

Item: 10.11

Proposed Anomalies 2019 Planning Scheme Amendment (C103cola)

OFFICER	Simon Clarke
GENERAL MANAGER	Ian Seuren
DIVISION	Development & Community Services
ATTACHMENTS	1. Table of Amendments - C 103 cola Anomalies Planning Scheme Amendment [10.11.1 - 8 pages]
PURPOSE	To seek Council support to amend the Planning Scheme to remove a series of anomalies that require correction.

1. EXECUTIVE SUMMARY

The Colac Otway Planning Scheme guides land use and development within Colac Otway Shire. Council, as the Planning Authority, is responsible for the ongoing upkeep of its Planning Scheme, ensuring it is up to date, accurate, and meets the relevant provisions of the *Planning and Environment Act 1987* and changing community needs.

As part of managing the performance of the Scheme, both Council officers and the local community periodically identify anomalies and errors within the Scheme. Anomalies could include where zoning boundaries do not match lot boundaries, public zones having been applied across private land or where land uses such as public conservation or service authority managed land is covered by rural or residential zones. Errors generally involve drafting mistakes and typographical errors within the text of the planning scheme.

Errors and anomalies in the Planning Scheme limit the intended use and development capacity of land and often cause technical difficulties when owners try to sell or develop affected land. As such correcting anomalies and errors is essential for the effectiveness and performance of the Planning Scheme.

This amendment seeks to correct the identified anomalies within the Planning Scheme zones and overlays (maps) and ordinance (words). The amendment forms part of the Colac Otway Planning Scheme Review Cutting Red Tape initiative, which seeks to streamline the planning scheme

requirements by eliminating unnecessary permit triggers that do not add value through the process and remove any potential confusion where desired planning outcomes are not clear.

Correction of anomalies and errors within the Planning Scheme does not cause detrimental impact to any persons; and as such they are considered policy neutral. Therefore, they can be generally undertaken under section 20(2) of the Act, under which the Minister may exempt Council from a full public exhibition process. However, the affected landowners and occupiers, relevant authorities and anyone nominated by the Minister at authorisation will be notified of the amendment and will have an opportunity to respond for a period of six weeks, in accordance with standard Council consultation policy.

Council's approval is sought to request authorisation from the Minister to undertake Amendment C103 to correct a number of anomalies and errors and seek exemption under section 20(2) of the Act for a full exhibition of the amendment.

2. RECOMMENDATION

That Council:

- 1. Note the importance of correcting anomalies as part of the maintenance of the Colac Otway Planning Scheme to ensure accuracy and improve efficiency in the development approval process.***
- 2. Pursuant to section 8A of the Planning and Environment Act 1987, requests the Minister for Planning to authorise Amendment C103cola to the Colac Otway Planning Scheme.***
- 3. Pursuant to section 19 (1) (b) of the Planning and Environment Act 1987, notify the owners and occupiers of the land forming part of the amendment.***
- 4. Pursuant to section 20(2) of the Planning and Environment Act 1987, request the Minister for Planning to exempt Amendment C103cola from the requirements of sections 19(2) and (3) of the Act.***
- 5. Authorises officers to make any necessary minor formatting and administrative corrections to Amendment C103cola documents prior to sending to the Minister for Planning for authorisation.***

3. KEY INFORMATION

An important part of Council's role in maintaining the Colac Otway Planning Scheme is to correct errors and anomalies. This ensures the Planning Scheme continues to be relevant, up-to-date and the provisions and maps in the Scheme are technically correct.

Council has received several requests to correct anomalies in the Planning Scheme. Landowners often notice the anomalies when they either seeking to develop or sell their land and find the anomaly in the Scheme limits them doing so. An individual landowner could apply to Council to correct the anomaly on their land through an individual amendment (an expensive proposition) or wait until a periodic anomaly amendment is undertaken by Council. This amendment (Amendment C103cola), which is a periodic update of the Scheme, combines a series of anomalies and errors identified within the zone and overlay maps and the ordinance of the Colac Otway Planning Scheme for correction.

The most recent anomalies amendment to the Colac Otway Planning Scheme was commenced in 2017 and completed in 2018 (Amendment C96). Since then, further anomalies have been identified and will form part of this amendment.

Attachment 1 details the land or planning provisions impacted by proposed Amendment C103, the corrections required and the justification for the changes.

4. COMMUNITY CONSULTATION & ENGAGEMENT

It is noted that a few land owners (both government and private) affected by this amendment have previously requested that Council amend the zoning or overlay anomaly on their land. Other anomalies have been identified in the course of dealing with planning permit applications or responding to queries from the community.

