

MINUTES OF THE ORDINARY MEETING OF COUNCIL

27 JUNE 2016

**12.17 C176 AMENDMENT TO THE MELTON PLANNING SCHEME - EYNEBURY
NATIVE VEGETATION OFFSETS****Author: Matthew Milbourne - Senior Strategic Planner****Presenter: Laura-Jo Mellan - Manager City Design, Strategy & Environment****PURPOSE OF REPORT**

To present the preparation of Amendment C176 to the Melton Planning Scheme to vary Native Vegetation Offset controls at Clause 52.17 of the Melton Planning Scheme for three stages of subdivision in Eynesbury.

RECOMMENDATION:

That Council:

1. Seek authorisation from the Minister for Planning to prepare Amendment C176 to the Melton Planning Scheme.
2. Apply for an exemption from the all the notice requirements of Section 19 of the Planning and Environment Act 1987, except for notification of prescribed Ministers under Section 19(1)(c).
3. Upon receipt of authorisation, prepare and exhibit the amendment in accordance with the relevant requirements of the *Planning and Environment Act 1987*.

Crs Cugliari/Carli. That the recommendation be adopted.

CARRIED

REPORT**1. Executive Summary**

A request has been received from Roberts Day on the behalf of Eynesbury Property Development Pty Ltd for a Planning Scheme Amendment request to amend the Native Vegetation Offset controls in the Melton Planning Scheme, to allow offsets to be provided at a secured site in Dundonnell (in western Victoria).

Council officers support the Planning Scheme Amendment request as:

- The amendment will allow the developer to use a native vegetation offset site that they secured in 2011.
- Officers from the Department of Environment, Land, Water and Planning have provided in-principle support for the amendment.
- The amendment will not result in material detriment to any person in Eynesbury

To expedite the Planning Scheme Amendment process the proponent has requested an exemption from some of the notice requirements for the amendment. It is proposed that notice of the amendment not be served to the residents of Eynesbury. Rather the only notice intended to be served is to the Minister for Environment. This is considered to be appropriate by Council officers as the amendment relates to only whether native vegetation offsets can be provided in Dundonnell (at a site that was secured in 2011), rather than in the Port Phillip and Western Port Catchment Management Area, and will not result in material detriment to any person. It is also noted that the developer has undertaken consultation with

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the residents of Eynesbury to make them aware of the proposed Amendment and provided an opportunity for residents to provide comments.

2. Background/Issues

Roberts Day on the behalf of Eynesbury Property Development Pty Ltd have submitted a Planning Scheme Amendment request to amend the Native Vegetation Offset controls in the Melton Planning Scheme.

In 2011 the developer of Eynesbury (Eynesbury Joint Ventures Pty Ltd) secured approval from the Department of Sustainability and Environment (now Department of Environment Land Water and Planning) for a native vegetation offset site in Dundonnell (within the Shire of Moyne).

The native vegetation site was confirmed to be suitable for offsets for five stages of the Eynesbury Township (Stages four, six, nine, 11A West, 11A East (now renamed Stage Five), and 13 of the approved Eynesbury Township Development Plan – February 2013).

Planning permit applications were subsequently approved for Stages four, nine and 11A West. Planning permission has not yet been sought for subdivision in Stages five, six and 13.

In 2013, Planning Scheme Amendment VC105 introduced the Victorian Government's Reforms to Native Vegetation Permitted Clearing Regulations. One of the changes in VC105 was that an offset for the removal of native vegetation would need to be provided within the same Catchment Management Authority (CMA) area. The site that was approved and secured for offsets in Dundonnell in 2011 is not located within the same CMA area as Eynesbury.

The current owners of Eynesbury are seeking to lodge a planning permit application for subdivision for stages five, six and 13 of the approved Development Plan. In order for these areas to be subdivided native vegetation is required to be removed. Given that the developer had secured an offset site in 2011, the developer has applied for a planning scheme amendment to utilise the secured offset site in Dundonnell. Refer to **Appendix 1**.

