

1.4 PROPOSED AMENDMENT C147 TO THE MONASH PLANNING SCHEME

(SH: File No. F18-91647)

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council requests the Minister for Planning prepare and approve a Prescribed Amendment, pursuant to Section 20A of the Planning and Environment Act 1987 to:

- a. Remove Design and Development Overlay Schedule 1 from properties within the Brandon Park Major Activity Centre that are also covered by the new Design and Development Overlay Schedule 8 introduced by Amendment C86;*
- b. Amend Clause 21.17 (Brandon Park MAC Structure Plan) to clarify permissible land uses in the Commercial 2 Zone for Precinct 4;*
- c. Remove Public Acquisition Overlay Schedule 3 from land in the Mt Waverley Activity Centre car park that has already acquired by Council; and*
- d. Correct a Heritage Overlay label on a map to align with the number given to the heritage place in the Heritage Overlay Schedule.*

INTRODUCTION

This report considers a proposal to correct a number of minor errors in the Monash Planning Scheme, including two resulting from the recent approval and gazettal of Amendment C86. The changes involve correcting errors stemming from Amendment C86, and two other minor corrections that have been identified and are appropriate to include in a Section 20A (prescribed) amendment.

ISSUES AND DISCUSSION

The proposed amendment includes:

- Removing Design and Development Overlay – Schedule 1 from properties within the Brandon Park Major Activity Centre that are also covered by the new DDO8 introduced by Amendment C86 [Sites 1A, 1B & 1C shown on the maps in **Attachment 1**];
- Amending Clause 21.17 (Brandon Park MAC Structure Plan) to clarify permissible land uses in the Commercial 2 Zone for Precinct 4 [Site 1B];
- Removing PAO3 from land in the Mt Waverley Activity Centre car park that has already acquired by Council [Site 2]; and
- Correcting a Heritage Overlay label on a map to align with the number given to the heritage place in the Schedule [Site 3].

Discussions with DELWP officers have confirmed that all of these matters are eligible to be considered through a “fast track” prescribed amendment under Section 20A of the Planning and Environment Act 1987.

Amendment C86

This amendment sought to implement the recommendations of the Brandon Park Major Activity Centre Structure Plan, and was exhibited in April/May 2013 and adopted in October 2013. After being on hold for a period of 3 years, Amendment C86 was approved under delegation from the Minister for Planning on 20 July 2018 and gazetted on 16 August 2018.

Two issues have been identified following the approval and gazettal of Amendment C86, which now need to be resolved through a separate “fix up” amendment.

THE PROPOSED AMENDMENT

Removal of redundant Design and Development Overlay 1

In adopting Amendment C86 in 2013, it appears that Council did not explicitly include the deletion of the existing Design and Development Overlay Schedule 1 on sites that were to be included in the new Design and Development Overlay Schedule 8 – which means that both schedules unnecessarily apply.

The two schedules are in conflict with each other and apply, for example, different front setback requirements – potentially causing issues for future planning applications in this area.

Clause 21.17 Brandon Park MAC Structure Plan also states that policy for the activity centre will be implemented by “[Rezoning] to a Commercial 2 Zone and replace the existing Design and Development Overlay Schedule 1 with a new Design and Development Overlay Schedule 8”. It is therefore clear that Design and Development Overlay Schedule 1 should be deleted.

Amending Clause 21.17

In the new Clause 21.17 there is conflict between the objective for Precinct 4 and the implementation of the policy. The objective is to:

“Encourage an appropriate mix of commercial uses (restricted retail, office etc) incorporating higher density residential development in the precinct. Retail (Shop) uses are discouraged”.

The Commercial 2 Zone prohibits dwellings and most other forms of accommodation – except for motel and residential hotel, and accommodation that is ancillary to the use of the land as a hotel. It is therefore proposed to clarify this objective by adding the words “in the form of residential hotel, motel or hotel rooms” at the end of the objective.

Other changes

There are two minor corrections that have been identified and are proposed to be included in this amendment.

Removing Public Acquisition Overlay Schedule 3 from land in the Mt Waverley Activity Centre

There is a Public Acquisition Overlay (PAO3) over part of a car park in the Mount Waverley Activity Centre. Council is the acquiring authority for this land and has subsequently acquired the land and incorporated it into the car park in Virginia Street, Mount Waverley. Therefore the Public Acquisition Overlay is no longer required and should be removed.

Correcting a Heritage Overlay label

The label for a site identified in the Schedule to the Heritage Overlay as HO103 (Religious Centre Monash University) is currently showing as HO88, not HO103. HO88 applies to Waverley Park (and the label correctly shows HO88 for that site). The amendment proposes only to update the label on the HO map so that it correctly reflects the HO number.

THE AMENDMENT PROCESS

Because the proposed amendment is to correct errors and remove a public acquisition overlay because the land has been acquired, Council can apply for a fast track amendment process under Section 20A of the Act. Under this provision, known as a prescribed amendment, Council can request the Minister for Planning to determine the amendment through a fast track process.

CONSULTATION

Prescribed amendments are exempt from exhibition. These changes are minor and correct obvious and technical mistakes found in the Monash Planning Scheme. Future fix up amendments to correct other identified errors may require partial or full exhibition.

FINANCIAL IMPLICATIONS

There are minor cost implications mostly associated with the payment of the statutory fee for the proposed amendment. A small number of corrections have been included in the same amendment to reduce costs.

CONCLUSION

It is best practice to regularly undertake 'fix up' amendments to correct identified anomalies. Officers have identified some fix ups that are eligible for the streamlined, prescribed (s20A) amendment process. It is important that we ensure that the Monash Planning Scheme is up-to-date and we respond in a timely manner to identified issues.

ATTACHMENTS:

1. Maps showing proposed amendment changes.