

**12.10 PLANNING SCHEME AMENDMENT C190 - ANOMALIES AMENDMENT**

Author: Myles Graham - Strategic Planner

Presenter: Laura-Jo Mellan - Manager City Design, Strategy &amp; Environment

**PURPOSE OF REPORT**

To consider Planning Scheme Amendment C190 to the Melton Planning Scheme to correct a number of zoning and overlay anomalies.

**RECOMMENDATION:**

That Council:

1. Seek authorisation from the Minister for Planning to prepare Planning Scheme Amendment C190 to the Melton Planning Scheme.
2. Apply for an exemption from all of the notice requirements of Section 19 of the *Planning and Environment Act 1987*, except for notification to land owners of affected sites and prescribed Ministers under Sections 19(1)(b) and 19(1)(c).
3. Upon receipt of authorisation, prepare and exhibit Amendment C190 to the Melton Planning Scheme in accordance with the relevant requirements of the *Planning and Environment Act 1987*.
4. Authorise the General Manager Planning and Development and Manager City Design, Strategy and Environment to negotiate and resolve any issues that are raised by submitters during the exhibition process prior to the amendment being reported back to Council for referral to a Planning Panel or adoption of the amendment.

**Motion**

Crs Hardy/Kesic.

That the recommendation be adopted.

CARRIED

---

**REPORT****1. Executive Summary**

Amendment C190 to the Melton Planning Scheme corrects a number of existing anomalies regarding zoning and overlays that have been identified in the Melton Planning Scheme. The anomalies include mapping inaccuracies, zoning errors or zones no longer required, and incorrectly listed or mapped places from the Schedule to the Heritage Overlay (refer to **Appendix 1**).

Correcting the anomalies within the Melton Planning Scheme ensures that the zoning reflects the use, and ownership of the land. Incorrect zoning can impact on the ongoing use of land, and in particular trigger the need for a planning permit where one would not normally be required.

The proposed amendment will resolve these errors and anomalies in the Melton Planning Scheme to ensure that the controls on the land are appropriate given the ownership and use, and ensure that unnecessary planning permits are not triggered.

## 2. Background/Issues

Amendment C190 proposes to correct a number of zoning and overlay anomalies within the Melton Planning Scheme. An explanation of the proposed changes are detailed below, and maps of the proposed changes are included in **Appendix 1**.

Correcting the anomalies within the Planning Scheme ensures that the zoning reflects the use, and ownership of the land. Incorrect zoning can impact on the ongoing use of land, and in particular trigger the need for a planning permit where one would not normally be required. The proposed amendment will resolve these errors and anomalies in the Melton Planning Scheme to ensure that the controls on the land are appropriate given the ownership and use, and ensure that unnecessary planning permits are not triggered.

### Rezoning of Council owned land

Seven properties are owned by Council and zoned for an incorrect public use. The proposed rezoning will ensure that the zone correctly reflects that the land is owned by Council, and what the intended use of the land is.

1. 19 Rockfern Crescent, Diggers Rest: Rezone from Public Use Zone – Education (PUZ2) to Public Use Zone – Local Government (PUZ6). A portion of the property is currently incorrectly zoned as Public Use Zone – Education (PUZ2). It is proposed that this PUZ2 zone be changed to PUZ6.
2. 56 Cambrian Way, Melton: Rezone from Public Park and Recreation Zone (PPRZ) and Public Use Zone – Service and Utility (PUZ1) to Public Park and Recreation Zone (PPRZ). A portion of the property in the North-West corner is incorrectly zoned PUZ1. It is proposed that this PUZ1 section be changed to PPRZ.
3. 360 Clarkes Road, Brookfield: Rezone from Public Park and Recreation Zone (PPRZ) and Public Use Zone – Service and Utility (PUZ1) to Public Park and Recreation Zone (PPRZ). The section of the property located at the northern end of the reserve adjacent to Riparian Way is incorrectly zoned PUZ1. It is proposed that this PUZ1 section be changed to PPRZ.
4. 74-100 Centenary Avenue, Kurunjang: Rezone from Public Park and Recreation Zone (PPRZ) and Public Use Zone – Education (PUZ2) to Public Park and Recreation Zone (PPRZ). This eastern portion of the property includes tennis courts and clubrooms, and is incorrectly zoned PUZ2. It is proposed that this PUZ2 section be changed to PPRZ.
5. 26-42 Richard Road and 22A Reynolds Place, Melton South: Rezone from Public Use Zone – Education (PUZ2) to Public Park and Recreation Zone (PPRZ). These properties are part of Blackwood Drive Reserve and include a shared path that separates the school site from the public open space; and cricket practice nets. These properties are incorrectly zoned PUZ2 and are proposed to be changed to PPRZ.
6. 24-26 Reserve Road, Melton: Rezone from Public Park and Recreation Zone (PPRZ) and Public Use Zone – Service and Utility (PUZ1) to Public Park and Recreation Zone (PPRZ). This property contains the Melton Recreation Reserve and includes a play space. A portion of the property is incorrectly zoned PUZ1 and is proposed to be changed to PPRZ.

