

**12.8 AMENDMENT C171 TO THE MELTON PLANNING SCHEME - RETAIL ACTIVITY CENTRES STRATEGY AMENDMENT**

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**PURPOSE OF REPORT**

To consider submissions received in response to Amendment C171 to the *Melton Planning Scheme* during the exhibition period.

**RECOMMENDATION:**

That Council:

1. Request the Minister for Planning to establish an independent Planning Panel to consider unresolved submissions received in response to Amendment C171 in accordance with the *Planning and Environment Act 1987*.
2. Authorise the General Manager Planning and Development to negotiate and resolve issues that are raised during the Planning Panel process prior to the Amendment being reported back to Council for consideration.

Crs Hardy/Kesic. That the recommendation be adopted.

CARRIED

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

Amendment C171 seeks to amend the *Melton Planning Scheme* to implement the recommendations of the *Melton Retail and Activity Centres Strategy* (the Strategy). The Strategy was adopted by Council at the Ordinary Meeting of 1 April 2014 (**Appendix 1**).

At its Ordinary Meeting on 10 November 2015, Council resolved to prepare and exhibit Amendment C171 to the *Melton Planning Scheme* to implement the recommendations of the Strategy.

Following this resolution, Council Officers sought authorisation to commence the amendment from the Department of Environment, Land, Water and Planning (DELWP). Subsequently the draft amendment was publicly exhibited during the period of 11 August 2016 – 8 September 2016 and 12 submissions were received (submissions are summarised in section five of this report and detailed in **Appendix 2**).

It is recommended that Council request the Minister for Planning to establish an independent Planning Panel to consider unresolved submissions received in response to Amendment C171 in accordance with the *Planning and Environment Act 1987*.

**2. Background/Issues****Melton Retail and Activity Centres Strategy**

Council has a role in shaping development to deliver a network of centres that individually and collectively meets the needs of our residents, businesses and institutions. In this context, Council commenced the preparation of the *Melton Retail and Activity Centres Strategy* (the Strategy) in 2013.

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The Strategy is underpinned by strong economic, planning and urban design analysis and provides a robust policy framework to guide the future development of activity centres supporting long term integrated land use planning and the delivery of a hierarchy of retail and activity centres across the Municipality.

The Strategy provides directions for Council in its planning for centres, a framework for the assessment of development proposals and support for retailing and activity centres throughout the Municipality.

The preparation of the Strategy was identified as critical to informing the update of the *Municipal Strategic Statement* and relevant local policies in the 2012 Planning Scheme Review adopted at the Ordinary Council Meeting of 26 July 2012.

The Strategy was undertaken in four stages and included consultation with the community and stakeholders at key stages:

- Stage 1: Project Inception
- Stage 2: Preparation of the Background Technical Report
- Stage 3: Preparation of the Draft Strategy
- Stage 4: Finalisation of Strategy

The Strategy was adopted by Council at the Ordinary Meeting of 1 April 2014 (**Appendix 1**).

**Amendment C171**

Following Council's adoption of the Strategy at its Ordinary Meeting of 1 April 2014, Council was advised by DELWP to delay any proposed amendment to implement the Strategy due to the expected change to the format of the Planning Scheme that was due to be released by the State government at that time.

The proposed change to the format of the Planning Scheme never eventuated and at its Ordinary Meeting on 10 November 2015, Council resolved to prepare and exhibit Amendment C171 to the *Melton Planning Scheme* to implement the recommendations of the Strategy (**Appendix 3**).

Following Council's resolution, Council Officers sought authorisation from DELWP to commence the amendment on 6 July 2016, which was granted.

In consultation with DELWP, Amendment C171 was publicly exhibited during the period of 11 August 2016 – 8 September 2016 (refer to **Appendix 4** for exhibited amendment documentation) and 12 submissions were received through this process.

**Strategic Assessment of the Amendment**

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 any amendment supports or implements the *State Planning Policy Framework* (SPPF) and the *Local Planning Policy Framework* (LPPF) of the Planning Scheme. Further, Council must determine whether the outcome of the amendment will have any consequences in terms of the Planning Scheme's directions, usability and transparency.

