the EPA. Engagement with the EPA has occurred and the explanatory report has been amended through this engagement.

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

The Central Highlands Regional Growth Plan (2014) provides strong support for regional cities to be productive, sustainable and support jobs and economic growth. This amendment will support efficient use of the subject land within the Ararat Town Centre that will provide economic support to the community with the benefits from existing services and infrastructure.

The amendment is consistent with the following Planning Policy Framework provisions:

### *Clause 11 (Settlement)*

The policy states that planning is to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for a range of uses. Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns. Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.

The amendment is consistent with this clause as the land is proposed to be C1Z and the rezoning would reflect the surrounding land use pattern. The rezoning will not create amenity problems or any land use conflict.

The amendment advances the State Settlement policy by:

- Clause 11.01-1R (Settlement – Central Highlands): Supporting the development of Central Highland's regional centre, Ararat, as a key service centre for the region.
- Clause 11.01-1S (Settlement): Providing for an appropriately located supply of commercial land to meet community needs within a planned commercial core area, limiting urban sprawl.
- Clause 11.01-1L (Settlement – Ararat Rural City): Restrict residential development in areas identified for industrial or commercial development (other than for shop top opportunities).
- Clause 11.02-2S (Structure planning): Facilitating the orderly development of the urban area, as the amendment is consistent with the structure planning for the Ararat Town Centre.
- Clause 11.02-1S (Supply of urban land) and 11.03-1S (Activity centres): Implementing policy relating to Activity centres by providing additional supply of appropriately zoned land for commercial use within an existing activity centre, supporting its function and sustainable urban development.
- Clause 11.03-6S (Regional and local places): Considers the distinctive characteristics and needs of regional and local places in planning for future land use and development.

### *Clause 13.07-1S (Land use compatibility)*

The amendment implements this policy as the land is proposed to be rezoned to C1Z, consistent with the surrounding land and consistent with the broad planning for this area as the Ararat Town Centre. The rezoning is not anticipated to result in any land use conflict.

### *Clause 17 (Economic Development), Clause 17.02-1S (Business) and Clause 17.02-2L (Out-of-centre development – Ararat)*

These policies seek to encourage a strong and innovative economy with planning to contribute to the

economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts so each region can build on its strengths and achieve economic potential. The amendment responds to this policy by providing commercial zoned land to support the economic growth of Ararat. It meets the community's needs in relation to retail, office and other commercial services. It facilitates for commercial development inside the Ararat Central Business District.

A competing policy is Clause 15.01-4S (Healthy neighbourhoods) with an objective which seeks to achieve neighbourhoods that foster healthy and active living and community wellbeing and promote conveniently located public spaces for active recreation and leisure. This proposal would change the zoned use of the land from PPRZ to C1Z. The land is a small amount of land which has not been used as a park for some years and as an unused parcel of land it has been reviewed at the regional level by State agencies and it was established that the land was surplus to their needs. There are other more useable parkland areas (Public Use Zone (PUZ) and PPRZ) located nearby and the loss of this small space is not anticipated to have any significant impact with a much higher net community benefit to be achieved by rezoning the land for commercial use and allowing a wider commercial use for the land.

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

The amendment supports council's strategic directions for commercial development to consolidate retail and commercial uses within the core of Ararat regional centre outlines in Clause 02.03-7 (Economic development).

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

The amendment uses the most appropriate Victoria Planning Provisions and is consistent with the *Ministerial Direction - The Form and Content for Planning Schemes*.

The amendment rezones a small section of land from PPRZ to a more appropriate zone (C1Z) to allow for more appropriate and efficient use of the land.

The amendment applies appropriate planning provisions that best reflect the surrounding planning provisions in operation in the Ararat Planning Scheme and the future potential land use.

The amendment proposes to retain the existing overlay which will continue to manage the built form height of future development.

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

The exhibition of the amendment will provide a formal opportunity for all stakeholders to provide comment on the proposal. The views of the relevant agencies will be sought during this process. The Department of Treasury and Finance has indicated support for the proposed rezoning.

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

The amendment is not expected to have any adverse impacts on the transport system. The subject land is located in Ararat Town Centre, where substantial development has already occurred including existing commercial uses.

### **Resource and administrative costs**

The amendment is unlikely to have any adverse implications 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:

- Rural City of Ararat Municipal Offices, Cnr Vincent and High Streets, Ararat

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](http://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:

Ms Veronica Schilling Manager Planning, Community & Compliance

Ararat Rural City Council

GPO Box 246 Ararat Victoria 3377

Or [planning@ararat.vic.gov.au](mailto:planning@ararat.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: 26 April 2022.
- panel hearing: 23 May 2022.