Planning Scheme Amendment

Planning Scheme Amendment C176 proposes to:

- Amend the Schedule to Clause 52.03 [Specific Sites and Exclusions] to include a site specific control for stages five, six and 13 of the approved Eynesbury Township Development Plan, February 2013.
- Amend the Schedule to Clause 81.01 [Incorporated Documents] to include a new incorporated document.

The proposed incorporated document will exempt stages five, six and 13 from the native vegetation removal and offset controls in Clause 52.17 of the Melton Planning Scheme to allow the offset of native vegetation to be provided at Dundonnell.

Strategic Assessment of the Proposal

In line with the *Strategic Assessment Guidelines for Planning Scheme Amendments* (August 2004), prepared by the State Government, every Planning Scheme Amendment should be strategically supported and maintain or develop the strategic focus of the Planning Scheme.

It is necessary to determine whether the amendment supports or implements the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF) of the Melton Planning Scheme. Further Council must determine whether the outcome will have consequences in terms of the Planning Scheme's directions, useability and transparency.

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State Planning Policy Framework

Clause 12 of the SPPF states that *'planning should help to protect the health of ecological systems and the biodiversity that they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values'*.

Clause 12.01-2 Native Vegetation Management introduces the objective *'to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity'*. One of the strategies is *'where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed'*.

The proposed amendment to the Melton Planning Scheme is consistent with the intent of the SPPF. In 2011 the developer secured a native vegetation offset site for five stages of subdivision that was consistent with the native vegetation removal and offset regime at that time. In 2013, the offset regime changed which makes it not possible to use the secured site for offsets as it is located in a different Catchment Management Authority. The amendment is consistent with the SPPF as it proposes an offset that is commensurate with the proposed removal and will result in no net loss of native vegetation.

Local Planning Policy Framework

Clause 22.02 A Sustainable Environment Policy seeks to *'protect and conserve environmental resources and assets of the City'*.

Clause 22.09 Eynesbury Station Policy allows for the development of the township of Eynesbury. This policy allows the development of an innovative residential community that is integrated with the landscape.

The proposed amendment to the Melton Planning Scheme is consistent with the intent of the LPPF. Significant areas of Eynesbury have been set aside for the retention of biodiversity. These include the Grey Box Woodland and a Grassland Reserve, both of which are to the north of the proposed township, and north of the area subject to this planning scheme amendment. The location of offsets for the removal of native vegetation is not in conflict with the LPPF.

Particular Provisions

Clause 52.17 Native Vegetation's purpose is *'to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach... Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.'*

As discussed previously the developer of Eynesbury in 2011 secured an offset site in Dundonnell, for five stages of development in Eynesbury Township (refer **Appendix 2**). The secured offset site complied with the relevant native vegetation and offset planning regime at that time, and would result in no net loss of native vegetation. In 2013 changes were made to the planning regime requiring offsets to be secured within the same CMA as the site where native vegetation was to be removed. Given the Dundonnell site is not within a CMA it means that under the current native vegetation framework, Dundonnell is not an appropriate offset site for stage five, six and 13 from a planning scheme perspective as it is located in a different CMA. The proposed change to the Planning Scheme is generally consistent with the purpose of Clause 52.17 as it maintains a no net loss approach to native vegetation rather the change just enables the approved and secured offsets for these stages to be utilised.

In conclusion, the strategic assessment of the amendment supports the planning scheme amendment. The general principles of the Melton Planning Scheme in the SPPF, LPPF and

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particular provisions are being upheld as it maintains a 'no net-loss' approach to native vegetation.

3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City
 - 1.1 Strategically plan for a well designed and built City

4. Financial Considerations

Council officer time and resources are involved in the preparation of the amendment. Fees are payable to DELWP for the consideration and approval of the amendment by the proponent.