The amendment is consistent with the SPPF as follows:

- *Clause 11.01 (Settlement): Activity Centres* seeks to establish a well connected network of activity centres that provide a variety of land uses such as retail, commercial, residential, leisure and community facilities. The hierarchy of centres as identified in proposed Clause 21.05 of the amendment provides for a connected network of centres that have differing uses and roles to meet existing and future community needs.

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- *Clause 11.02 (Settlement): Urban Growth* seeks to ensure that adequate land is available for a variety of land uses (such as those uses stated above) to support future growth and meet forecast demand. The hierarchy of centres identified in proposed Clause 21.05 of the amendment provides adequate land for the municipality for these land uses based on a detailed analysis that assessed future population growth and future retail and commercial demand for the municipality.
- *Clause 11.04 (Settlement): Metropolitan Melbourne* aims to create healthy and active 20 minute neighbourhoods and plan for jobs closer to where people live. Proposed Clause 21.05 supports this objective through the implementation of a hierarchy of centres that promotes accessibility to all residents. The hierarchy of centres integrates with the existing and proposed transport network to provide residents access to goods and services and a range of local employment opportunities.
- *Clause 17.01 (Economic Development): Commercial* seeks to locate commercial development in existing or planned activity centres and discourages out of centre development. The amendment, specifically the strategies of proposed Clause 21.05 encourages commercial and retail development into identified existing, planned and proposed centres in the hierarchy. Proposed Clause 22.06 supports the inclusion of commercial development into new centres, and also includes a policy to assess the introduction of new centres (not identified in the hierarchy) on a 'needs only basis.'
- *Clause 19.02 (Infrastructure)* encourages health, education, social and cultural facilities to integrate in appropriate activity centres to achieve co-location opportunities. Proposed Clause 21.05 in the amendment encourages a variety of uses in our centres to provide higher order essential services to residents such as health and education and recreational and entertainment services.

It should be noted that Amendment C171 proposes to update the LPPF to implement the recommendations of the adopted Strategy and reflect the objectives of the SPPF as outlined above (**Appendix 4**).

**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, exhibition and adoption of the amendment. Statutory fees such as those associated with a Planning Panel are required to be borne by Council as the Responsible Authority. The budget for Planning Scheme Amendments is within the units recurrent budget.

**5. Consultation/Public Submissions****Public Exhibition**

The amendment was on public exhibition from 11 August 2016 – 8 September 2016 and involved letters (giving notice) to affected land owners and occupiers and Government bodies and agencies who may be materially affected by the amendment.

Letters were sent to affected land owners and occupiers in the following areas (noting that this amendment is retail focused):

- Commercial 1 and 2 Zones throughout the Municipality;

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- Industrial 1 Zone at the Melton Homemaker Precinct;
- Comprehensive Development Zone at the Caroline Springs Town Centre; and
- Mixed Use Zone at the future town centre location at Eynesbury.

Letters were sent to the following Government bodies and agencies:

- Prescribed Ministers
- Victorian Planning Authority
- Surrounding Councils (Brimbank, Hume, Macedon, Moorabool and Wyndham).

Attached to all letters were the following copies of the draft amendment documentation (**Appendix 4**):

- Draft Explanatory Report of Amendment C171
- Draft Clause 21.05 to the *Melton Planning Scheme*
- Draft Clause 22.06 to the *Melton Planning Scheme*.

Notices were placed in the local newspaper the *Melton and Moorabool Star Weekly* and the *Government Gazette* and posted on DELWP's and Council's website.

**Submissions**

A total of 12 submissions were received in response to the amendment (refer **Appendix 5** Locality Map). On 13 December 2016, Council Officers provided a response to submitter objections and revised Clauses 21.05 and 22.06. Revised Clauses 21.06 and 22.06 attempted to resolve a number of objections (**Appendix 6**). The majority of submitters have responded to the Council Officers either:

- Outlining their unresolved issues or
- Withdrawing their submission as they are satisfied with Council Officers response.

