Item: 4.1

Planning Scheme Amendment - 175 Skenes Creek Road, Skenes Creek

OFFICER	Sean OKeeffe
GENERAL MANAGER	Ian Seuren
DIVISION	Community and Economy
ATTACHMENTS	Nil

1. PURPOSE

To consider a proposed Planning Scheme Amendment to rezone land at 175 Skenes Creek Road, Skenes Creek.

2. EXECUTIVE SUMMARY

The land at 175 Skenes Creek Road, Skenes Creek is a privately owned parcel of land that has been included in the Transport Zone (TRZ2 – Principal Road Network). The site has been used as dwelling since the 1980's. The landowner has identified the zoning anomaly because of a proposed contract of sale.

The Department of Transport and Planning (DTP) has indicated that the land is not required for road purposes and that it supports the rezoning of the land to another zone. As the surrounding private land is included in the Rural Conservation Zone, the underlying zoning for this land should be the Rural Conservation Zone. It is therefore recommended that 175 Skenes Creek, Skenes Creek Road, Skenes Creek be rezoned from the Transport Zone 2 to the Rural Conservation Zone.

The lot is also covered by several overlays of the Colac Otway Planning Scheme, including the Vegetation Protection Overlay Schedule 2 (VPO2). The Vegetation Protection Overlay Schedule 2 is applied to protect roadside vegetation. On rezoning the site, the vegetation on the land will no longer be 'roadside vegetation' and therefore this overlay will be redundant. It is recommended that the Vegetation Protection Overlay Schedule 2 be removed from the land as part of the amendment process.

Given the administrative nature of this proposed amendment, it is recommended that the amendment not be publicly exhibited.

3. RECOMMENDATION

That Council:

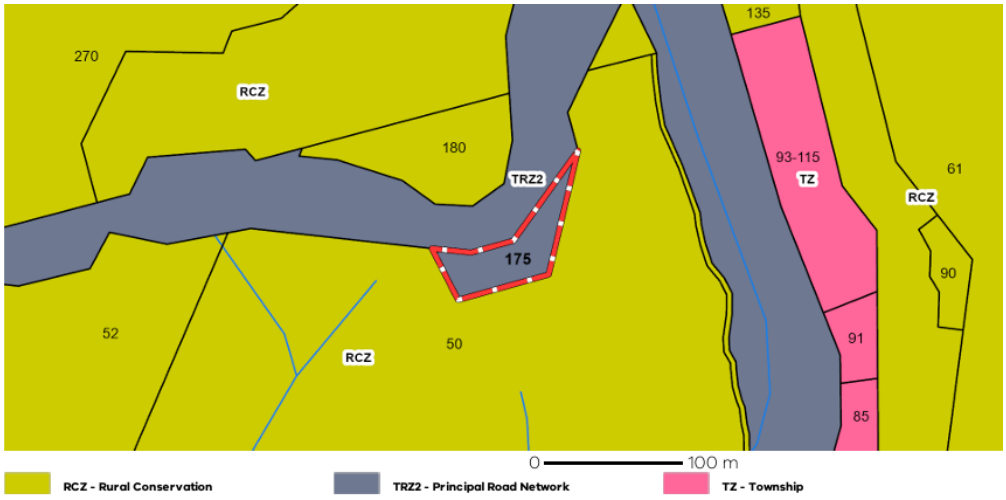
1. ***Pursuant to section 8A of the Planning and Environment Act 1987, requests the Minister for Planning to authorise the preparation of a Planning Scheme Amendment to rezone 175 Skenes Creek Road, Skenes Creek from the Transport 2 Zone (TRZ2) to the Rural Conservation Zone and to delete the Vegetation Protection Overlay Schedule 2 (VPO2) from the land.***
2. ***Pursuant to section 20 (4) of the Planning and Environment Act 1987, seek exemption from notification and exhibition requirements for the amendment.***
3. ***Pursuant to section 29 of the Planning and Environment Act 1987, adopt the completed amendment without changes.***
4. ***Pursuant to section 31 of the Planning and Environment Act 1987, forward the completed amendment and prescribed information to the Minister for Planning for approval.***
5. ***Advise the landowner upon the final approval of the amendment.***

4. KEY INFORMATION

Colac Otway Shire is responsible for the upkeep of the Colac Otway Planning Scheme, including ensuring that land is correctly zoned. A parcel of land in Skenes Creek has been identified by its current landowner as having an incorrect land zoning. 175 Skenes Creek Road, Skenes Creek is 0.337ha in area and is located on the periphery of Skenes Creek township, on a bend in the Skenes Creek Road (see aerial image below).



The site is currently included in the Transport Zone Schedule 2 (see zoning extract below).

