

1.5 MONASH PLANNING SCHEME CORRECTIONS AMENDMENT

(AH: File No. F17-596)

Responsible Director: Peter Panagakos

RECOMMENDATION*That Council:*

1. *Request the Minister for Planning to authorise Council, pursuant to Section 8A of the Planning and Environment Act 1987, to prepare an amendment to:*
 - a. *Rezone land at the rear of 2-18 Miller Crescent, Mount Waverley to the Neighbourhood Residential Zone – Schedule 3 and apply the Vegetation Protection Overlay.*
 - b. *Rezone 277 Huntingdale Road, Chadstone and 49 Westerfield Drive, Notting Hill to the Commercial 1 Zone.*
 - c. *Rezone northern part of 27 Regent Street, Mount Waverley to the Neighbourhood Residential Zone – Schedule 2 and apply the Vegetation Protection Overlay.*
 - d. *Rezone 12-16 Dixon Street, Clayton to the Public Use Zone 3.*
2. *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. *Rezone the northern side of Police Road generally between the Monash Freeway and Eastlink to the Road Zone Category 1 and remove the Vegetation Protection Overlay from the road.*
 - b. *Delete Specific Controls Overlay 3 and delete the Orica Office Use Plan, February 2003 incorporated document.*
3. *Authorises the Director City Development to prepare and finalise the documentation for the planning scheme amendments in accordance with this report.*
4. *Upon receiving authorisation from the Minister for Planning for Part 1 above, prepares and exhibits the amendment in accordance with Section 19 of the Planning and Environment Act 1987.*

INTRODUCTION

The purpose of this report is to consider a proposal to undertake two amendments to make a number of “housekeeping” updates and minor corrections to the Monash Planning Scheme.

BACKGROUND

Over the passage of time, minor zoning errors and anomalies have been identified by Council officers or brought to Council's attention by land owners and authorities. It is proposed to correct these errors and anomalies by amending the Monash Planning Scheme.

Officers maintain a list of updates and administrative corrections that need to be made to the Monash Planning Scheme. This list includes requests made landowners and anomalies that are picked up from time to time by officers. The table below outlines the list of changes proposed in this report

No.	Location and description	Proposed changes
1.	<p>Residential land in Miller Crescent, Mount Waverley.</p> <p>Surplus VicTrack land sold to adjoining property owners.</p> <p>As privately owned land no longer appropriate to be in a Public Use Zone.</p> <p>Land owners have been recently advised of proposal.</p>	<p>Rezone to be consistent with the balance of the private residential properties.</p> <p>Change from Public Use Zone 4 to Neighbourhood Residential Zone 3 and extend the Vegetation Protection Overlay (VPO1) to cover the entire properties.</p>
2.	<p>277 Huntingdale Road, Chadstone.</p> <p>Strip centre was extended sometime between 1972 and 1982. Land has been used a shop since then. Is part of this small shopping strip but is in a residential zone.</p> <p>Land owners have been recently advised of proposal.</p>	<p>Rezone site from General Residential Zone 2 to Commercial 1 Zone to reflect the land being part of the commercial precinct.</p>
3.	<p>27 Regent Street, Mount Waverley.</p> <p>Historic adverse possession claim along northern boundary of private lot with Valley Reserve.</p> <p>As privately owned land no longer appropriate to be in a Public Use Zone.</p> <p>Requested by land owner.</p>	<p>Rezone the sliver of land to be consistent with the private ownership and zoning of the balance of the lot.</p> <p>Rezone from Public Park and Recreation Zone to Neighbourhood Residential Zone 2 and extend the VPO.</p>
4.	<p>49 Westerfield Drive, Notting Hill.</p>	<p>Rezone site from General Residential Zone 3 to Commercial 1 Zone to reflect</p>