The table below summarises the outstanding issues of submitters and Council Officers responses to the outstanding issues at the time of writing this report. Full details of original submissions, Council responses to original submissions and outstanding issues are detailed in **Appendix 2**.

At the time of writing this report ongoing negotiations are taking place to resolve outstanding issues and the status of the submissions are as follows:

- Four submissions are in support of the amendment.
- Two submissions have been withdrawn.
- Six submissions are in objection to the amendment.

If Council resolves to request a Panel for Amendment C171, Council Officers will continue to negotiate with submitters in a bid to resolve outstanding issues before the commencement of the Planning Panel.

Submitter	Outstanding Issues	Council Response
Citinova Development Managers	Principally concerning a site at 24 Melton Highway <ul style="list-style-type: none"> <li>• In regards to the following policy objective in proposed Clause 22.06 'To ensure equitable and efficient access to goods and services for all residents.'</li> </ul>	No further changes are proposed to the amendment ordinance for the following reasons: <ul style="list-style-type: none"> <li>• The amendment cannot consider alternate uses as the zone applied to the land determines the uses allowed. Alternate uses</li> </ul>

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Submitter	Outstanding Issues	Council Response
	<p>Citinova suggest amending this wording to include alternative uses within existing centres as follows:</p> <p><i>'Consider alternate uses in existing activity centres and neighbourhood centres, including the Bulky Goods Precinct, where there has been higher than expected population growth or where the network needs to be adjusted in order to meet resident needs.'</i></p> <ul style="list-style-type: none"> <li>Citinova suggest that the term '(existing)' is either removed in Figure 1 (formerly Map 1) to proposed Clause 21.05 or the following wording is added to the Bulky Goods Precinct section on the legend: <p><i>'and the potential additional site of 24 High St, Melton.'</i></p> </li> </ul>	<p>can only be considered through a rezoning of land, which is out of scope of this amendment.</p> <ul style="list-style-type: none"> <li>The term 'existing' on Figure 1 of proposed Clause 21.05 identifies the centres that are 'existing' in the municipality.</li> </ul> <p>Council Officers do not agree with identifying the site (24 High Street) in Figure 1 as it is not an existing, planned or proposed centre identified in the retail hierarchy. Any proposed application for an activity centre or rezoning is out of scope of this amendment.</p>
<p>Ranfurlie Developments</p>	<p>Ranfurlie is concerned about:</p> <ul style="list-style-type: none"> <li>The accuracy of the Strategy that Council is relying upon as the basis of Amendment C171.</li> <li>The introduction of indicative floor space allowances and percentages requesting they should be limited to activity centres in growth areas only.</li> <li>The ongoing encouragement of additional 'restricted retail premises' within the Burnside Activity Centre even though the market has demonstrated an over-saturation of this land use.</li> </ul> <p>Ranfurlie request:</p> <ul style="list-style-type: none"> <li>The softening of the wording surrounding the discouraging of out of centre retail/commercial development.</li> </ul>	<p>No further changes are proposed to the amendment ordinance for the following reasons:</p> <ul style="list-style-type: none"> <li>The Strategy was developed based on detailed economic analysis and accounts for the projected growth in the municipality. The Strategy was tested through a separate consultation process and was adopted by Council in 2014. Regardless of any changes since adoption, there are no differences to the objectives of the Strategy or the retail hierarchy which form the strategic directions of the document.</li> <li>The floor space allowances and non-retail use percentages are a guide only and are</li> </ul>