5. Consultation/Public Submissions

The proponent for the planning scheme amendment has held discussions with Council officers and representatives from DELWP regarding the proposal to use the Dundonnell site for offsets for the three stages of development in Eynesbury. In-principle support for this approach has been provided by DELWP and Melton City Council officers.

The residents of Eynesbury were sent an information pack, including a plan which summarised the allocation of native vegetation offsets (refer **Appendix 2**) on 31 May 2016 about the amendment, and were invited to a drop-in session at the Eynesbury Homestead on the 7 June 2016 to find out more about the amendment. Residents were invited to provide comments on the proposed amendment by the 16 June 2016 to Quantum United (the body corporate manager) who collated and provided a consolidated list of submissions.

Comments were received from three residents in Eynesbury (refer **Appendix 3**). The submissions received provided comments on their preferred approach to street tree planting, the need for the planning for the school to commence, the need for a community building to be constructed, and one resident requested a copy of the planning scheme amendment documentation (which has been provided). None of the submissions relate to the planning scheme amendment.

The proponent has requested that Council apply to the Minister for Planning for an exemption from all of the notice requirements for a Planning Scheme Amendment, except for notice to be served to the prescribed Ministers in the *Planning and Environment Act 1987* (Section 19(1)(c)), which will allow the Minister for Environment to consent / object to the amendment.

Council officers recommend that the Council apply to the Minister for Planning to seek an exemption from the notice requirements in Section 19, except Section 19(1)(c) for the following reasons:

- the planning scheme amendment does not affect any individual
- consultation has occurred with residents in the township of Eynesbury
- it is proposed to notify the Minister for Environment of the amendment.

Once the consultation period closes, a further Council report will be provided to Council outlining whether any submissions were made to Amendment C176. This report will make recommendations to Council on whether any changes should be made to the amendment, and whether Council should abandon or adopt the amendment.

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6. Risk Analysis

The risk of this amendment not proceeding is that the Dundonnell site would not be able to be utilised for native vegetation offsets. Prior to the lodgement of application for subdivision if Dundonnell cannot be used for offsets the developer will need to find new sites for offsets which will result in further delays to the development of stages five, six and 13 of Eynesbury.

7. Options

Council can resolve to:

1. submit planning scheme amendment C176 to the Minister for Planning for authorisation, and apply for an exemption from the notice requirements of Section 19 of the *Planning and Environment Act 1987*, except for notification of prescribed Ministers in Section 19(1)(c)
2. submit planning scheme amendment C176 to the Minister for Planning for authorisation, and comply with the notice requirements prescribed in Section 19 of the *Planning and Environment Act 1987*
3. elect to take no action.

LIST OF APPENDICES

1. Land subject to Amendment C176
2. Summary of Native Vegetation Offsets
3. Submissions Received

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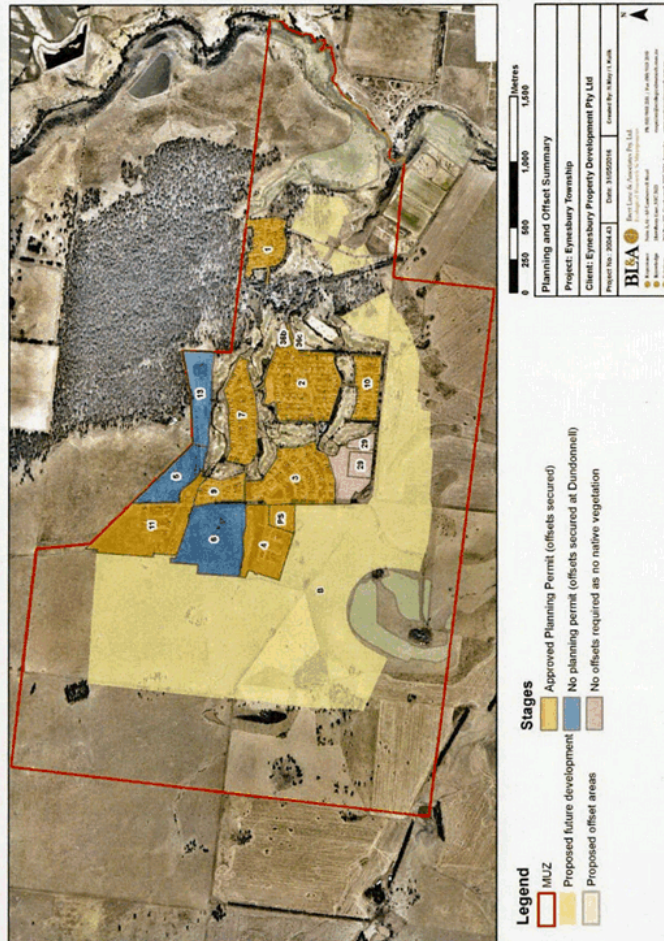
Appendix 1 Land subject to Amendment C176



