Planning and Environment Act 1987

# Baw Baw PLANNING SCHEME

# AMENDMENT C139bawb

# EXPLANATORY REPORT

## Who is the planning authority?

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

## Land affected by the Amendment

The amendment applies to all land within the Baw Baw Shire.

## What the amendment does

The amendment proposes to replace the Municipal Strategic Statement (MSS) and the Local Planning Policy Framework (LPPF) at Clause 21 and Clause 22 of the Baw Baw Planning Scheme with a Municipal Planning Strategy (MPS), local policies within the Planning Policy Framework (PPF), and revise local schedules to zones, overlays and operational provisions by:

* + Relocating content to the appropriate headings in the MPS, PPF and local schedules where the intended effect of that clause or any other clause is not changed.
  + Clarifying and improving the style, format, language or grammatical form in accordance with the principles set out in *A Practitioner’s Guide to Victorian Planning Schemes* where the intended effect of that clause or any other clause is not changed.
  + Updating clause references, department names, legislation names, document references, terminology and statistical data.
  + Deleting or revising incompatible content that conflicts with State planning policy.
  + Removing repetitious and redundant content and updating outdated content.
  + Introducing additional policy for the settlements of Warragul, Drouin, Trafalgar, Longwarry and Yarragon.
  + Introducing additional economic policy, consistent with the Baw Baw Economic Development Strategy 2018-2021.
  + Introducing new policy plans based upon existing policies.
  + Revising rural policy for dwellings and subdivision based upon existing policy.

Specifically, the amendment proposes to:

Municipal Planning Strategy

1. Introduce a new MPS at Clause 02 based on content from Clauses 21 and 22 of the LPPF, the Baw Baw Settlement Policy Review, the Economic Policy Strength in the Economic Growth Zone – Project 2, and the Latrobe Valley Planning Schemes Review.

Planning Policy Framework

1. Introduce revised local policy content into the PPF at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, 15 Built Environment and Heritage, 17 Economic Development and 19 Infrastructure based on content from Clauses 21 and 22 of the LPPF, the Baw Baw Settlement Policy Review, Economic Policy Strength in the Economic Growth Zone – Project 2, and Latrobe Valley Planning Schemes Review.

Zones

1. Update the Schedules to Clauses 32.05.01, 34.01, 35.03.01, 35.03.02, 35.03.03, 35.03.04, 35.03.05, 35.07.01, 35.08.01, 37.01.01, 37.01.02, 37.01.03, 37.01.05, 37.03.1, 37.07.01, and 37.07.02, consistent with the Ministerial Direction – Form and Content of Planning Schemes.
2. Introduce a new objective in the Schedule to Clause 32.05 Township Zone.
3. Update Schedule 1 to Clause 35.07 Farming Zone, to introduce an exemption from the need for a planning permit for: a dwelling extension up to 150m2 and for outbuildings associated with a dwelling up to 200m2; to replace the permit threshold of 40 metres from a Road Zone 2 to ‘none specified’, and to reduce the permit threshold of a 20 metre setback from ‘Any other road’ to 15 metres. Remove redundant references to already subdivided land parcels.
4. Update Schedule 1 to Clause 35.08 Rural Activity Zone, to introduce an exemption from the need for a planning permit for a dwelling extension up to 150m2 and outbuildings associated with a dwelling up to 200m2, and to reduce the permit threshold of a 20 metre setback from ‘any other road’ to 15 metres.
5. Update Schedules 1 to 5 of Clause 35.03 Rural Living Zone, to introduce an exemption from the need for a planning permit for: a dwelling extension up to 150m2 and outbuildings associated with a dwelling up to 200m2.
6. Update Schedules 1 and 2 to Clause 37.07 Urban Growth Zone by replacing illustrated plans to updated and easier to read versions.

