

MINUTES OF THE ORDINARY MEETING OF COUNCIL

4 FEBRUARY 2019

12.8 PLANNING SCHEME AMENDMENT C170 - DEVELOPMENT PLAN OVERLAY**Author: Tunc Ozlatif - Strategic Planner****Presenter: ~~Laura-Jo Mellan - Manager City Design, Strategy & Environment~~****Luke Shannon – General Manager Planning & Development****PURPOSE OF REPORT**

To consider the preparation and exhibition of Amendment C170 to the Melton Planning Scheme to implement recommendations from the *Development Plan Overlay Review (January 2019)*.

RECOMMENDATION:

That Council:

1. Adopt the *Development Plan Overlay Review January 2019 (Appendix 1)*.
2. Seek authorisation from the Minister for Planning to prepare Planning Scheme Amendment C170 to the Melton Planning Scheme to implement the findings of the *Development Plan Overlay Review January 2019*.
3. Upon receipt of authorisation, prepare and exhibit Amendment C170 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 the 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 Majdlik/Ramsey.

That the recommendation be adopted.

CARRIED

REPORT**1. Executive Summary**

The Development Plan Overlay (DPO) currently applies to significant parts of the municipality and has been used to coordinate the appropriate use and development of land.

Two reviews have been conducted on the current application of the DPO within the municipality with the most recent review completed in January, 2019. The reviews were undertaken to assess whether the DPO was still required given the level of development that has been undertaken.

Following this review it is recommended that 8 of the existing DPO's be removed either partially or in their entirety as they are no longer an appropriate planning control.

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2. Background/Issues

Development Plan Overlay (DPO)

The DPO is an overlay contained in the Victorian Planning Provisions that can be applied to planning schemes as required. The purpose of the overlay in reference to the Melton Planning Scheme is:

- 'To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land'.
- 'To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority'.

The Melton Planning Scheme currently contains 16 DPO Schedules that cover residential, industrial, commercial, rural and tourist areas (Refer **Appendix 1**). These DPO's apply to significant parts of the municipality, including the areas known as the Eastern Corridor, Eynesbury, Melton Township, Diggers Rest and Bonniebrook.

The Victorian Planning Provisions Practice Note 23 – *Applying the Incorporated Plan and Development Plan Overlays August 2015* recommends that the use of a DPO in a Planning Scheme should be reviewed regularly to ensure that it is still relevant to and supportive of, the proposed use and development of the land to which it is applied.

The practice note also states that '*because the DPO has no public approval process for the plan, it should normally be applied to development proposals that are not likely to significantly affect third party interests, self-contained sites where ownership is limited to one or two parties and sites that contain no existing residential population and do not adjoin established residential areas*'.

Within the municipality, the DPO has been used as a planning control to coordinate the orderly development and integrated use of new Greenfield or vacant urban sites and therefore meets the intent of the overlay. However, reviews completed in 2015 and 2019 have highlighted issues around the continued applicability of the DPO in areas which are now substantially developed and have other planning controls in place.

As development has occurred, DPO schedules have become redundant. The criteria for their removal focuses on how much development has occurred in the overlay area. In addition, as noted above, properties within a DPO are exempt from third-party notice and review rights. Given that several of the DPO areas are now fully or substantially developed, the means that there are now residents or property owners who may be impacted by a proposed development but have no statutory mechanisms to object to a development.

Considering the purpose of the DPO and the advice contained within Practice Note 23, it is recommended that Council to remove a portion of DPO1 and DPO11, and remove the entirety of DPO5, DPO7, DPO8, DPO12, DPO13 and DPO15 as recommended by the *Melton Planning Scheme – Development Plan Overlay Review 2019* as contained at **Appendix 1**, through an amendment to the Melton Planning Scheme.

Amendment C170

Amendment C170 to the *Melton Planning Scheme* proposes to remove 8 redundant Schedules to the DPO. The proposed Amendment C170 will amend Clause 43.04 in the *Melton Planning Scheme* and more specifically:

- Delete DPO1 – Melton East Growth Area except from areas identified as Modeina Estate, Burnside and 1-15 Banchory Avenue, Hillside.
- Delete DPO5 – Banchory Grove and Bellevue Hill, Hillside.
- Delete DPO7 – Tenterfield Estate, Burnside Heights.

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- Delete DPO8 – 511-531 Taylors Road, Burnside Heights.
- Delete DPO11 – Clarkes Road, Brookfield except the 2 hectare undeveloped portion in the southern part of the precinct.
- Delete DPO12 – West Park Industrial Estate, Truganina.
- Delete DPO13 – Orbis Business Park, Ravenhall.
- Delete DPO15 – Western Highway Restricted Retail Site, Caroline Springs.

Strategic Assessment

Ministerial Direction No 11 requires amendments to be assessed against a number of guidelines. This strategic assessment has been undertaken and it is considered that the amendment adequately addresses the guidelines.

The amendment is consistent with the Planning Policy Framework (PPF) and a number of aspects of Clause 11: Settlement of the PPF:

- Clause 11.01R – Settlement – Metropolitan Melbourne - the amendment acknowledges the changing nature of development and supports the need to create a more consolidated sustainable municipality and protect the values of non-urban land by respecting the Urban Growth Boundary.
- Clause 11.02 – Managing Growth, the amendment acknowledges the level of growth that the municipality is facing now and in the future and supports the need to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community use.

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, exhibition and adoption of the amendment and statutory fees are required to be paid by Council as the Responsible Authority which are within Councils recurrent budget. Council officer time and resources are also involved in the assessment of development plans. The removal of redundant schedules to the DPO and their requirement for development plans to be submitted with permit applications will save officer time and resources.

5. Consultation/Public Submission

The amendment will be exhibited in accordance with the requirements of the *Planning and Environment Act 1987* via notice in the local newspaper and on Council's website, a notice in the Government Gazette and letters to relevant Ministers and Government Departments.

Once the exhibition period closes, a further report will be provided to Council summarising any submissions made to Amendment C170, the recommended changes as a result of exhibition and recommending whether a Planning Panel is required.

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6. Risk Analysis

Should Council choose to not initiate this amendment it will result in future planning applications in the redundant DPO areas being exempt from third-party notice and review rights where applications may be detrimental to surrounding residents.

7. Options

Council can resolve to either:

1. Seek authorisation to prepare and exhibit the Amendment C170 for the prescribed period.
2. Not proceed with the amendment.

LIST OF APPENDICES

1. Development Plan Overlay Review - dated January 2019