	<p>Land has been a shop as part of this small shopping strip since at least 1963 but is in a residential zone.</p> <p>Requested by land owner.</p>	<p>it's role as part of the retail strip.</p>
5.	<p>12-16 Dixon Street, Clayton.</p> <p>Land purchased by Monash Medical Centre and used for car parking so is now in public ownership.</p> <p>Requested by land owner.</p>	<p>Rezone sites from Residential Growth Zone 3 to Public Use Zone 3.</p>
6.	<p>Police Road between Monash Freeway and Eastlink.</p> <p>Land is a declared arterial road therefore needs to be in a Road Zone1.</p> <p>Department of Transport have been advised and agrees with the proposed change.</p>	<p>Rezone road from Neighbourhood Residential Zone 4 to Road Zone 1 and remove VPO1 from the road to be consistent with designation as an arterial road.</p>
7.	<p>Orica office site, between McNaughton, Dandenong and Westall Roads, Clayton.</p> <p>Control provided for the construction of use of the land for the Dulux office. Facility constructed and operating since at least 2008.</p> <p>Specific site control is now redundant as the zone now allows office uses.</p>	<p>Remove redundant Specific Controls Overlay 3 and delete Incorporated Document.</p>

Further information and maps are provided in **Attachment 1** to this report.

The changes have only been included if they are straight forward, easily justifiable and there is general agreement to the changes from the landowner or they have requested the change. Changes have also been included where there is a need to urgently address the error, including where it limits the permitted uses or effective management of the land.

ISSUES AND DISCUSSION

Discussions with DELWP officers on the list of zone and overlay corrections outlined in the table above have confirmed that two separate amendments will be required. It is

recommended that two of the proposed changes are eligible to be considered through a “fast track” prescribed amendment under Section 20A of the *Planning and Environment Act 1987*. The “fast track” amendment does not include public notification. These are the rezoning of Police Road, Mulgrave to the Road Zone Category 1 (No.6) and the removal of the Specific Controls Overlay from the Orica office site in Clayton (No.7).

The remaining five mapping changes (1-5) would need to be undertaken through an exhibited amendment.

THE PROPOSED AMENDMENTS

Prescribed Amendment

The prescribed amendment would include the following changes:

- Rezone Police Road, Mulgrave between No’s 375 and 443 Police Road, and rear of 5 & 6 Jeanette Court from Neighbourhood Residential Zone – Schedule 4 to Road Zone Category 1 and removing VPO1 from the road. (No. 6)
- Remove Specific Controls Overlay 3 from 1956 & 1970-1984 Dandenong Road and 2-12 McNaughton Road, Clayton. (No. 7)
- Delete the *Orica Office Use Plan, February 2003* incorporated document from the Schedule to Clause 72.04. (No. 7)

Rationale for changes:

- Police Road:
 - The Road Zone Category 1 is to be applied to land that is declared an arterial road or freeway under the *Road Management Act 2004*. This section of Police Road was declared an arterial road on 16 April 2014.
- Orica office site:
 - A site specific provision was introduced in 2003 to allow an office development on this site of up to 6,500m². In 2013, Amendment VC100 removed the maximum floor area cap of 500m² for offices from the Industrial 1 Zone (and the accompanying schedule). The removal of the maximum floor area cap for offices makes the incorporated document and the specific control for this site redundant.

Exhibited Amendment

The exhibited amendment would include the following changes:

- Rezone land at the rear of 2-18 Miller Crescent, Mount Waverley from the Public Use Zone 4 to the Neighbourhood Residential Zone – Schedule 3. The VPO1 would also be extended to the rear fence of these properties so that it applies equally across each site. (No. 1)
- Rezone two existing shops (277 Huntingdale Road, Chadstone and 49 Westerfield Drive, Notting Hill) that are currently in residential zones to the Commercial 1 Zone. (No’s 2 & 4)

- Rezone northern part of 27 Regent Street, Mount Waverley from the Public Park and Recreation Zone to the Neighbourhood Residential Zone – Schedule 2. The VPO1 would also be applied to the additional part of the land so that it applies equally across the whole site. (No. 3)
- Rezone land owned by Monash Medical Centre at 12-16 Dixon Street, Clayton from the Residential Growth Zone – Schedule 3 to the Public Use Zone 3. (No. 5)