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Submitter	Outstanding Issues	Council Response
		<p>intended to be a target for Council and developers as to the extent of land required and to encourage a mix of retail and non-retail uses and a wider range of local employment opportunities. The language around these numbers is clear that they are a target.</p> <ul style="list-style-type: none"> <li>• The Strategy notes that Burnside would be able to offer a more extensive bulky goods offering due to its position on the Western Highway and availability of land. This is not prescriptive and proposed Clause 21.05 does not specifically mention restricted retail in regards to Burnside Activity Centre.</li> <li>• The wording surrounding the discouragement of out of centre development was not included in the revised versions of the proposed Clauses distributed to all parties on 21 December 2016.</li> </ul>
Geopec	<p>Council Offers are awaiting a response from Geopec, therefore issues in their original submission are considered as outstanding issues.</p> <p>Geopec is concerned about:</p> <ul style="list-style-type: none"> <li>• For the Chisholm House site at 1-7 Caroline Springs Boulevard, the retail hierarchy is too prescriptive as:                             <ul style="list-style-type: none"> <li>- The site is smaller than is required for a Neighbourhood Activity Centre yet larger than typically identified for most local convenience centres.</li> </ul> </li> </ul>	<p>The following is Council's response to Geopec's original submission.</p> <p>No further changes are proposed to the amendment ordinance for the following reasons:</p> <ul style="list-style-type: none"> <li>• The assessment of Chisholm House is out of scope of this amendment.</li> <li>• Discretion is given to Council Officers through the updated policy at Clause 22.06 to consider proposals for new centres (other than those identified in approved PSPs).</li> <li>• The floor space allowances for centres are</li> </ul>

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	<ul style="list-style-type: none"> <li>- The desire to create a mix of uses on the site means it is difficult to specifically classify the floor space scale, mix and function.</li> <li>- The retail hierarchy does not allow for an appropriate degree of flexibility and discretion for Council to consider proposals in more established parts of the municipality.</li> <li>• Council must retain the ability to consider on merit proposals which by innovation or necessity do not neatly fit into the retail hierarchy framework.</li> <li>• Geopac are uncomfortable with the highly prescriptive and definitive working of key elements in Amendment C171 such as in 22.06 <i>'Ensure new local activity centres are between 300sqm and 800sqm.'</i> This wording is more prescriptive than the generalised description used in the Strategy itself that a local activity centre should <i>generally provide retail space in the range of 300sqm to 800sqm.'</i></li> </ul>	<p>a guide only and are intended to be a target for Council and developers as to the extent of land required. The language around these numbers is clear that they are a target.</p> <p>Wording has been added into proposed Clauses 21.05 and 22.06 that indicates 'larger local activity centres' (larger than 800 square metres) may be considered where the local demand for services warrants and where it does not adversely affect the development of nearby larger centres.</p>
<p>Mount Atkinson Holdings (MAH)</p>	<ul style="list-style-type: none"> <li>• MAH request that the Hopkins Road Business Precinct be included in the retail hierarchy as a restricted retail precinct.</li> </ul>	<ul style="list-style-type: none"> <li>• The recent release of the <i>C162 Mt Atkinson and Tarnit Plains PSP Panel Report</i> (9 December 2016) will affect Council Officers and potentially the submitters response to this outstanding issue.</li> </ul> <p>The Panel Report recommends deleting the 40,000 square metre restricted retail soft cap of the Hopkins Road Business Precinct in section 2.4 of the Urban</p>

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Submitter	Outstanding Issues	Council Response
		<p>Growth Zone 9 (UGZ9).</p> <p>If the Planning Authority, the Victorian Planning Authority (VPA) chooses to adopt this recommendation, Council Officers will not support Hopkins Road Business Precinct being included in the retail hierarchy as a restricted retail precinct. This will not be supported, as the soft cap in the UGZ is the only mechanism that identifies restricted retail in the Hopkins Road Business Precinct. However it should be noted that this will not affect the submitters ability to develop restricted retail at this location as it is an as of right use in the Commercial 2 Zone.</p> <p>If the VPA does not choose to adopt the recommendation, and retains the soft cap explained above, then Council Officers will support introduction of the Hopkins Road Business Precinct into the retail hierarchy as a restricted retail precinct. Council Officer support will be based on the restricted retail soft cap in the UGZ providing clear policy direction for the Hopkins Road Business Precinct.</p>
<p>Avid Property Group</p>	<p>Council Offers are awaiting a response from Avid, therefore issues in their original submission are considered as outstanding issues.</p> <p>Avid is concerned about:</p> <ul style="list-style-type: none"> <li>• The proposed policy wording seeking to implement a discretionary requirement for</li> </ul>	<p>The following is Council's response to Avid's original submission.</p> <p>No further changes are proposed to the amendment ordinance for the following reasons:</p> <ul style="list-style-type: none"> <li>• The Diggers Rest UDF is an endorsed document that identifies the areas of</li> </ul>



