

# Requesting Authorisation to Prepare a Planning Scheme Amendment



**This guidance provides information for planning authorities on the process of requesting authorisation to prepare a planning scheme amendment under sections 8A, 8B and 9 of the *Planning and Environment Act 1987* (PE Act).**

Under these sections of the PE Act, a planning authority must apply to the Minister for Planning (Minister) for authorisation to prepare an amendment.

## What is the purpose of the authorisation process?

The purpose of the authorisation process is to determine whether a proposed amendment is:

1. consistent with the objectives of planning in Victoria, and state and regional planning policy or interests; and
2. has demonstrated strategic merit; and
3. makes proper use of the Victoria Planning Provisions (VPP).

The authorisation review establishes whether an amendment warrants progression through the planning scheme amendment process, including public exhibition and if required, a planning panel.

This ensures that resources are not expended by councils, communities, panels and stakeholders on an amendment where there are concerns about its merit.

It also reduces the need for revisions of an amendment later in the process, which may result in delays or the need to re-exhibit.

A decision to authorise an amendment is not an indication of whether the amendment will be approved, or that all aspects of strategic justification and drafting have been fully resolved.

*If the necessary information is not submitted in full, the authorisation request may be returned to the planning authority.*

## Early consultation with the department

To support the timely consideration of an authorisation request, early consultation prior to lodging the request is encouraged. This will include understanding the purpose of the amendment and whether it is necessary to deliver the intended outcome. This will enable issues around consistency with state and regional planning policy and interests, strategic merit, and proper use of the VPP tools to be resolved early and may avoid the need to make changes to the

amendment at a later stage. It will also help identify information that should be provided to support the proposed amendment and any revisions required to address these concerns. Failure to do so may result in an authorisation request being refused, or put on further review with a request for further information, which may result in delays.

Early consultation with relevant authorities should also be done at this time, including (but not limited to) Environment Protection Authority Victoria (EPA), Country Fire Authority (CFA), Melbourne Water or the relevant catchment management authority, or transport advice from the Department of Transport and Planning (DTP).

## Engagement with Traditional Owners

Planning authorities will need to consider engagement with Traditional Owners prior to submitting an authorisation request and during the amendment process.

This is to ensure that the planning authority has considered any impacts of the amendment on Traditional Owners' Country and the interests of these groups, including having regard to the cultural significance of the land, waterways, and surrounding landscape. This may include considering impacts to land where traditional owner settlement agreements or native title applies.

*Traditional Owners are defined under the Local Government Act 2020 as –*

- a. the members of a registered Aboriginal party under the Aboriginal Heritage Act 2006; and*
- b. the members of a traditional owner group within the meaning of section 3 of the Traditional Owner Settlement Act 2010.*

*Further information about Victoria's current Registered Aboriginal Parties can be found on the [Victorian Aboriginal Heritage Council website](#).*

Engagement and genuine partnership with Traditional Owners is best commenced prior to a statutory planning process. When engaging with Traditional Owners, the department encourages planning authorities to understand and respect how Traditional Owners and Victorian Aboriginal communities make decisions. Early engagement will increase the likelihood of achieving genuine self-determination and may also provide for a more efficient statutory process.

Planning authorities will need to consider these matters on a case-by-case basis and at the discretion of Traditional Owners. Not all amendments will need to be subject to engagement with Traditional Owners.

*Country is defined by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) –*

*Country is the term often used by Aboriginal people to describe the lands, waterways and seas to which they are connected. The term contains complex ideas about law, place, custom, language, spiritual belief, cultural practice, material sustenance, family and identity.*

A useful resource for engaging with traditional owners can be found here – [Guidance-on-Engaging-Traditional-Owners-Dec-2022.pdf \(firstpeoplesrelations.vic.gov.au\)](#)

## What should be included with a request for authorisation to the Minister?

A request for authorisation must be lodged through the online [Amendment Tracking System \(ATS\)](https://planning.vic.gov.au) ([planning.vic.gov.au](https://planning.vic.gov.au)).