Rationale for changes:

- Shops in residential zones
 - The two sites (in Chadstone and Notting Hill) contain shops constructed in the 1980s that appear as part of the shopping strip and have been or are being used as shops. However, it is unclear but likely an historical error that these sites have found themselves in a residential zone. Residential uses in the ground level of these buildings would be inappropriate in these small commercial areas.
- Public land acquisition and disposal
 - Only land that is owned by a public authority and used for public purposes can be within a Public Use Zone. Once the public authority disposes of the land to private owners the Public Use Zone is redundant and the land should be rezoned to the appropriate surrounding zone. Ideally this would be undertaken by the disposing public authority at the time of selling the land. In addition to the fact that the Public Use zone is now redundant, individual properties should only be contained within one zone and any relevant overlays (e.g. VPO) applied to the boundaries of the site.
 - Monash Medical Centre has acquired land for the hospital and the zoning of the land should be the same as the rest of the hospital. It is currently used as a car park for the hospital.

CONSULTATION

Consultation to date

Council officers have consulted with VicTrack, the Department of Environment Land Water and Planning (DELWP), Department of Treasury and Finance, and the Department of Transport (DoT) in preparing the list of changes.

In addition, Council has received correspondence from affected landowners of Regent Street, Westerfield Drive and Monash Medical Centre over the last two years requesting these changes. This proposal seeks to fulfil these requests.

Officers have also recently written to the landowners and occupiers of the Miller Crescent and Huntingdale Road properties informing them about the background to the proposed amendment and the upcoming Council meeting. Owners will also receive formal notification part of the exhibition process for the amendment should the amendment proceed as recommended.

Exhibited amendment

Upon receiving authorisation, the amendment would be exhibited in accordance with Section 19 of the *Planning and Environment Act 1987*, including:

- Notice in the Victorian Government Gazette
- Letters to Prescribed Ministers
- Letters to owners and occupiers of the affected, adjoining and nearby land. The statutory notice would also be enclosed.
- Information on Council's website and Shape Monash.

The statutory exhibition period would be for a minimum of one month, and provides an opportunity for interested persons to make a submission to Council about the amendment.

Following the exhibition period, any submissions received would be considered in a further report to Council. If there are objecting submissions, Council may either change the amendment in line with the submission, split the amendment, abandon the amendment or part of the amendment, or request an independent planning panel to hear submissions and prepare a report for Council to consider. It is probably unlikely however that objecting submissions would be received as this amendment is in response to requests from the land owners of the properties involved.

Prescribed amendment

Prescribed amendments are exempt from exhibition. The two changes are minor and work to keep the planning scheme up to date by rezoning an arterial road to the appropriate zone and removing a redundant provision.

POLICY IMPLICATIONS

It is Council's role as a Planning Authority to regularly review and update the Monash Planning Scheme. Section 12(1)(c) of the *Planning and Environment Act 1987* states that:

A planning authority must [...] review regularly the provisions of the planning scheme for which it is a planning authority.

The amendment is also consistent with State policy and practice notes on the application of zones in a manner that reflects predominate land use and ownership.

FINANCIAL IMPLICATIONS

There are minor cost implications mostly associated with the payment of the statutory fees for the proposed amendments and in exhibiting one of the amendments. These can be met within the existing operating budget. If a panel is required, there will be costs associated with that process.

The corrections have been consolidated into two amendments to reduce costs.

CONCLUSION

It is best practice to regularly undertake 'fix up' amendments to correct identified anomalies and remove redundant provisions. Officers have identified some zoning and overlay changes that are eligible for the streamlined, prescribed (s20A) amendment process and other zoning changes that can be addressed through an exhibited amendment. It is important that the Monash Planning Scheme is up-to-date and that errors or corrections are addressed regularly to respond to identified issues.

Attachments:

1. Attachment 1: List of mapping fix ups to the Monash Planning Scheme