Overlays

1. Update the Schedules to Clauses 42.01.02, 42,01.03, 42.01.04, 42.02.01, , 42.03.01, 42.03.03, , 43.02.04, 43.02.05, 43.02.06, 43.02.07,43.02.08, 43.02.09, 43.04.03, 43.04.04, 43.04.07, 44.01, 44.03, 44.04, , and 45.05 consistent with the Ministerial Direction – Form and Content of Planning Schemes.
2. Update Schedule 1 to Clause 42.02 Vegetation Protection Overlay to correctly specify permit requirements.
3. Update Schedule 1 to Clause 42.03 Significant Landscape Overlay (Strzelecki Ranges), to increase the exemption for outbuildings from 50m2 to 200m2, and to introduce an exemption for earthworks associated with agriculture.
4. Update Schedule 3 to Clause 42.01 Environmental Significance Overlay (Trafalgar Sand Resource), to introduce an exemption for earthworks associated with agriculture, and to increase the exemption for outbuildings associated with a dwelling up to and including 200m2.
5. Correct Schedule 6 to Clause 43.02 Design and Development Overlay (Willow Grove) by reversing accidental removal of permit triggers via Planning Scheme Amendment C133.
6. Update Schedule 1 to Clause 44.01 Erosion Management Overlay, to introduce additional permit exemptions, new ‘Application requirements’ relating to geotechnical assessments and landslip risk assessments, and to remove the Department of Environment, Land, Water and Planning as a referral authority.
7. Update Schedule 1 to Clause 44.03 Floodway Overlay, and Schedule 1 to Clause 44.04 Land Subject to inundation Overlay, to introduce a statement of risk, permit exemptions and application requirements.

Operational Provisions

1. Update the Schedule to Clause 72.08 Background Documents, to consolidate the background documents from Clauses 21 and 22 of the LPPF and update superseded documents.
2. Introduce a new Schedule to Clause 74.01 Application of Zones, Overlays and Provisions, to provide an explanation of the relationship between the municipal objectives, strategies and controls on the use and development of land in the planning scheme. The Schedule consolidates all planning scheme implementation actions from Clause 21 of the LPPF.
3. Introduce a new Schedule to Clause 74.02 Further Strategic Work, that consolidates all further strategic work actions from Clause 21 of the LPPF.
4. Update the Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme, to include the Baw Baw Shire Heritage Study Stage 2, Volumes 1 and 2 (2011, Context Pty Ltd) and sort the documents alphabetically and in relevant groups for easier find.

## Strategic assessment of the Amendment

## Why is the Amendment required?

The amendment is required to implement Stage 3 of the Smart Planning Rules and Policy Program to reform Victoria’s planning system and change the Victoria Planning Provisions (VPP) to make planning schemes more efficient, accessible and transparent. The amendment is also required to implement the strategic work resulting from the Victorian Government’s ‘Planning in the Economic Growth Zone’ project.

Smart Planning Rules and Policy Program

In 2018, Amendment VC148 introduced widespread changes to the VPP as part of Stage 2 of the Smart Planning Program. More specifically Amendment VC148:

* introduced a new PPF;
* enabled the future introduction of a MPS;
* introduced a new state, regional and local integrated policy structure;
* modified the schedules to some existing zones, overlays and provisions to accommodate additional local content, and
* created new operational provisions.

A key focus for Stage 3 of the Smart Planning Program is to ensure better alignment of local planning policy with state and regional policy by integrating local policy content into the new MPS and PPF. The local policy content which forms part of the amendment has been drafted in accordance with the principles set out in *A Practitioner’s Guide to Victorian Planning Schemes* to ensure policy content is:

* within the scope of the *Planning and Environment Act 1987* and strategically justified, and
* clear in its application, proportional to the intended planning outcome and consistent with relevant parent provisions, practice notes, advisory notes and ministerial directions issued by the Minister for Planning and drafted to be clear and unambiguous.

Planning in the Economic Growth Zone

In 2016, the Victorian Government declared the Latrobe Valley (Baw Baw Shire, Latrobe City Council and Wellington Shire) as an economic growth zone, following the closure of the Hazelwood Power Station and mine. The government provided $266 million of funding to stimulate the economy by supporting new and existing businesses and create new jobs. Part of this initiative was the establishment of the Planning in the Economic Zone (PEGZ) project. PEGZ is a collaboration between the Department of Environment, Land, Water and Planning, the three councils and other agencies working together to create efficiencies and improvements to the planning system to achieve the collective goal of boosting economic development.

One of the key outputs of the PEGZ project is a comprehensive review of the Baw Baw, Latrobe and Wellington Planning Schemes. The key purpose of the review is to update and align consistent policies and directions across the three schemes, particularly those relating to settlements, economic development and extractive industry, to help facilitate development in the economic growth zone. A number of strategic projects have been undertaken to support this review, including:

* Baw Baw Settlement Policy Review, Mesh (2019).
* Economic Policy Strength in the Economic Growth Zone – Project 2, Urban Enterprise (2019).
* Erosion Management Overlay, Baw Baw Planning Scheme, Mesh (2019).
* Flood Controls Review, Department of Environment, Land, Water and Planning (2020).
* Latrobe Valley Planning Schemes Review, Mesh (2018).
* Latrobe Valley Planning Scheme Review – Zones and Overlays, Glossop Town Planning 2019).
* PEGZ Overlay Audit – Baw Baw Planning Scheme, Department of Environment, Land, Water and Planning (2020).
* PEGZ Rural Zones Audit – Baw Baw Planning Scheme, Department of Environment, Land, Water and Planning (2020).