Summary of Offset Allocations & Permits



1. Coloured **Brown** - have received planning permits; i.e. Stages 1, 2, 3, 4, 7, 9, 10, 11A West and the golf course. 155 permitted lots remain within part of Stage 4 (36 lots) and part of Stage 11A West (119 lots);
2. Coloured **Blue** - in 2011, suitable specific offsets were secured and allocated for Stages 5, 6 and 13 and approved by the Department of Environment, Land, Water and Planning and Melton City Council in 2011;
3. Coloured **Pink** - no offsets are required for Stages 29 and Stages 36b & 36c;
4. Coloured **Yellow** - require specific and general offsets to be secured in order to develop in accordance with the Development Plan DP 2009/5/1.



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 Appendix 3 Submissions Received

Attachment 3 – Submissions Received

Sub.	Submission	Response to Submission
1	<p>Upon looking at the plans for the amendment, I would like to raise that although stages 29, 36b and C have no offsets required, it would prove essential to the look of the estate that mature trees are allocated to the nature strips, not the small trees that take many years to mature.</p> <p>In some of the other estates in the region smaller trees are added to the nature strips which ultimately die or are stolen, leaving the area looking barren and unsightly.</p> <p>To this end I would like to raise that all further stages be developed to the standards that are shown in stage 1.</p>	<p>The submission made relates to proposed trees to be planted in future stages of Eynesbury.</p> <p>The submission is not related to the proposed planning scheme amendment which relates to the location of native vegetation offsets.</p> <p>No change recommended.</p>
2	<p>It is good to see things beginning to move and one is hopeful the Planning for a School takes priority.</p> <p>Please remember the Spiritual and Social needs of the community as was done in building Victorian towns a century ago. Perhaps land could be reserved beside the car park associated with the 'town centre' for such-a community facility and a multi denominational worship building established.</p> <p>Having now understood what is meant by the 'offsets' can I make a strong plea to ensure that suitable trees are planted in the future and that no more Eucalypt trees are planted in Eynesbury! I suggest that you consult with experts like the founder of the Diggers Club who has highlighted the danger of flammable trees such as eucalypts, pines and cypress that add to the danger of fire and contribute to 'climate change'. This is even more significant given current government efforts to reduce the input of CFA volunteers in keeping us safe.</p>	<p>The submission made relates to the planning of the future school, the need for a community building, and the suitability of trees to be planted in future stages of Eynesbury.</p> <p>The submission is not related to the proposed planning scheme amendment which relates to the location of native vegetation offsets.</p> <p>No change recommended.</p>
3	<p>At this stage I am unable to make the 'drop in' session that you are running next Tuesday 7th June. Are you able to confirm with me that you are changing the location of the town centre or is this going to be incorporated within stage 6 of the development.</p> <p>Are you able to provide me with the full planning scheme amendment so I am able to give feedback by June 16?</p>	<p>The submitter was provided with a copy of the planning scheme amendment, was encouraged to attend the drop-in session, and was informed that the location of the town centre is not intended to be changed.</p> <p>No further submissions have been received following the provision of the planning scheme amendment documentation.</p> <p>No change recommended.</p>