It is proposed to notify the affected land owners and occupiers and any relevant public authority of the proposed changes. It is also required that prescribed Ministers be formally notified. Exemptions will be requested from the need to advertise the amendment in the local newspaper and Government Gazette.

5. ALIGNMENT TO COUNCIL PLANS, POLICIES OR STRATEGIES

Amendment C103 directly relates to Council policy through the 'Cutting the Red Tape' initiatives.

The Amendment aligns with the Council Plan 2017-2021:

Theme 1 - Our Prosperity

Plan infrastructure, assets and land use with a long-term vision for economic growth.

Theme 2 – Our Places

Our places are well-planned. We work with local and government partners to plan healthy, safe environments which promote community life and enhance well-being. Our infrastructure assets are managed so that they are sustainable for the long term.

6. CONSIDERATIONS

ENVIRONMENTAL, SOCIAL & CULTURAL, & ECONOMIC

It is considered that there are no environmental, social or cultural implications associated with this amendment. It is noted that by correcting the anomalies in the zones and overlays and in the Ordinance, landowners will be able to use their land to its full capacity, which will have a positive economic impact by maximising the land use within the Shire.

LEGAL & RISK

It is considered that there are no legal and risk implications associated with this amendment. Council as the Planning Authority has obligations under the *Planning and Environment Act 1987* to continuously maintain and update its planning scheme.

It is also noted that several parcels of Council owned or managed land are included in this amendment. There are no legal or risk issues associated with correcting anomalies on Council owned or managed land as part of Amendment C103.

FINANCIAL & BUDGETARY

The amendment is undertaken in-house. No additional resource implications are associated with this amendment.

7. IMPLEMENTATION STRATEGY

The proposed changes and corrections to the Colac Otway Planning Scheme will be implemented through Amendment C103 under relevant provisions of the *Planning and Environment Act 1987*.

COMMUNICATION

Affected landowners and occupiers will be notified of this Amendment. Ministers and authorities mandated under the provisions of the *Planning and Environment Act 1987* will be notified of the Amendment as required.

TIMELINE

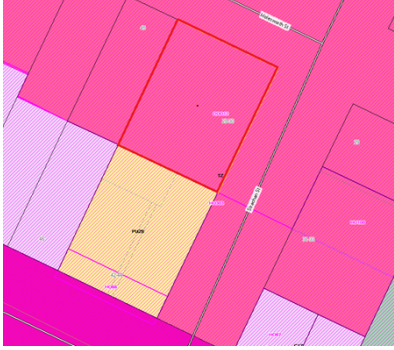

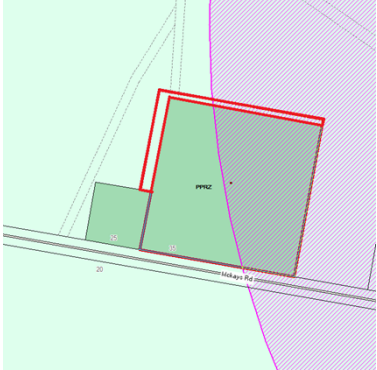

The following is a proposed timeline:

- June 2019 – Seek Council endorsement
- July 2019 – Send to the Minister for authorisation (subject to Council endorsement)
- September 2019 – Notify affected parties
- November 2019 – Council reconsiders the amendment and forwards it to Minister for Planning for approval.

