

Planning and Environment Act 1987

MURRINDINDI PLANNING SCHEME

AMENDMENT C71

EXPLANATORY REPORT

Overview

This amendment introduces an incorporated document titled “*Toolangi Forest Discovery Centre, 2023*”, which allows for a wider range of uses for the Toolangi Forest Discovery Centre without the need to obtain a planning permit, including uses that are not by or on behalf of the public land manager.

It does this by amending Planning Scheme Map No. 31 to rezone the land from Public Conservation and Resource Zone to Public Park and Recreation Zone; amends the Schedule to Clause 36.02 Public Park and Recreation Zone to include the new incorporated document titled “*Toolangi Forest Discovery Centre, 2023*”, and amends the Schedule to Clause 72.04, *Documents Incorporated in this Planning Scheme* to include the new incorporated document titled *Toolangi Forest Discovery Centre, 2023*.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Murrindindi website at <https://www.murrindindi.vic.gov.au/Home> And/or

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

Murrindindi Shire Customer service centres in:

Alexandra – 28 Perkins Street, Alexandra

Kinglake Library and Customer Service – 19 Whittlesea – Kinglake Road, Kinglake

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person may make a submission to the planning authority about the amendment. Submissions about the amendment must be received by [insert submissions due date].

A submission must be sent to:

Murrindindi Shire Council, Planning department, PO Box 138, Alexandra VIC 3714 or

planning@murrindindi.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: 15 April 2024
- panel hearing: 13 May 2024

Details of the amendment

Who is the planning authority?

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

The amendment has been made at the request of the (former) Toolangi Forest Discovery Centre Committee.

Land affected by the amendment

The amendment applies to Crown land at the Toolangi Forest Discovery Centre (TFDC), described as:

- 1683 Healesville-Kinglake Road, Toolangi (Crown Allotment 42 and part of Crown Allotment 2002, Parish of Tarrawarra North).

Existing development on the land includes the TFDC building containing a large square exhibition room, an office space/classroom space, equipment/helmet room, male and female toilets café, gift shop and theatre. Outside the TFDC building is an associated carpark, existing sculpture and walking trails and picnic facilities. The land is located adjacent to the CFA fire station and the Department of Energy, Environment and Climate Action depot.



What the amendment does

The amendment proposes to allow a wider range of uses to be conducted on the land under the Public Park and Recreation Zone and the proposed incorporated document titled "*Toolangi Forest Discovery Centre, 2023*", without the need to obtain a planning permit, including uses that are not by or on behalf of the public land manager.

The amendment:

- Amends Planning Scheme Map No. 31 to rezone the land from Public Conservation and Resource Zone to Public Park and Recreation Zone.

- Amends the Schedule to Clause 36.02 Public Park and Recreation Zone to include the new incorporated document titled "*Toolangi Forest Discovery Centre, 2023*".
- Amends the Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme to include the new incorporated document titled *Toolangi Forest Discovery Centre, 2023*.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to:

- Reflect the long-term land use purposes for the TFDC, making better use of an existing facility.
- Widen the range of potential land uses for the TFDC.
- Allow uses to be undertaken by a committee of management (CoM) where the CoM is not a public land manager and is not associated with a public land use or any use is not conducted by or on behalf of a public land manager.

The widened range of land uses will be facilitated through the introduction of an incorporated document that facilitates the following purposes for the TFDC:

- Ensure the TFDC is a viable and a vibrant community-based enterprise, providing a wide range of community-based activities.
- Provide for an expansion of uses on the land, including a range of recreational, educational, environmental, tourism, cultural and community uses.
- Provide opportunity for both public and private uses in accordance with land manager directions.

The land is Crown land in public ownership and until recently has been under community management. Under the Victoria Planning Provisions, a committee of management and a lessee are not considered a public land manager. The land contains the TFDC building, sculpture trail in a modified setting which promotes tourism. Rezoning the land to Public Park and Recreation Zone best reflects the intended long-term use of the building and the land.