### Rezoning of state government owned land

1. 60 Black Dog Drive, Brookfield: Rezone from Public Use Zone – Education (PUZ2) and General Residential Zone – Schedule 1 (GRZ1) to Public Use Zone – Education (PUZ2). This property is owned by the Department of Education and Training. A section

of the property is incorrectly zoned General Residential Zone – Schedule 1 (GRZ1). It is proposed that this GRZ1 section be changed to Public Use Zone – Education (PUZ2), to be consistent with the remainder of the parcel and to accurately reflect its intended future use. The proposed PUZ2 is appropriate as it reflects the use of the land for future education purposes. The Department of Education and Training is supportive of the proposed zone change.

Rezoning of privately owned land

Public Use Zones are typically used on public land for public utilities, community services and facilities and must be owned by a public authority. Public Use Zones are not intended to be located on privately owned properties. Where PUZs are incorrectly applied to private land, it can restrict land uses, or trigger planning permits where they wouldn't ordinarily be required. Six privately owned properties are inappropriately zoned for public use. C190 proposes to correct this error and apply the correct zone that is consistent with the remainder of the owners' land, as well as surrounding properties.

1. 21 Rockfern Crescent and 94 Plumpton Road, Diggers Rest: Rezone the area of property identified as Public Use Zone – Education (PUZ2) to Urban Growth Zone – Schedule 5 (UGZ5). Sections of these properties are incorrectly zoned Public Use Zone – Education (PUZ2). It is proposed that these PUZ2 sections be changed to Urban Growth Zone Schedule 5 (UGZ5) to be consistent with the balance of the property.
2. 158-182 and 184-204 Burns Lane, Toolern Vale: Rezone the area of property identified as Public Use Zone – Local Government (PUZ6) to Rural Conservation Zone (RCZ). Sections of the properties are incorrectly zoned Public Use Zone – Local Government (PUZ6). It is proposed that these PUZ6 sections be changed to Rural Conservation Zone (RCZ) to be consistent with the balance of the property.
3. 2088-2128 Diggers Rest – Coimadai Road, Toolern Vale: Rezone the area of property identified as Public Use Zone – Service and Utility (PUZ1) to Rural Conservation Zone (RCZ). A section of the property is incorrectly zoned Public Use Zone – Service and Utility (PUZ1). It is proposed that this PUZ1 section be changed to Rural Conservation Zone (RCZ) to be consistent with the balance of the property.
4. 78-132 Hoggs Road, Toolern Vale: Rezone the areas of property identified as Public Use Zone – Service and Utility (PUZ1) and Public Conservation and Resource Zone (PCRZ) to Rural Conservation Zone (RCZ). Sections of the property are incorrectly zoned Public Use Zone – Service and Utility (PUZ1) and Public Conservation and Resource Zone (PCRZ). It is proposed that both the PUZ1 and PCRZ sections be changed to Rural Conservation Zone (RCZ) to be consistent with the balance of the property.
5. 102 High Street, Melton: Rezone the area of property identified as Public Use Zone – Service and Utility (PUZ1) to Industrial 1 Zone 1 (IN1Z). A section of the property is incorrectly zoned Public Use Zone – Service and Utility (PUZ1). It is proposed that this PUZ1 section be changed to Industrial 1 Zone (IN1Z) to be consistent with the balance of the property.
6. 54 Pinnacle Crescent, Brookfield: Rezone the area of property identified as Public Use Zone – Education (PUZ2) to General Residential Zone – Schedule 1 (GRZ1). A section of the property is incorrectly zoned Public Use Zone – Education (PUZ2). It is proposed that this PUZ2 section be changed to General Residential Zone – Schedule 1 (GRZ1) to be consistent with the balance of the property.

Mapping boundary related corrections on Western Water owned land

1. Rezoning Crown Allotment 81D, Parish of Yangardook from Public Conservation and Resource Zone (PCRZ) to Public Use Zone – Service and Utility (PUZ1). It is proposed to align the zone to the parcel boundary as it is currently out of alignment. Western Water is supportive of the proposed zone change.

## MINUTES OF THE ORDINARY MEETING OF COUNCIL

12 NOVEMBER 2018

---

2. Rezoning 2389A Diggers Rest – Coimadai Road and 2389 Diggers Rest – Coimadai Road, Toolern Vale so that the Public Use Zone – Service and Utility (PUZ1) accurately aligns with the title boundary of 2389A Diggers Rest – Coimadai Road, Toolern Vale, plus its connecting northern easement. It is proposed to align the zone to the parcel boundary as it is currently out of alignment. Western Water is supportive of the proposed zone change.