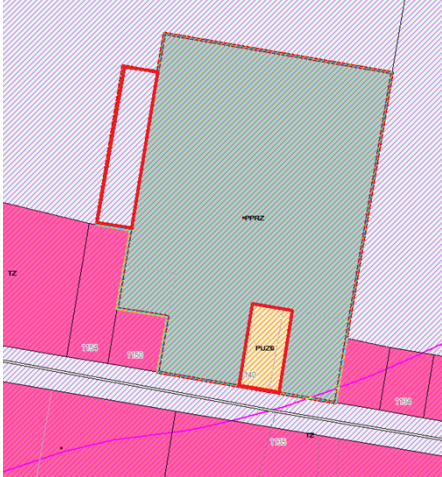

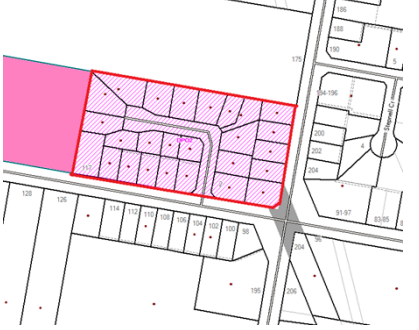

8. OFFICER DIRECT OR INDIRECT INTEREST

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

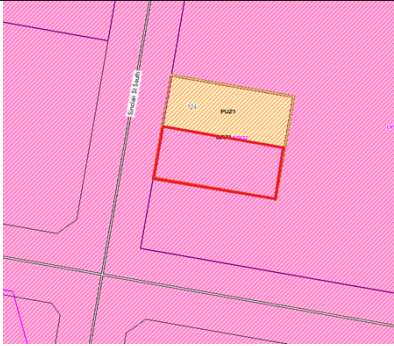

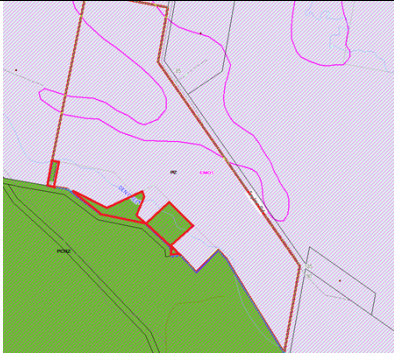

C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
28-30 Strachan Street, Birregurra	Rezone land from General Residential Zone Schedule 1 to Public Use Zone Schedule 3 (Health and Community use)	The Department of Health and Human Services owns the land. The land is currently used as the Birregurra Community Health Centre. The current residential zoning does not reflect the current ownership and use of the land. This amendment will reflect the current owner and its land use. It will allow health and community related land to extend on the land if required without a planning permit.		
35 McKays Road Irrewarra	Rezone part of site from Farming Zone to Public Park and Recreation Zone	This land is Crown land and managed by Council. The zoning boundary of the Irrewarra Recreation Reserve on McKays Road does not match the lot boundary. Part of the reserve is included in the Farming Zone.		

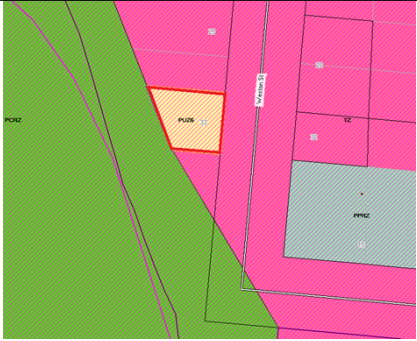



C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
1140 Corangamite Lake Road, Alvie	Rezone part of site from Farming Zone to Public Park and Recreation Zone (PPRZ) and rezone part of site from Public Use Zone 1 (PUZ1) to Public Park and Recreation Zone	The zoning boundary of the Alvie Recreation Reserve on Corangamite Lake Road does not match the lot boundary. Part of the reserve is included in the Farming Zone. Part of the site is also zoned Public Use Zone 6 (Local Government) which reflects the former occupation of the site by the Alvie Community Hall. This hall has since been removed and replaced by a tennis clubroom which is in keeping with both the ongoing recreational use of the site, and the Public Park and Recreation Zone.		
All Development Plan Overlay 2 (DPO2) land in Jarver Close, Pound Road and Queen Street, Colac	Remove DPO2 from all land	The DPO2 triggers the need for a planning permit to develop and use the land for a dwelling. The DPO2 was placed over the land to facilitate the orderly subdivision of the land. The land has now been subdivided and developed for residential purposes. The DPO2 is redundant and should be removed.		

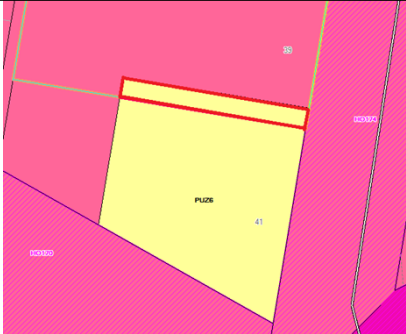

C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
124 Sinclair Street, Colac	Rezone part of site from General Residential Zone to the Public Use Zone 1 (Service and Utility)	The land is owned and used by Barwon Water as part of its water network. The site is included in both the Public Use Zone 1 and the General Residential Zone. The entire site should be included in Public Use Zone 1, reflecting its ongoing use.		
215 McLaughlins Road Barwon Downs	Rezone part of site from Public Conservation and Resource Zone (PPRZ) to Farming Zone (FZ)	Parcels of Crown Land were granted as freehold in 1998 and have been incorporated into the title of 215 McLaughlins Road. This land still remains in the PCRZ and should be rezoned to the Farming Zone to reflect the balance of the title and its freehold status.		