The rezoning of the land will provide a CoM or a future lessee certainty to enact its business plan to ensure that the facility is managed and maintained in good order for use by the community and the wider public.

The planning scheme amendment as proposed will allow the CoM or a future lessee to use the land without the need to obtain a Planning Permit, reducing the financial costs for the committee or lessee to undertake the activities as contained within the incorporated document. This also reduces the administrative burden, as approvals would be required via the public land manager (DEECA) including consideration of potential leasing arrangements. A planning permit would still be triggered for buildings and works to ensure that considerations such as bushfire, car parking, siting and design can be assessed.

The enhanced usage of the TFDC will complement the existing recreational and environmental assets on the land.

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

The amendment implements the objectives of planning in Victoria as outlined in Section 4 of the *Planning and Environment Act 1987* through:

- Providing for the fair, orderly, economic and sustainable use and development of land.
- Providing for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
- Securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.

- Conserving and enhancing those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.
- Protecting public utilities and other assets and enabling the orderly provision and coordination of public utilities and other facilities for the benefit of the community.
- Balancing the present and future interests of all Victorians.
- Ensuring sound, strategic planning and co-ordinated action at State, regional and municipal levels.
- Enabling land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels.
- Ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.
- Facilitating development that achieves the objectives of planning in Victoria and planning objectives set up in planning schemes.

This amendment supports these overall objectives of planning by:

- Protecting natural and man-made resources on the land, enhancing the potential usage of the TFD C building and associated recreational / educational / cultural trails.
- Securing and enhancing a quality recreational space for residents and visitors to Toolangi.
- Protecting and enhancing public spaces and infrastructure in the centre and associated facilities.
- Protecting and enhancing public infrastructure.
- Providing for appropriate use of community and tourism amenities.
- Facilitating business opportunities that complement the public use of the land for the benefit of the community.

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

Environmental effects:

The amendment will have positive environmental impacts, protecting and enhancing both the man-made and natural environment on the land. The centre and land already offer an important environmental asset, providing environmental education and recreation opportunities. These positive environmental effects will be enhanced under the amendment through the ability to expand uses and diversify operators.

Social effects:

The amendment provides a range of significant positive social and net community benefits through the enhancement of an existing cultural and community centre and provision of additional and expanded community activities and providers, such as the operation of food premises, functions and events.

Economic effects:

The amendment will create positive economic and employment benefits through facilitating additional and complementary business and tourism opportunities on the land, stimulating economic activity and attracting future investment and economic opportunities. The amendment will improve the economic potential of the centre and land by allowing uses that complement the public and recreation uses on the land to be conducted by private and community operators.

Does the amendment address relevant bushfire risk?

The TFDC is located within an area of mixed species moist forest, including tall Messmate Stringybarks. Land surrounding the subject site is a mixture of cleared framing land, forest and small lots containing single dwellings.

The Bushfire Management Overlay (BMO) applies to the land affected by the amendment. The BMO will continue to apply to the land.

The TFDC is located adjacent to the DEECA depot and CFA fire station with an approved management plan.

The Department of Energy, Environment and Climate Action has responsibility as the fire authority for the site.

The land is an existing location for tourism and recreation and contains existing walking trails and sculpture trails at the location. Rezoning the land with an incorporated document will ensure that the land is maintained and managed in a greater capacity than currently exists, providing informed communication to visitors to the area, particularly during high fire danger periods, where the existing use is currently not closely monitored.

Emergency Management has been considered in the proposal for the re zoning of the land to allow for the use of the existing building. As per the Incorporated plan, a revised Emergency Management Plan must be submitted to the responsible authority within two weeks of a new use commencing, that outlines closure of the facility in extreme risk events, such as Code Red Days and put in place protection measures for the building and staff/volunteers.

The proposed uses of the TFDC do not encourage long stays and are of a similar nature to past uses. Having the building occupied increases the supervision and management of the area. Safety to human life is prioritised by way of including a condition that the TFDC be closed to the public on Catastrophic Fire Danger days.

The amendment complies with the guidance for bushfire risk under Planning Practice Note 64, Local planning for bushfire protection, September 2015.