The request must consider how it is consistent with state and regional planning policy and interests, demonstrates strategic merit and makes proper use of VPP.

Preparation of these documents listed below should occur alongside consideration of the *Planning Practice Note 46: Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments (PPN46)*.

Documents to submit via ATS for a request for authorisation*	
<input checked="" type="checkbox"/>	<b>Draft Explanatory report</b> Covers strategic assessment content and is an information report for people who are viewing the amendment.
<input checked="" type="checkbox"/>	<b>Draft Instruction sheet</b> Sets out the instructions for amending the planning scheme.
<input checked="" type="checkbox"/>	<b>Map sheets</b> Amendment map sheets to show any changes to zones or overlays.
<input checked="" type="checkbox"/>	<b>Draft ordinance (drafted in ATS)</b> The draft clauses and schedules proposed to amend the planning scheme.
<input checked="" type="checkbox"/>	<b>Draft Incorporated or Background documents (if relevant)</b> Provided where the schedule to Clause 72.04 (Incorporated documents) or Clause 72.08 (Background documents) are amended.
<input checked="" type="checkbox"/>	<b>Draft Supporting documents</b> Technical, background or specialist reports as needed to demonstrate the strategic merit of the proposal, such as an economic assessment or a heritage study.
<input checked="" type="checkbox"/>	<b>Referrals</b> Any advice received from relevant authorities or agencies.
<input checked="" type="checkbox"/>	<b>Traditional Owner considerations</b> See above for further information.
<input checked="" type="checkbox"/>	<b>Council resolution (if relevant)</b> A copy of the full council or delegate report. It is recommended this report includes a resolution which allows for flexibility to address changes required by the Minister for Planning at authorisation stage. For example – Authorises the X (i.e., Director or CEO) to make any further changes to the amendment to comply with the Minister for Planning’s authorisation conditions.
<input checked="" type="checkbox"/>	<b>96A application considerations</b> Applications for a planning permit submitted concurrently with a request for authorisation must meet requirements under section 96A of the PE Act. All relevant information under the PE Act and the Planning and Environment Regulations 2015 (PE Regulations) must be submitted. See appendix B for details of requirements.
<input checked="" type="checkbox"/>	<b>Tailored information</b> Some amendments require specific information dependent on the type of amendment. Appendix B provides examples of common amendment types and the required information.

## Tips for a streamlined authorisation process

Planning authorities should consider the following tips before submitting an authorisation request to help reduce the risk of delays, or authorisation being given subject to conditions or being refused. Consider whether the authorisation request has demonstrated:

- Consistency with state and regional planning policy and interests:
  - Avoids proposals that conflict with adopted state or regional policy.
  - Avoids duplication of state or regional policy or provisions in proposed local provisions, for example, repeating state or regional policy on good design in a proposed Design and Development Overlay schedule.
- Strategic merit:
  - Suitable strategic justification and analysis to support the proposal, such as adopted strategies and structure plans.
  - Appropriate background documents, incorporated documents and supporting documents (i.e., technical work) submitted.
  - Appropriate referral advice requested and submitted (i.e., Environmental Audit Overlay).
  - Background information included in the explanatory report that specifically addresses the key headings (i.e., why is the amendment required) and required information, such as bushfire risk.
  - Consistency between drafted provisions and the recommendations of the strategic work, such as adopted strategies and structure plans (for example, strategic work recommends discretionary heights yet mandatory heights have been proposed).
- Proper use of VPP:
  - Uses the appropriate VPP tools and/or justification or explanation of the tool chosen. These are referred to under the Planning Scheme Rules in *A Practitioner's Guide to Victoria's Planning Schemes*.
  - Does not include provisions to regulate a matter that is outside the remit of planning and better regulated through another process or legislation, such as the *Building Act 1993*.
  - Drafted in accordance with the Ministerial Directions, Planning Practice Notes and *A Practitioner's Guide to Victoria's Planning Schemes*.
  - Includes consequential changes to the planning scheme required as a result of the amendment, including operational provisions such as background documents and maps.
  - Includes an explanatory report that is drafted appropriately. Consider using subheadings for multiple unconnected changes to provide clarity. The report should also ensure that it reflects the current stage of the amendment process (i.e., authorisation stage should state 'the amendment proposes' or 'is proposing to' and not 'the amendment will').
  - Correct mapping of proposed changes.