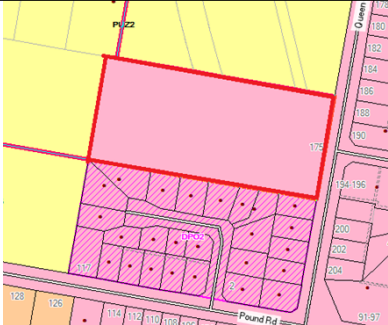

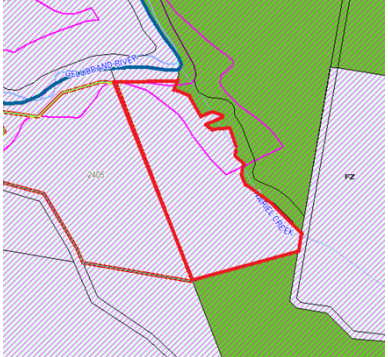
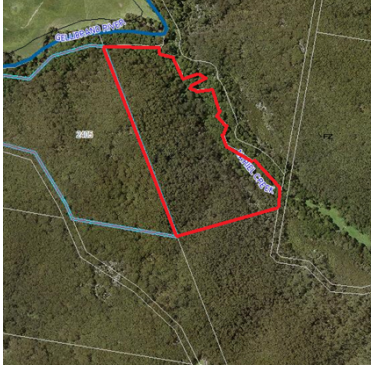
C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
33 Weston Street, Beeac	Rezone site from Public Use Zone 6 (PUZ6) to Township Zone (TZ) and apply the Environmental Audit Overlay (EAO)	The site is the former Beeac Council depot. The depot, owned by Council, has not been used for several years and is permanently closed. The site is located on a residential street, with an underlying Township Zone. The lot should be included in the Township Zone, and the EAO be applied		
5 Barongarook Road Barongarook	Rezone site from Public Use Zone 6 (PUZ6) to Farming Zone (FZ)	The site abuts the Barongarook Rifle Range. The rifle range is owned by Colac Otway Shire and is included in the PUZ6. The adjacent subject lot at 5 Barongarook Road is privately owned and appears to have been subdivided from the Council land without rezoning the land to a non-public use zone. The FZ will reflect the surrounding zoning regime.		

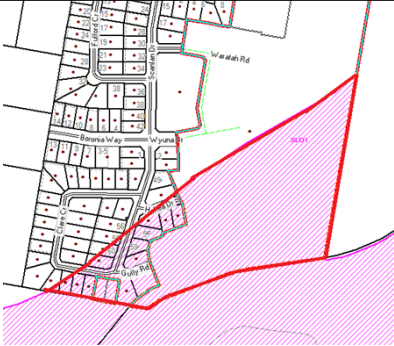
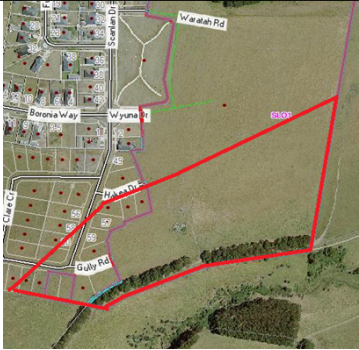
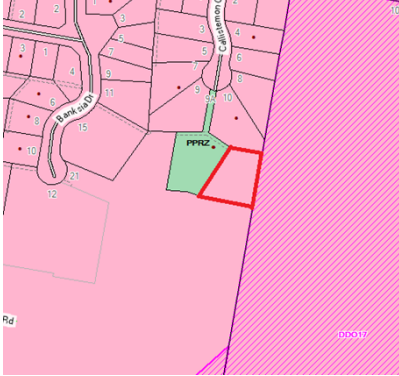
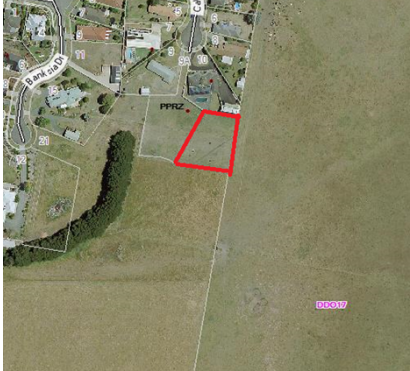
C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
39 Yarima Road Cressy	Rezone part of site from Public Use Zone 6 (PUZ6) to Township Zone (TZ)	The site is privately owned and occupied by a dwelling which abuts the Cressy Community Hall. The abutting Council owned community hall is zoned PUZ6. Part of the PUZ6 extends into the adjacent private land. The rezoning of part of 39 Yarima Road to the TZ will reflect the balance of the zoning on the land and the zoning of the surrounding residential properties.		
Incorporated Document - Princes Highway - Barongarook Creek Bridge Upgrade, October 2017	Update the approved Princes Highway - Barongarook Creek Bridge Upgrade, October 2017 Incorporated document.	Former Amendment C95 to the Colac Otway Planning Scheme facilitated the upgrade of the Barongarook Creek bridge. The Incorporated Plan forming part of the Amendment to facilitate the bridgeworks refers to outdated DELWP vegetation regulations. The reference within the Incorporated Plan should be updated to refer to the relevant regulations. This amendment has been requested by DELWP.	n/a	n/a