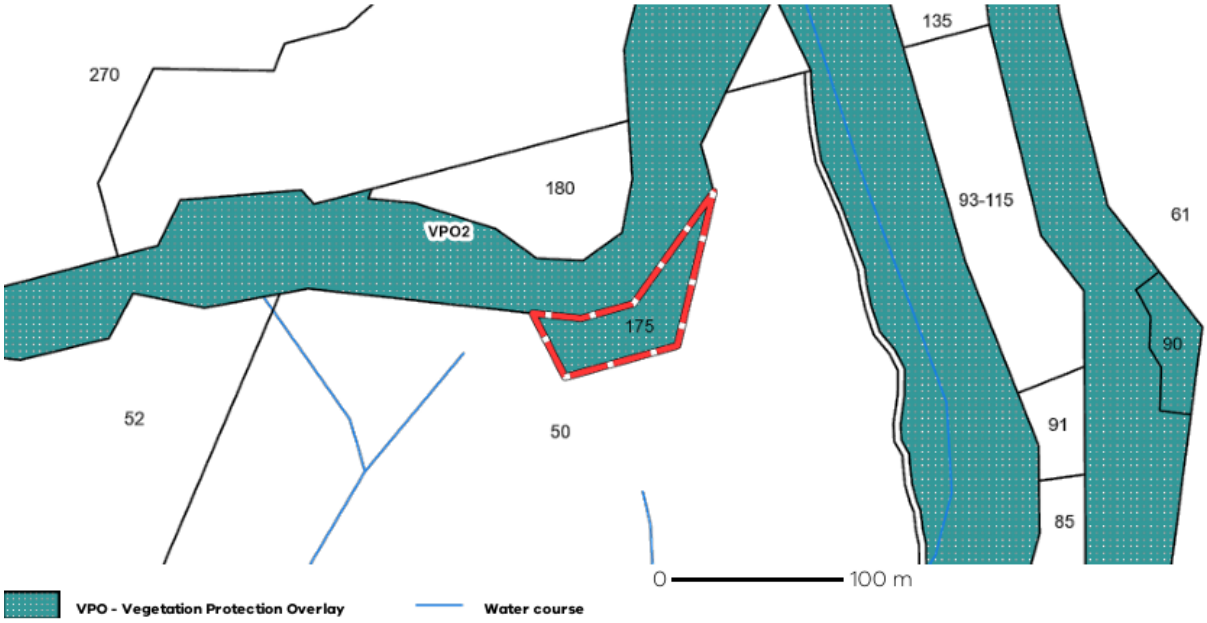


175 Skenes Creek Road, Skenes Creek has been in private ownership for over 50 years and has been used as a rural residential style property for around 40 years. The land was excised from the adjoining Skenes Creek Road reserve prior to 1974, when it became surplus to the requirements of the road authority, and was sold. The current owners have been in possession of the land since 1995. A planning permit was issued by Council for a dwelling extension in 2006. No concerns regarding the zoning of the land were raised at this time during the consideration of the planning permit application.

The DTP has acknowledged in writing (provided under separate cover) that the land is not required for road purposes and supports the rezoning of the land. It is noted that surrounding

private land is included in the Rural Conservation Zone. Given this strategic land use direction in Skenes Creek and the existing land use, the Rural Conservation Zone is the appropriate zone to apply to the land.

The Vegetation Protection Overlay Schedule 2 (Roadside Vegetation) has also been applied to the land.



The Statement of nature and significance of vegetation to be protected in the VPO2 notes that the remnant vegetation along roadsides plays an important role in preserving tracts of remnant vegetation and can provide strategic biodiversity links. It also notes that remnant vegetation along roadsides is a key feature of the landscape and scenic recreational value for local, regional and state communities.

As the site is not within the roadside, the Vegetation Protection Overlay Schedule 2 should not be applied to the land. Furthermore, it is noted that the proposed Rural Conservation Zone and the existing Erosion Management Overlay and the Significant Landscape Overlay applied to the land will continue to protect vegetation and will direct ongoing land management on this site.

Given the administrative nature of the amendment, it is recommended that Council request the Minister for Planning to proceed with the application under section 20(4) of the *Planning and Environment Act 1987*, thereby seeking an exemption from public notification procedures.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) *LGA 2020*)

This report considers the overarching governance principles and ensures that decisions are made in accordance with relevant legislation and priority is given to achieving the best outcomes for the community, including future generations.

Policies and Relevant Law (s(9)(2)(a) *LGA 2020*)

The Planning Scheme Amendment would be processed in accordance with the provisions of the *Planning and Environment Act 1987* and relevant Ministerial Directions.

Environmental and Sustainability Implications (s(9)(2)(c) *LGA 2020*

Not applicable.

Community Engagement (s56 *LGA 2020 and Council's Community Engagement Policy*)

Given the administrative nature of the proposed amendment, it is proposed to seek a 20(4) amendment process, where the requirement for public consultation is removed and a Panel hearing is not required.

Public Transparency (s58 *LGA 2020)*

All amendment documentation will be publicly accessible.

Alignment to Plans and Strategies

Alignment to Council Plan 2025-2029:
Theme 2 – PEOPLE
3.1 – Elevate the efficiency an effectiveness of our Council.

Financial Management (s101 *Local Government Act 2020)*

The amendment will be processed using the recurrent budget of the Strategic Planning department.

Service Performance (s106 *Local Government Act 2020)*

Not applicable.

Risk Assessment

Not applicable.

Communication/Implementation

Not applicable.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Prepare and approve a Planning Scheme Amendment to rezone 175 Skenes Creek Road, Skenes Creek from the Transport 2 Zone (TRZ2) to the Rural Conservation Zone and delete the Vegetation Protection Overlay Schedule 2 (VPO2) from the land.

This option is recommended as it would allow the processing of amending the Colac Otway Planning Scheme to commence and remove a zoning anomaly in the planning scheme.

Option 2 – Do not progress the amendment to rezone 175 Skenes Creek Road, Skenes Creek from the Transport 2 Zone (TRZ2) to the Rural Conservation Zone and to delete the Vegetation Protection Overlay Schedule 2 (VPO2) from the land.

This option is not recommended as it would retain the status quo and the current zoning of this land is not appropriate.