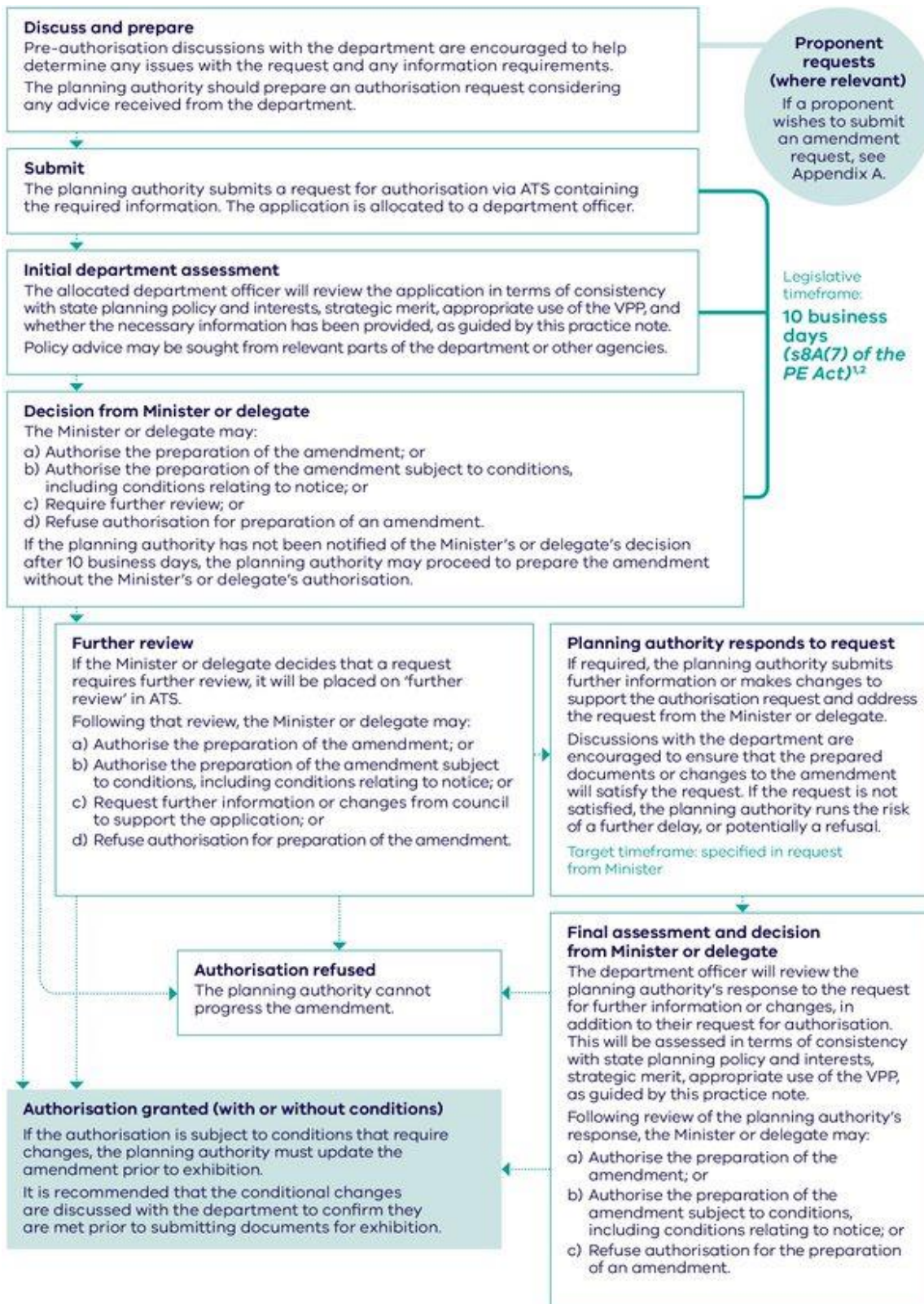
## Relevant documents to consider

As well as this guidance, consider the following documents when preparing your authorisation request:

- *Ministerial Direction: The Form and Content of Planning Schemes* provides guidance on the appropriate use of the VPP and includes standard templates for local schedules.
- *Ministerial Direction No.11: Strategic Assessment of Amendments* provides a framework for preparing and evaluating a planning scheme amendment.
- *Planning Practice Note 46: Strategic Assessment Guidelines* explains the application of *Ministerial Direction No.11: Strategic Assessment of Amendments*.
- *A Practitioner's Guide to Victoria's Planning Schemes* sets out key rules for practitioners who are preparing a new or revised provision for a planning scheme.
- *Ministerial Direction No.15: The Planning Scheme Amendment Process* sets out required timeframes for the planning scheme amendment process following a planning authority receiving authorisation to prepare an amendment.
- *Using Victoria's Planning System: 'Chapter 2: Amendments'* provides a technical guide for the amendment process.
- Other relevant Ministerial Directions and Planning Practice Notes.

These documents can be accessed via the department's [Planning webpage](#).

## What is the process for authorisation requests?



<sup>1</sup> This practice note refers to legislative requirements under section 8A of the PE Act. Section 8B and 9 of the PE Act have different legislative requirements for authorisation requests.

<sup>2</sup> If an authorisation request is for the preparation of an amendment that includes land that falls within a Suburban Rail Loop (SRL) planning area, the Minister must refer the application to the SRL Minister and must not authorise the preparation of the amendment without consent from the SRL Minister. For applications that fall in this category, the decision-making timeframe of 10 business days does not apply.

## **Appendix A: Suggested approach for proponent amendment requests**

### **What is the process for a proponent to request the preparation of an amendment?**

Anyone can make a written request to a planning authority to prepare an amendment. In most cases, the planning authority will be the local council. If the planning authority agrees to the proposal, it must request authorisation to prepare the amendment from the Minister.

Planning authorities and proponents should apply the following best practice steps to support transparent decision making, strategically sound amendments and timely processing. Following these steps will enhance engagement between proponents and planning authorities.

#### **1. Discuss the proposed amendment with the planning authority and respond to issues**

Early engagement between a proponent and a planning authority should occur. Planning authorities are encouraged to provide officer level written advice on any issues or areas of concern to proponents. If the proposal is unlikely to be supported, reasons should be provided.

Where councils are the planning authority, they are encouraged to ensure proponents understand the difference between officer support and council endorsement for authorisation, and the process and timeframes for requesting authorisation.

Proponents should respond to any issues raised by the planning authority.

#### **2. Consider consistency with state and regional policy, strategic merit and proper use of VPP of the proposed amendment**

Planning authorities should undertake a preliminary review of the proposed amendment to determine whether it is consistent with state and regional planning policy and interests, demonstrates strategic merit and makes proper use of VPP. This review should include discussions with the department and relevant referral authorities. The outcomes should be provided to the proponent and department, including key issues and the planning authority's preliminary position (officer level).

#### **3. Proponent makes a formal request to the planning authority and pays the required fee**

If the planning authority has indicated it may consider the amendment, the proponent should provide the information requested to support their proposal, including the documents listed under 'What should be included with a request for authorisation to the Minister'. The Planning and Environment (Fee) Regulations 2016 require a fee is paid to the planning authority to consider a request to amend a planning scheme.



#### **4. Planning authority to discuss proposed amendment with the department**

If the planning authority has settled its preliminary position or feedback on the amendment, another discussion with the department is highly recommended prior to making a formal decision on the request.

#### **5. Decision on whether to proceed to request authorisation to prepare the amendment**

This is the formal step in the process where the planning authority considers the authorisation request from a proponent. A planning authority should:

- Consider requests in a timely manner.
- Provide a response in writing, including reasons for the decision.

If the planning authority agrees to proceed, it then lodges the request for authorisation to prepare the amendment to the Minister.