The amendment is required to implement the recommendations of the above strategic work, as part of the PEGZ project.

## How does the Amendment implement the objectives of planning in Victoria?

The amendment implements the following objectives of planning in Victoria, set out in section 4(1) of the *Planning and Environment Act 1987*:

*a) To provide for the fair, orderly, economic and suitable use, and development of the land.*

*c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*

*f) To facilitate development in accordance with the objectives of planning in Victoria.*

*g To balance the present and future interests of all Victorians.*

The amendment proposes to update the Baw Baw Planning Scheme with revised policy content which reflects the key strategic directions for the municipality. This will in turn provide for the orderly use and development of the municipality, consistent with the objectives of planning in Victoria.

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

The amendment is expected to have positive environmental, social and economic effects for businesses, industry and the community by:

* Improving the clarity of local policy content in the MPS, PPF and local schedules which will result in greater certainty for users of the system.
* Strengthening Baw Baw’s economic policy in agriculture (particularly dairy), intensive agriculture, timber, tourism, manufacturing and education.
* Strengthening Baw Baw’s economic and employment opportunities, through policy focused on tourism, diversification of agri-business uses, hydroponics, adding value to agricultural produce and expansion of the manufacturing sector and large-scale retail development.
* Reducing unnecessary costs to applicants and councils by removing unclear and overly onerous planning requirements.
* Enabling and enhancing the establishment of new and existing businesses by removing unnecessary permit triggers in the zones and overlays schedules.
* Improving planning outcomes by removing errors, inconsistencies and incompatibility in local policy content in the MPS, PPF and local schedules.
* Improving consistency between the three planning schemes in the economic growth zone (Baw Baw, Latrobe and Wellington Planning Schemes), to help facilitate economic growth and development across the three municipal areas.

## Does the Amendment address relevant bushfire risk?

The amendment is not expected to result in any increase to the risk to life as a priority, property, community infrastructure and the natural environment from bushfire. Rather, it proposes to meet the objective and give effect to the strategies to address bushfire risk in the PPF by:

* Addressing bushfire risk in the MPS at Clause 13.02 as a key land use theme in the municipality and providing a brief overview and strategic directions in this regard, based on content previously contained in the LPPF at Clause 21.

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

The amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* under Section 7(5) of the *Planning and Environment Act 1987*.

The amendment has been prepared in accordance with the strategic considerations set out in *Ministerial Direction No. 11 Strategic Assessment of Amendment* made under section 12 of the *Planning and Environment Act 1987*.

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

The amendment introduces a new MPS at Clause 02 and local planning policies included at Clauses 11, 12, 13, 14, 15, 17 and 19. The new structure is summarised below:

|  |  |
| --- | --- |
| **New Clauses** | **Content and Proposed Change in the amendment** |
| 11 Settlement | Introduces local policy relating to settlement in Baw Baw Shire from content previously contained in the LPPF at Clauses 21.03 Settlement, 21.07 Economic Activity and 21.09 Heritage and the Baw Baw Settlement Policy Review. |
| 12 Environmental and Landscape Values | Introduces local policies relating to biodiversity from content previously contained in the LPPF at Clauses 21.04 Main Towns and 21.06 Natural Environment and Resource Management. |
| 13 Environmental Risks and Amenity | Introduces local policies relating to bushfire planning, soil stabilisation, erosion and landslip, in Baw Baw Shire from content previously contained in the LPPF at Clauses 22.01 Municipal Profile, 21.04 Main Towns and 21.05 Small Towns and Rural Settlements. |
| 14 Natural Resource Management) | Introduces local policy relating to Dwellings and Subdivision in Rural Areas, Sustainable Agriculture Land Use, Catchment Management, Sustainable Forestry and Timber Production, Water Quality, and Stone and Natural Resource Areas in Baw Baw Shire, from content previously contained in the LPPF at Clauses 21.03 Settlement, 21.04 Main Towns, and 22.01Rural Zones Policy. |
| 15 Built Environment and Heritage | Introduces local policy relating to Design for Rural Areas and Heritage Conservation in Baw Baw Shire from content previously contained in the LPPF at Clauses 21.04 Main Towns, 21.05 Small Towns and Rural Settlements, 21.07 Economic Activity, 21.09 Heritage, and 22.01 Rural Zones Policy. |
| 17 Economic Development | Introduces local policy relating to Economy, Industrial Land Supply, and Tourism in Baw Baw Shire, from content previously contained in the LPPF at Clauses 21.03 Settlement, 21.04 Main Towns, 21.07 Economic Activity, 21.09 Heritage, 22.01 Rural Zones and Economic Policy Strength in the Economic Growth Zone – Projects 1 & 2*.* |
| 19 Infrastructure | Introduces local policy relating to Infrastructure Design and Provision, Waste Water Disposal, integrated water management from content previously contained in the LPPF at Clauses 21.05 Small Towns and Rural Settlements, 21.06 Natural Environment and Resource Management, 21.08 Transport and Infrastructure, 22.01 Rural Zones Policy, and 43.02 Design and Development Overlay. |

