

18 August 2022

Peter Douglas
Coordinator Strategic Planner
Mildura Rural City Council
PO Box 105
MILDURA VIC 3502



Our Ref: REQ002389

Dear Peter Douglas,

RE: EXHIBITION OF MILDURA PLANNING SCHEME AMENDMENT C117MILD - REZONING OF LOWER MURRAY WATER LAND - RIVER AVENUE KOORLONG

Thank you for the opportunity to provide advice in relation to the proposed planning scheme amendment (the Amendment) C117mild. The Amendment is currently on exhibition until 29 August 2022 and was referred to EPA via email on 28 July 2022. EPA has reviewed the following documents:

- C117mild Explanatory Report;
- Letter to EPA dated 22 July 2022; and
- Gazette Notice – Exhibition.

Ministerial Direction 19

The recognition of the preventative value of EPA's early involvement in strategic land use planning is reflected in Ministerial Direction 19 (MD19), which requires planning authorities to seek early advice from EPA when undertaking strategic planning processes that may significantly impact Victoria's environment, amenity and/or human health due to pollution and waste.

EPA's consideration and advice on relevant planning matters is intended to support decisions made by planning authorities in the early stages of the planning process.

It is noted that EPA received this referral upon exhibition of the Amendment, and this advice is therefore not considered to be in accordance with MD19.

It is in this context that EPA provides the comments below.

Our Understanding of the Proposal

Council has prepared C117mild which proposes to rezone land at River Avenue, Koorlong from Public Use Zone – Schedule 1 (PUZ1) to Farming Zone (FZ). The land was previously owned by Lower Murray Water and has since been sold to a private owner. EPA understands that the land is currently used for the grazing of stock and is proposed to be used for horticultural purposes.

epa.vic.gov.au

Environment Protection Authority Victoria
GPO Box 4395, Melbourne VIC 3001
1300 372 842



Potentially Contaminated Land and Ministerial Direction 1

Potentially contaminated land is most often the result of previous land uses. Potentially contaminated land is defined in Ministerial Direction 1 (MD1) – Potentially Contaminated Land and Clause 73.01 General Terms of the Victoria Planning Provisions (VPP) as land:

- (a) used or known to have been used for industry or mining;
- (b) used or known to have been used for the storage of chemicals, gas, waste or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land); or
- (c) where a known past or present activity or event (occurring on or off the land) may have caused contamination on the land.

The purpose of MD1 is to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly affected by any contamination. Such uses include, residential, public open space, agriculture, a child-care centre, pre-school centre or a primary school (but not a secondary school).

Where land is determined to be potentially contaminated, Council must meet the requirements of Ministerial Direction 1 (MD1). MD1 requires that, for planning scheme amendments that would allow potentially contaminated land to be used for a sensitive use, agriculture or public open space, Council must satisfy itself that the environmental conditions of that land are or will be suitable for that use.

Planning Practice Note 30 – Potentially contaminated land (PPN30) (DELWP, 2021), provides guidance for the identification and assessment of potentially contaminated land, including instructions for how to comply with MD1. Table 2 of PPN30 provides guidance on identifying potentially contaminated land and lists agricultural land uses as an activity that carries a *medium* potential to contaminate land. Table 3 indicates the level of assessment required to ensure the land is, or will be made, suitable for the intended use.

PPN30 outlines that for planning scheme amendments where agricultural land uses are proposed (noting that horticulture falls within the definition of agriculture in the VPP) on sites with a *medium* potential for contamination, Council is required to document consideration of potential for contamination to impact the proposal.

Given the above, EPA advise that, while no further assessment of the land recommended in PPN30, Council are required to document the consideration of potential for contamination to impact the proposal, to ensure compliance with MD1.

Explanatory Report

EPA note that neither MD1 nor MD19 have been noted in the Explanatory Report. In preparing planning scheme amendments, Council should ensure that the Explanatory Report addresses the relevant Ministerial Directions, in this case MD1 and MD19.

Closing

The matters raised in this advice to Council are considered straightforward and we do not wish to be heard in support of this submission. We would be willing to discuss the matters raised with Council to provide clarification if needed. Please contact Sibel Ali on 1300 EPA VIC (1300 372 842), or at stratplan@epa.vic.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T Brice', with a stylized, flowing script.

Trisha Brice
Team Leader – Strategic Planning Advisory
Development Advisory Unit
Environment Protection Authority Victoria