#### **What if a planning authority does not agree to request authorisation for the amendment?**

There is no right of review of a decision not to support the progression of an amendment request.

If the planning authority declines an amendment request, the proponent is encouraged to address the concerns of the planning authority to enable the request to be further explored. However, in some instances the proposal may not warrant progression.



## Appendix B: Examples of information needed to support authorisation requests

The table below provides details of the type of additional documentation that may be required at authorisation. Note, this information is in addition to the required information under the above section, 'What should be included with a request for authorisation to the Minister?'.<sup>1</sup>

Type of amendment	Examples	Required documentation <sup>1</sup>
<p><b>Section 96A</b></p> <p><i>Reference: refer to section 96A – 96Z of the PE Act</i></p>	<p>1. The amendment applies to 35 Gumtree Street, Gumtree, which is a combined planning permit application and planning scheme amendment under section 96A of the PE Act.</p> <p>The amendment proposes to rezone part of the land within the Urban Growth Boundary (UGB) from low density residential (LDRZ2) to low density residential (LDRZ3) and rezone part of the land outside the UGB from LDRZ2 to Green Wedge Zone (GWZ1).</p> <p>The planning permit application seeks approval for:</p> <ul style="list-style-type: none"> <li>subdivision of the land into 25 residential lots</li> <li>removal of native vegetation</li> <li>creation and removal of easements</li> <li>creation of restrictions on the plan of subdivision</li> </ul>	<ul style="list-style-type: none"> <li>The prescribed fee</li> <li>Information required by the planning scheme (may include supporting planning reports, Cultural Heritage Management Plan (CHMP), etc.)</li> <li>Any restrictive covenant that applies.</li> <li>Ensure the granting of a permit will not result in a breach of a registered restrictive covenant (check title)</li> <li>If a Metropolitan Planning Levy is required, a certificate should be supplied. Check sections 96T and 96U</li> <li>Plans, title, application form, and draft permit in accordance with section 96A, including a statutory planning assessment of the permit application</li> <li>Plans may include: <ul style="list-style-type: none"> <li>detailed site plan, elevations, sections and floorplans</li> <li>street perspectives</li> <li>shadow diagrams</li> <li>site survey</li> </ul> </li> </ul> <p><i>Note: for higher density developments it may be applicable to provide an assessment against the Better Apartments Design Standards assessment that can be found in the Apartment Design Guidelines for Victoria (DELWP, 2021).</i></p>

<sup>1</sup> Additional information may be required depending on the proposal and planning scheme requirements (for example, a traffic study).