## RE: c46 Amendment to Ararat Planning Scheme

Veronica Schilling <vschilling@ararat.vic.gov.au>

Sat 2/12/2022 9:42 AM

To: Nick Kennedy <Nicholas.Kennedy@epa.vic.gov.au>

Cc: Eve-Marie Davie <eve@nicheplanningstudio.com.au>

Hi Nick

Thanks for your input. I am checking with DELWP on whether we can amend an Explanatory report post commencement of advertising and will let you know where this lands.

In relation to the risk of contamination I can confirm that in the process of working with DELWP and DTF to convert the land from Crown to freehold I have led a team doing extensive investigations into the history of this site since white settlement. Pre 1900 maps show the area as a creek line/swamp and it converts from there on the maps to the bluestone drain that remains today. Further its tenure as crown land has made it unlikely to have been used for a range of likely contaminant releasing activities (industry, store, service station). We had the historical tenure and use of the land reviewed by a native title specialist QC and I have that report but can only share it with you through a confidentiality agreement or similar as it is protected by legal privilege at this time.

Is that something that you would entertain or is the advice above sufficient to demonstrate we have at least considered this issue notwithstanding it is not included in the Explanatory Report?

Regards Veronica

**Veronica Schilling**  
**Manager Planning, Community & Compliance**

Ararat Rural City Council  
PO Box 246, Ararat 3377

T: (03) 5355 0222

F: (03) 5355 0278

M: 0409 174 164

E: [vschilling@ararat.vic.gov.au](mailto:vschilling@ararat.vic.gov.au)

W: <http://www.ararat.vic.gov.au>



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Council is still here to help - phone us on 5355 0200 or email [council@ararat.vic.gov.au](mailto:council@ararat.vic.gov.au)



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**From:** Nick Kennedy <Nicholas.Kennedy@epa.vic.gov.au>

**Sent:** Thursday, 3 February 2022 5:05 PM

**To:** Veronica Schilling <vschilling@ararat.vic.gov.au>

**Cc:** Planning <planning@ararat.vic.gov.au>

**Subject:** RE: c46 Amendment to Ararat Planning Scheme

Good afternoon Veronica,

EPA understands the amendment proposes to rezone a portion of Crown Allotment 4D Section 12A, Township of Ararat from Public Park and Recreation Zone (PPRZ) to Commercial 1 Zone (C1Z).

EPA notes the Explanatory Statement states the land “is a former park and is currently undeveloped with scattered trees, grassed areas and a pedestrian footpath along the road frontages”.

Whilst the amendment appears to present a low risk to the environment, amenity and human health as a result of pollution or waste, we note that the Explanatory Report does not address Ministerial Direction 19 or Ministerial Direction 1. As the proposed zoning allows sensitive uses, EPA reminds Council of the updated Ministerial Direction 1 introduced on 27 August 2021 which requires the following of planning authorities:

- b. where it has determined that the land is not potentially contaminated, state the determination in the amendment Explanatory Report; and
- c. where it has determined the land, or parts of the land, are potentially contaminated, must state the determination in the amendment Explanatory Report and satisfy itself that the environmental conditions of that land are or will be suitable for that use.

EPA recommends the Explanatory Report is updated accordingly to address these Directions.

Provided the above recommendations are met, EPA does not object to Council to the amendment.

If our assessment is not aligned with your view of the environmental risk, or if the proposal is amended, please contact me to discuss further on (03) 9695 2892.

Many thanks,

—  
**Nick Kennedy**

Planning Advisor

Please note I work Monday - Friday Full Time

**Environment Protection Authority Victoria**

200 Victoria St, Carlton

☎ 1300 372 842 (1300 EPA VIC) | M

E [nicholas.kennedy@epa.vic.gov.au](mailto:nicholas.kennedy@epa.vic.gov.au) | [www.epa.vic.gov.au](http://www.epa.vic.gov.au)

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**From:** Veronica Schilling <[vschilling@ararat.vic.gov.au](mailto:vschilling@ararat.vic.gov.au)>

**Sent:** Thursday, 23 December 2021 4:05 PM

**To:** Strategic Planning <[Stratplan@epa.vic.gov.au](mailto:Stratplan@epa.vic.gov.au)>

**Cc:** Planning <[planning@ararat.vic.gov.au](mailto:planning@ararat.vic.gov.au)>

**Subject:** c46 Amendment to Ararat Planning Scheme

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Hi Team – my deepest apologies for being one of those people moving things from my desk to yours on the cusp of the holiday season. The good news is this job doesn't need a response until the 4 March 2021 so there is time to review it on return. If like me you are working throughout then we can have a chat then.

I wish you all the best for the next few weeks – stay safe and well!

Best Wishes

Veronica

**Veronica Schilling**

**Manager Planning, Community & Compliance**

Ararat Rural City Council

PO Box 246, Ararat 3377

T: (03) 5355 0222

F: (03) 5355 0278

M: 0409 174 164

E: [vschilling@ararat.vic.gov.au](mailto:vschilling@ararat.vic.gov.au)

W: <http://www.ararat.vic.gov.au>



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