C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
175 Queen Street, Colac	Rezone part of site from General Residential Zone Schedule 1 (GRZ1) to Public Use Zone 2 (PUZ2)	The site form part of the Colac Secondary College and is owned by the Department of Education. Part of the school is included in a residential zone, despite being fully developed and use for educational purposes. The balance of the site is within the PUZ2 (Education). A rezoning to the PUZ2 will reflect the ongoing use and ownership of the land and the zoning of the balance of the site.		
Allotment 1D Parish of Wangerrip, Gellibrand River Road, Gellibrand Lower	Rezone site from Farming Zone (FZ) to Public Conservation and Resource Zone (PPRZ)	The heavily forested site is Crown land and forms part of the Great Otway National Park. The lot is currently included in the FZ. A rezoning would reflect its ownership and land management status.		

C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
<p>12 Banksia Drive Elliminyt and subdivided lots in the Wyuna estate on Hakea Drive, Scanlan Drive and Gully Road, Elliminyt</p>	<p>Remove Significant Landscape Overlay Schedule 1 (SLO1)</p>	<p>The Significant Landscape Overlay Schedule 1 was implemented to protect and enhance significant landscapes. The land has now been subdivided for urban uses as part of the Wyuna Estate. The SLO1 triggers a planning permit for new dwellings. The SLO1 is now redundant and should be removed from the land.</p>		
<p>Design and Development Overlay Schedule 7 (DDO7)– Apollo Bay and Marengo – Lower Density Residential Areas</p>	<p>Amend the wording to section 2.0 Buildings and Works of DDO7 to remove the word ‘extend’ from part of the Clause</p>	<p>Amend the wording to section 2.0 Buildings and Works of DDO7 to remove an anomaly to ensure consistency, clarity and that there are no unnecessary planning permit triggers.</p>	<p>n/a</p>	<p>n/a</p>
<p>9A Callistemon Court Elliminyt</p>	<p>Rezone land from General Residential Zone Schedule 1 (GRZ1) to Public Park and Recreation Zone (PPRZ)</p>	<p>Land forming part of the new Wyuna Estate that has been handed over to Council to be used for open space purposes. The revised zoning will reflect is land status and strategic intent.</p>		

C103cola Anomalies Planning Scheme Amendment

Address/Planning Scheme Provision	Proposed Changes	Reasons for changes	Current Planning Scheme	Aerial Image
Design and Development Overlay Schedules 12, 13 and 14 (DDO12, DDO13 & DDO14)	Insert 'alterations and additions' into Clause 43.02-2 Buildings and works of Schedules DDO12 DDO13 and DDO14.	DDO12, 13 and 14 were included in the Scheme in 2014 to implement the Birregurra Neighbourhood Character Study. Clause 2.0 of the Schedules, which allows for planning permit exemptions, allows for the construction or extension of a dwelling to not require a planning permit for a development to proceed, providing it meets applicable design standards. As this exemption does not include alterations to a dwelling, any alteration to a dwelling triggers the need for a planning permit. The inclusion of 'alterations' in the Schedules of Clause 43.02-2 will remove the anomaly.	n/a	n/a
23 Jakaranda and 21 Petjuli St, Elliminyt.	Rezone land from General Residential Zone Schedule 1 (GRZ1) & Low Density Residential Zone Schedule 1 (LDRZ) to Public Park and Recreation Zone (PPRZ)	Land forms part of a new Estate that has been handed over to Council to be used for open space purposes. The revised zoning will reflect is land status and strategic intent.	