<p><b>Heritage Overlay</b></p> <p>Reference: refer to <i>Planning Practice Note 1: Applying the Heritage Overlay</i></p>	<ol style="list-style-type: none"> <li>1. The amendment implements the recommendations of the Gumnut Heritage Gap Study (Watkins 2018) to introduce the Heritage Overlay to 17 individually significant places, eight heritage precincts and one precinct extension on a permanent basis.</li> <li>2. Implements the Gumnut Township Heritage Review July 2020 (Watkins Updated March 2022) on a permanent basis by applying the Heritage Overlay to 121 individual places and five precincts, extending the boundaries of four existing heritage places and makes consequential changes to the Gumnut Planning Scheme including to remove redundant interim heritage controls.</li> </ol>	<ul style="list-style-type: none"> <li>• Planning scheme maps (including any deletion maps for existing heritage controls being replaced)</li> <li>• A copy of the interim publish in ATS of the proposed: <ul style="list-style-type: none"> <li>- Schedule to Clause 43.01 (Heritage Overlay)</li> <li>- Schedule to Clause 72.04 (Documents incorporated in this planning scheme)</li> <li>- Schedule to Clause 72.08 (Background Documents)</li> </ul> </li> <li>• Proposed incorporated statement of significance or Heritage Design Guidelines</li> <li>• Supporting heritage study to be included as a background document</li> </ul>
<p><b>Vegetation controls</b></p> <p>- E.g., SLO, VPO, ESO, DDO, residential zone schedules</p> <p>Reference: refer to <i>Planning Practice Note 7: Vegetation protection in urban areas</i></p>	<ol style="list-style-type: none"> <li>1. The amendment applies Schedule 9 to the Significant Landscape Overlay (SLO) on a permanent basis to all residential land in the municipality that is not currently included in a permanent SLO, including those areas covered by the Vegetation Protection Overlay (VPO) Schedule 1 and Schedule 3. This amendment replaces the interim SLO9 that was applied by Amendment C191. The amendment also deletes Schedule 2 and Schedule 4 to the Vegetation Protection Overlay (VPO).</li> </ol>	<ul style="list-style-type: none"> <li>• Strategic basis for controls that may include: <ul style="list-style-type: none"> <li>○ significant tree studies</li> <li>○ vegetation studies</li> <li>○ neighbourhood character study</li> </ul> </li> <li>• Justification for the choice of vegetation control and the proposed extent of application</li> </ul>
<p><b>Structure plan</b></p> <p>- Using an ACZ or DDOs</p>	<ol style="list-style-type: none"> <li>2. The amendment implements the land use and development directions of the Ruby Town Activity Centre Local Plan (Author, 2019) by amending the Activity Centre Zone Schedule 1 (ACZ1) and making other associated changes to the Gumnut Valley Planning Scheme.</li> <li>3. The amendment proposes to apply the Design and Development Overlay 22 (DDO22) to the Beach Road Commercial Precinct in Gumnut Village on a permanent basis.</li> </ol>	<ul style="list-style-type: none"> <li>• The structure plan document</li> <li>• Any technical reports that provided input into the strategic basis for the structure plan and/or draft proposed controls such as: <ul style="list-style-type: none"> <li>○ neighbourhood character study</li> <li>○ built form review</li> <li>○ vegetation study</li> <li>○ structure plan</li> <li>○ affordable housing study</li> <li>○ employment and floor space review</li> <li>○ public open spaces review</li> <li>○ streetscapes and public spaces review</li> <li>○ transport study</li> <li>○ waste management review</li> </ul> </li> <li>• Views of services agencies</li> </ul>



<p><b>Housing strategy and/or neighbourhood character study</b></p> <p>Reference: refer to the <i>Planning Practice Note 91: Reforms to the residential zones</i> and <i>Planning Practice Note 90: Planning for housing</i>.</p>	<ol style="list-style-type: none"> <li>1. The amendment applies new residential zones and the Neighbourhood Character Overlay (NCO) to residential areas across the municipality.</li> <li>2. The amendment proposes to implement the Housing and Settlement Strategy (Plan101, 2021) and Neighbourhood Character Study and Guidelines (Plan101, 2022) by making substantial changes to zones, overlay and policies affecting the Gumnut Shire residential areas.</li> </ol>	<ul style="list-style-type: none"> <li>• Strategic basis for the proposed controls may include:             <ul style="list-style-type: none"> <li>○ neighbourhood character study</li> <li>○ activity centre strategy</li> <li>○ housing strategy</li> <li>○ residential investigation areas report</li> </ul> </li> </ul>
<p><b>Rezoning</b></p>	<ol style="list-style-type: none"> <li>1. The amendment proposes the rezoning of 532-534 Cuddle Pie Street, Gumnut Village, from an Industrial 1 Zone to a Commercial 2 Zone.</li> <li>2. The amendment proposes to rezone residential land in the township to Mixed Use Zone and Commercial 1 Zone in accordance with the recommendations of the adopted Gumnut Village Plan (Plan101, 2022).</li> </ol>	<ul style="list-style-type: none"> <li>• Strategic basis for the proposed controls may include:             <ul style="list-style-type: none"> <li>○ urban design analysis/report</li> <li>○ design guidelines for industrial development</li> <li>○ design guidelines for commercial development</li> <li>○ retail strategy review</li> <li>○ traffic report</li> <li>○ precinct plan, structure plan or township plan</li> <li>○ land supply analysis</li> <li>○ environmental reports such as bushfire risk</li> </ul> </li> </ul>