Both the Department of Environment, Energy and Climate Action and Country Fire Authority will be notified of the amendment.

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

The amendment complies with the relevant Minister’s Directions under Section 12 of the *Planning and Environment Act 1987*. Specifically, the amendment has considered and complies with the following Ministerial Directions:

- Ministerial Direction 11, Strategic Assessment of Amendments: The amendment has been strategically assessed and justified in accordance with this direction. The application of the Public Park and Recreation Zone to this public land is strategically justified in terms of its primary use, alignment with the Murrindindi Planning Scheme and public land reservations applying to the land under the *Crown Land (Reserves) Act 1978*.

The ordinances comply with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

No other Minister’s Direction is relevant to the amendment.

The proposed introduction of the incorporated document titled “*Toolangi Forest Discovery Centre, 2023*” to the Murrindindi Planning Scheme follows the guidance for the form of an incorporated plan or incorporated document under Planning Practice Note 23, *Applying the Incorporated Plan and Development Plan Overlays*, September 2022, and the guidance available in the *Practitioner’s Guide to Victorian Planning Schemes*.

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

The amendment is consistent with and implements the Planning Policy Framework of the Murrindindi Planning Scheme, in particular:

17.04, Tourism:

17.04-1S, Facilitating tourism:
Objective:

- *To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.*

Strategies include:

- *Promote tourism facilities that preserve, are compatible with and build on the assets and qualities of surrounding activities and attractions.*
- *Create innovative tourism experiences.*
- *Encourage investment that meets demand and supports growth in tourism.*

The amendment to introduce the incorporated document to the schedule of clause 36.02 will allow for the TFDC to be used for limited commercial uses for the benefit of the community and visitors.

The incorporated document provides direction and certainty for the CoM or lessee/s and community to invest time in maintaining and using an existing building for the benefit of all and will encourage visitation to the Toolangi region.

19.02, Community infrastructure:

19.02-2S, Education facilities:
Objective:

- *To assist the integration of education and early childhood facilities with local and regional communities.*

19.02-3S, Cultural facilities:
Objective:

- *To develop a strong cultural environment and increase access to arts, recreation and other cultural facilities.*

The incorporated document provides for a range of uses. The amendment will enable an existing building to be used for displaying educational information, showcase local arts and display cultural information, providing both educational and cultural experiences at the centre.

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

The amendment is consistent with and implements the Municipal Planning Strategy of the Murrindindi Planning Scheme, in particular:

02.02, Vision:
Includes:

- *Increased economic growth and investment will enhance population growth, employment and social and cultural benefits for the municipality.*

The amendment facilitates the future use of an existing building for the community. The future operation of the facility by a committee will ensure that the building is maintain and operated by the local community which provides employment, investment and enhances the social and cultural benefits for the community.

02.03, Strategic directions:
Includes:
Settlement:

Council seeks to develop its established townships and settlements by:

- *Supporting each township as the focus of residential, commercial, community and service hub for its surrounding area.*

Built environment and heritage:

In protecting heritage assets and promoting built form improvements, Council will:

- *Protect sites, places and features of natural, archaeological and cultural heritage significance.*
- *Protect the cultural heritage of the municipality.*

Economic development:

In promoting economic development, Council supports:

- *Encouraging business expansion, investment and employment.*
- *Strengthening the role and identity of townships.*
- *Facilitating commercial activities in smaller townships.*
- *Encouraging sustainable growth in tourism, leveraging Murrindindi Shire's natural assets, proximity to Melbourne and links with neighbouring regions.*
- *Supporting the development of education opportunities, including outdoor education.*

Infrastructure:

Community infrastructure:

In planning and delivering community infrastructure, Council will:

- *Support each township as the focus of a residential, commercial, community and service hub for its surrounding area.*
- *Encourage the development of and access to community infrastructure and services to cater for the current and potential future needs of all age demographics.*
- *Encourage improved accessibility for the general population and those with special needs.*
- *Encourage the development of the education industry, particularly the post-secondary, outdoor and environmental education sectors.*
- *Encourage local 'place-based' initiatives that will provide community benefit to individual towns and communities.*

The amendment aligns with the strategic directions of council, in particular through, Settlement, Built environment and heritage, economic development and community infrastructure. The incorporated document enables the facility to operate with limited commercial uses and supports the use for a community hub. The incorporated plan will encourage investment and employment, encourages tourism through leveraging off the Toolangi Forest natural environment.