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

The amendment introduces a new MPS at Clause 02 of the Baw Baw Shire Planning Scheme. The new content is summarised below:

|  |  |
| --- | --- |
| **New Clauses** | **Content and Proposed Change in the amendment** |
| 02.01 Context | Provides a general overview of the municipality. |
| 02.02 Vision | Provides the vision for the municipality based on content previously contained in the LPPF, particularly at Clause 21.02 Municipal Vision. |
| 02.03 Strategic Directions | Addresses the key land use themes based on the PPF and provides a brief overview and strategic directions for each theme, based on content previously contained in the LPPF at 21.02 Municipal Vision, 21.03 Settlement, 21.04 Main Towns, 21.06 Natural Environment and Resource Management, 21.07 Economic Activity, 21.09 Heritage, and 22.01 Rural Zones. |

The policy content in the MPS outlines the strategic directions for the municipality and underpins the policy content in the PPF.

## Does the Amendment make proper use of the Victoria Planning Provisions?

The amendment introduces local policy and associated local policy content consistent with Amendment VC148 and the Ministerial Direction 15 - The Form and Content of Planning Schemes.

Where local schedules have been amended, the form of the schedule has been modified to accord with the current Ministerial Direction 15 - The Form and Content of Planning Schemes.

## How does the Amendment address the views of any relevant agency?

The amendment makes administrative changes to the Baw Baw Planning Scheme following approval of VC148. Various government agencies and other entities were involved in the identification or preparation of changes as part of the wider Smart Planning consultation.

The amendment makes policy changes and implements strategic projects undertaken as part of the PEGZ project. The PEGZ project has involved collaboration with Department of Environment, Land, Water and Planning and extensive consultation with government agencies and councils, including Latrobe City Council, Baw Baw Shire Council, Wellington Shire Council, Department of Jobs, Precincts and Regions, Melbourne Water, and the West Gippsland Catchment Management Authority.

All relevant agencies will be consulted as part of exhibition of the amendment.

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

The amendment will not have a significant impact on the transport system as defined by the *Transport Integration Act 2010*.

## Resource and administrative costs

The amendment is not expected to impose additional resource or administrative costs on the responsible authority. Introducing revised local policy content in the form of the MPS and PPF is expected to create a clearer and more navigable policy framework, where state and local policy build on each other to allow policy to achieve its intended outcome.

Refinement of schedule provisions and lessening of several planning permit requirements is expected to reduce workloads. This should have the effect of reducing the burden on the responsible authority of creating and administering local policy and other content in the scheme. Ultimately, the amendment will provide a clear set of planning guidelines and provisions that deliver a greater level of certainty to the community and other stakeholders within the municipality.

## Where you may inspect this Amendment

*Please note, Council offices are currently closed to public, subject to COVID-19 restrictions. The only option to view amendment documents is online.*

The amendment is available for public inspection, online, on the Council website: <https://www.bawbawshire.vic.gov.au/Plan-and-Build/Planning-Scheme-Amendments/Current-Amendments>

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.planning.vic.gov.au/public-inspection.](http://www.planning.vic.gov.au/public-inspection.)

## 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: Week commencing 1 March 2021
* panel hearing: Week commencing 29 March 2021

(*Note: dates subject to any changes to Council schedule made after local government elections*)