Overlay corrections

1. Removing HO106 (1200-1220 Mt Cottrell Road, Strathtulloh (Parcel 3001)) from the Heritage Overlay maps. The Panel Report for the Melton Planning Scheme Amendment C71 – Heritage Amendment included the following resolution:

'The Panel has concluded that the house at 1200-1220 Mt Cottrell Road, Melton South (HO106) is not sufficiently representative of the 'type' it is said to represent or sufficiently intact to meet the threshold for architectural significance (AHC D2). While it is relatively rare, the Panel considers that the other houses proposed for listing under the HO to represent the development of the Closer Settlement Board's 'Exford' subdivision better demonstrate the characteristics of farm properties of that era. The Panel recommends that: HO106 – the house at 1200-1220 Mt Cottrell Road, Melton South – should be deleted from the HO.'

Following gazettal of Amendment C71, HO106 was deleted from the Schedule to Clause 43.01 Heritage Overlay as recommended by the Panel Report, however it was not deleted from the associated mapping due to an administrative oversight. It is proposed to delete HO106 from the Melton Planning Scheme maps to reflect the Schedule to the Heritage Overlay.

2. Removing HO34 (126-196 McCorkells Road, Toolern Vale) from the Heritage Overlay maps.

The Panel Report for the Melton Planning Scheme Amendment C71 – Heritage Amendment included the following resolution:

'The Panel has concluded that the place at 126-196 McCorkells Road, Toolern Vale (HO34) has been altered to the extent that it no longer possesses the majority of the heritage values that were described in the statement of significance. It is therefore not a place of heritage significance to the Shire of Melton and should be removed from the HO. The Panel recommends that: HO34 – the house and ruin at 126-196 McCorkells Road, Toolern Vale should be deleted from the HO.'

Similarly, following gazettal of Amendment C71, HO34 was deleted from Schedule to Clause 43.01 Heritage Overlay, however was not deleted from the associated mapping due to an administrative oversight. It is proposed to delete HO34 from the Melton Planning Scheme maps to reflect the Schedule to the Heritage Overlay.

3. Amend the Schedule to Clause 43.01 Heritage Overlay to list HO19 at 2389-2485 Diggers Rest-Coimadai Road, Toolern Vale under its correct suburb. HO19 is listed incorrectly in the Schedule to Clause 43.01 Heritage Overlay under the suburb of Diggers Rest. It is proposed to amend the address of HO19 to the correct suburb of Toolern Vale.

Note: whilst the lot number for this property is now 2389, it will remain as 2389-2485 in the Schedule to ensure consistency and continuity.

**Strategic Assessment**

Ministerial Direction No 11 requires amendments to be assessed against a number of guidelines. Every Planning Scheme Amendment should maintain or develop the strategic intent of the Planning Scheme. This strategic assessment has been undertaken and it is considered that the amendment adequately addresses this requirement for the reasons outlined below.

The amendment is consistent with the Planning Policy Framework, and makes proper use of the Victoria Planning Provisions as the proposed amendment seeks to correct errors and anomalies in the Melton Planning Scheme.

### 3. Council and Wellbeing Plan Reference and Policy Reference

The Melton City Council 2017-2021 Council and Wellbeing Plan references:

3. A well planned and built City: A City with a clear vision to manage growth in a sustainable and accessible way

3.1 A City that strategically plans for growth and development.

### 4. Financial Considerations

Council officer time and resources are involved in the preparation of the Amendment. Council is also required to pay the mandatory fees associated with the Amendment process. These costs will be covered under the City Design, Strategy and Environment operational budget.

### 5. Consultation/Public Submissions

Planning scheme amendments are subject to an exhibition process in accordance with the *Planning and Environment Act 1987*. This normally includes direct notification to affected land owners, notification to government agencies and prescribed Ministers, a notice placed in a local newspaper, and a notice placed in the Government Gazette.

As discussed previously in this report, the amendment proposes to correct a range of anomalies on public and private land and only affects the owners of those specific properties. Therefore, it is proposed that Council seek an exemption under Section 20(2) of the *Planning and Environment Act 1987* to exempt the amendment from the notice requirements in Section 19, except for:

- Notice to land owners (Section 19(1)(b)).
- Notice to prescribed Ministers in the *Planning and Environment Act 1987* (Section 19(1)(c)).

These exemptions are considered appropriate given that the amendment seeks to correct anomalies which have no impact beyond property boundaries.

Once the exhibition period closes, a further report will be provided to Council. Outlining any submissions that were made to Amendment C190 and whether any changes to the amendment based on the submissions need to be referred to a Planning Panel.

### 6. Risk Analysis

If Council chooses not to seek authorisation to prepare a Ministerial Planning Scheme Amendment it would prevent the necessary updates required to the Melton Planning Scheme.

It would also result in difficulties for land owners when applying for future planning permits and difficulty for Council officers in facilitating appropriate development and considering future planning permit applications.

**7. Options**

Council can choose to:

1. Seek authorisation to prepare and exhibit a Planning Scheme Amendment in accordance with the *Planning and Environment Act 1987* and apply for an exemption from notice requirements under Section 19 and authorise the General Manager Planning & Development and Manager City Design, Strategy & Environment to negotiate and resolve any issues; or
2. Abandon the Planning Scheme Amendment.

**LIST OF APPENDICES**

1. Existing and Proposed Zone Maps - undated