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

The amendment makes proper use of the Victorian Planning Provisions by rezoning the land to the Public Park and Recreation Zone and inserting an incorporated document into the planning scheme.

The approach to use an incorporated document in conjunction with an applicable zone is the most appropriate tool available under the Victorian Planning Provisions. The Public Park and Recreation Zone allows the use of an incorporated document to provide additional guidance and control for uses and developments on the land. The incorporated document will enable a wider range of uses to an existing facility but will still ensure that any future development is considered through the planning permit process.

The following purposes of the Public Park and Recreation Zone reflect the current and proposed enhanced use of the land for public recreation and open space, conservation, and limited commercial use compatible with the site.

- *To recognise areas for public recreation and open space.*
- *To protect and conserve areas of significance where appropriate.*
- *To provide for commercial uses where appropriate.*

The proposed Public Park and Recreation Zone provides a limited number of uses and developments,

either without or requiring a planning permit, but must be associated with a public land use or be conducted by or on behalf of a public land manager. This restriction of any proposal being a public land use or being conducted by or on behalf of a public land manager may be varied through the use of an incorporated document. The incorporated document proposes to provide an expanded range of uses on the land without the need for a planning permit:

- Any Section 1 or 2 use of land not associated with a public land use or conducted by or on behalf of a public land manager.

The CoM or Lessee/s would still be required to get the consent of the public land manager and the owner of the land for any proposed use on the land. Any use would also be required to comply with the intent of the public land reservation applying to the land under the *Crown Land (Reserves) Act 1978*.

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

Department of Energy, Environment and Climate Change (DEECA), as owner of the land has been consulted, providing input into the form of the incorporated document and will be further notified as part of the amendment notification process. The Toolangi Forest Discovery Centre Committee, at the time of requesting the amendment through council, sought input from DEECA (formerly DELWP) to make use of the TFDC for limited commercial use. DEECA provided general support for the proposed uses.

The amendment is consistent with the reservations applying to the land under the *Crown Lands (Reserves) Act 1978*, *Conservation of an area of natural interest* and *Tourism and education*.

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

Is the amendment likely to have a significant impact on the transport system, as defined by section 3 of the Transport Integration Act 2010?

The amendment is not considered to have a significant impact on the transport system. Although Healesville – Kinglake Road is a main road, zoned Transport Road Zone 2 (TRZ2), under the control of Regional Roads Victoria, the rezoning of the land and proposed incorporated document for the land would not affect the operation of the road or general transport system.

Are there any applicable statements of policy principles prepared under section 22 of the Transport Integration Act 2010?

There are no statements of policy principles applicable under section 22 of the *Transport Integration Act 2010*.

Resource and administrative costs

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

The provisions proposed will have minimal impact on the resources and administrative costs of Murrindindi Shire.

The amendment provides that some uses may be conducted on the land without the need for a planning permit, reducing resource or administrative costs for both the responsible authority and the committee appointed to manage the building or lessee. The amendment will reduce the financial burden and facilitate community benefit by reducing “red tape”.

Matters such as Car parking, advertising signs and buildings and works will still require the consideration of the responsible authority.

ATTACHMENT 1 - Mapping reference table

Location	Land Affected	/Area	Mapping Reference	Address	Proposed changes		
					Zone	Overlay	Deletion
Toolangi	Land contained within Crown Land with frontage to Healesville-Kinglake Road		Murrindindi C71muri Part of Map 31zn Exhibition	1683 Healesville-Kinglake Road, Toolangi. Crown Allotment 42 and part Crown Allotment 2002, Parish of Tarrawarra North.	Rezone from PCRZ to PPRZ	N/A	N/A