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Submitter	Outstanding Issues	Council Response
	<p>minimum non-retail floor areas of 30% in Neighbourhood Activity Centres.</p> <p>The future activity centre at Bloomdale Estate in Diggers Rest has approval under the approved Diggers Rest Urban Design Framework (UDF), however will be subject to future planning permit applications. Avid seek assurance that the 30% of non-retail will not obstruct the issue of future planning permits to deliver the centre.</p>	<p>retail and non-retail uses for the Neighbourhood Centre, therefore the 30% non-retail policy cannot be applied retrospectively. In any case the figure of 30% non-retail space is only a target to allow developers and Council allocate an appropriate area of land for development.</p>
Lend Lease	<p>Lend Lease is concerned about:</p> <ul style="list-style-type: none"> <li>• The elevation of Burnside in the retail hierarchy from a neighbourhood activity centre to an activity centre and the lack of strategic planning work done by Council to justify this. Further Plan Melbourne refers to certain tests to be met for new centres to identify new centres and their locations and Lend Lease are concerned this was not taken into account.</li> <li>• That it is not clear that the independent finding of the Melton C91 and 112 Panel Report has appropriately filtered through to Amendment C171.</li> <li>• The non-retail percentage of 40% and how it will apply to the Caroline Springs Town Centre.</li> </ul>	<p>No further changes are proposed to the amendment ordinance for the following reasons:</p> <ul style="list-style-type: none"> <li>• Amendment VC100, prepared by the Minister for Planning, reformed the previous Business Zones to two new Commercial Zones and removed all floor space caps for these commercial zones. This is implemented through the commercial zones in the Victorian Planning Provisions.</li> </ul> <p>The Melton C91 and C112 Panel Report (21 September 2012) occurred before Amendment VC100 and given this State policy change the Panel Report is out of date.</p> <p>The Strategy acknowledges the provision of these new zones and the amount of land zoned for Commercial 1 and 2 at Burnside, which would enable the development as an activity centre rather than a neighbourhood</p>

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Submitter	Outstanding Issues	Council Response
		<p>activity centre.</p> <ul style="list-style-type: none"> <li>The non-retail use percentages are indicative only and are intended to be a target to encourage a mix of retail and non-retail uses in centres. The language around these numbers is clear that they are a target.</li> </ul> <p>The percentage target will not impact any current approvals for the centre. In any case, indicative percentages are intended to apply to the whole centre and not to any one particular site. Any future stages will still be subject to discussion with Council.</p>

**6. Risk Analysis**

Proceeding with an independent Planning Panel, will provide submitters the opportunity to be heard by an independent third party and for Council to present their position on the issues referred to the Panel in accordance the *Planning and Environment Act 1987*. The recommendations of the Panel will be reported to Council for consideration.

Should Council choose to abandon the amendment, it will result in a lack of strategic justification and clear direction for Council Officers to facilitate appropriate development and determine future planning permit applications for existing and future retail and activity centres. It will also undermine the policy direction of the Strategy adopted in 2014.

**7. Options**

Council can resolve to either:

1. Request the Minister for Planning to establish an independent Planning Panel to consider unresolved submissions received in response to Amendment C171 in accordance with the *Planning and Environment Act 1987* and authorise the General Manager of Planning and Development to negotiate and resolve any issues raised during the Planning Panel process prior to the Amendment being reported back to Council for consideration.
2. Abandon the amendment.

**LIST OF APPENDICES**

1. Pages from the Minutes of the Ordinary Meeting of Council - dated 1 April 2014
2. Submission Table - undated
3. Pages from the Minutes of the Ordinary Meeting of Council - dated 10 November 2015

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4. Amendment C171 Exhibition Documentation - undated
5. Locality Map - dated 31 November 2017
6. Revised Clauses 21.05 and 22.06 - undated