

MINUTES OF THE ORDINARY MEETING OF COUNCIL

3 FEBRUARY 2020

12.9 PLANNING SCHEME AMENDMENT C218 - 1665A MOUNT COTTRELL ROAD, MOUNT COTTRELL

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

PURPOSE OF REPORT

To consider the preparation and exhibition of Amendment C218 to the Melton Planning Scheme.

RECOMMENDATION:

That Council:

1. Seek authorisation from the Minister for Planning to prepare Planning Scheme Amendment C218 to the Melton Planning Scheme **Appendix 1**.
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 landowners of affected sites and prescribed Ministers under Sections 19(1)(b) and 19(1)(c).
3. Upon receipt of authorisation, prepare and exhibit C218 to the Melton Planning Scheme in accordance with 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 Ramsey/Turner.

That the recommendation be adopted.

CARRIED

REPORT**1. Executive Summary**

In 2015, Council adopted C138 including an Incorporated Document permitting a recycled water storage facility to be developed at 1665-1715 Mount Cottrell Road, Mount Cottrell. Amendment C138 also applied a Public Acquisition Overlay (PAO) to the required proportion of the land. Since that time, Western Water has identified the need to change the use of the proposed facility from storing Class A Recycled water to storing potable (drinkable) water.

Amendment C218 to the Melton Planning Scheme (**Appendix 1**) is proposing to make the following changes:

- Amend the title of the Incorporated Document (**Appendix 3**) and remove all references in the document to "Class A Recycled" and "recycled" water
- Extend the expiry dates in the Incorporated Document
- Remove a redundant Public Acquisition Overlay (PAO)

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- Update the property address in the Incorporated Document to refer to 1665A Mount Cottrell Road, Mount Cottrell **Appendix 2**.
- Update the Melton Planning Scheme to replace the current document listed under Specific Sites and Exclusions (Clause 51.01) with a Specific Controls Overlay (SCO) (Clause 45.12).

The Amendment does not change the look or built outcome of the proposed development from the existing endorsed plans in the Incorporated Document. As a result, the Amendment is considered minor in nature and a 20(2) Amendment is proposed which involves limited notification requirements.

Amendment C218 (**Appendix 1**) is consistent with the Strategic Assessment Guidelines in relation to the State Planning Policy (SPP) and Victorian Planning Provisions (VPP), seeking to support economic growth and removing unnecessary or redundant planning controls.

2. Background/Issues

In September 2015 Amendment C138 was adopted by Council to allow the use and development of a recycled water storage facility at 1665-1715 Mount Cottrell Road, Mount Cottrell, via an Incorporated Document in the Melton Planning Scheme. Amendment C138 was subsequently gazetted into the Melton Planning Scheme on 3 March 2016. This Incorporated Document is known as the '*Mount Cottrell Class A Recycled Water Storage Facility*' March 2015, which principally consists of three 9.67 ML water storage tanks and associated works. This document exempts Western Water from requiring planning permits for development which is in accordance with the endorsed plans **Appendix 3**.

Amendment C138 included the introduction of a Public Acquisition Overlay (PAO) to allow Western Water to acquire the required proportion of the site. Western Water have since acquired the required land which is a proportion of the original site. As a result, a new lot has been created known as 1665A Mount Cottrell Road, Mount Cottrell **Appendix 2**.

The site is located in a Green Wedge Zone (GWZ). There are currently three Overlays affecting the site:

- Significant Landscape Overlay (SLO) Schedule 1 applies to the eastern proportion of the site and relates to Mount Cottrell
- Heritage Overlay (HO200) applies to a small proportion of the western edge of the site relating to a drystone wall along Mount Cottrell Road
- Public Acquisition Overlay (PAO) Schedule 9 which is proposed to be removed as part of this Amendment

Incorporated Document Changes

Since the existing Incorporated Document was introduced into the Melton Planning Scheme in 2016, the intent for the water to be stored onsite has changed from storing Class A Recycled water to potable (drinkable) water. To address the issue, a request was made by Western Water to amend the Melton Planning Scheme to reflect the revised intent for the site. The Department of Environment, Land, Water and Planning (DELWP) has advised a Planning Scheme Amendment is required, due to the specific reference to "*Class A Recycled*" and "*Recycled*" water throughout the existing Incorporated Document.

The Amendment doesn't change the look or built form from the existing endorsed plans.

The existing Incorporated Document has numerous references to "Recycled" and "Class A Recycled" water. Amendment C218 will remove these references from the Incorporated

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Document **Appendix 3**. The title of the Incorporated Document will be changed to '*Mount Cottrell Water Storage Facility*'.

Due to the introduction of the Specific Controls Overlay to replace Clause 51.01 *Specific Sites and Exclusions*, the Incorporated Document will have corresponding changes to reference the updated clauses.

The existing Incorporated Document contains expiry dates which are based on the gazettal date of Amendment C138, being 3 March 2016. The expiry dates are triggered at three stages of development.

The existing expiry dates are:

- Development of the first tank is not started within four years of the gazettal (3 March 2020)
- The intended use (water storage) is not started within seven years of gazettal (3 March 2023)
- The development of the tanks is not completed within 30 years of the gazettal date (3 March 2046)

To avoid expiry, the existing expiry dates (located at 5.20 in the Incorporated Document) are proposed to be extended and reworded to reflect specific expiry dates. Amendment C218 will change the expiry dates in the Incorporated Document as follows **Appendix 3**:

The specific control will expire if any of the following circumstances applies:

- a) Development of the first tank is not started by 31 December 2024*
- b) The use allowed by the control is not started by 31 December 2027*
- c) The development of the tanks is not completed by 31 December 2050*

Removal of the Public Acquisition Overlay

Acquisition Overlay (PAO9) was introduced over the required land in 2016 as part of C138. This PAO nominates the Western Region Water Corporation to acquire the land for the purpose of a '*Recycled Water Storage Facility*'.

Western Water has acquired the site for its intended purpose and the PAO is now redundant. As a result, Amendment C218 proposes to remove the PAO from the site and PAO9 from Clause 45.01 of the Melton Planning Scheme. This will require the removal of PAO9 from the Melton Planning Scheme Maps 12PAO and 13PAO.

This change is considered appropriate as it will remove a redundant control from the Melton Planning Scheme as required by the *Planning and Environment Act 1987*.

Introduction of the Specific Controls Overlay

The Specific Controls Overlay (SCO) was introduced into Victorian Planning Schemes with Amendment VC148. VC148 is part of a wider project by the State Government to modernise Victorian planning schemes known as the Planning Policy Framework. The SCO has the same function as Clause 51.01 *Specific Sites and Exclusions*, which enables specific controls (contained in an Incorporated Document) to override other requirements in the planning scheme. Introduction of the SCO is designed to improve transparency by replacing the list of site addresses in Clause 51.01 *Specific Sites and Exclusions* and Clause 51.03 with the SCO which can be mapped in the planning scheme. To encourage specific controls to be transitioned to the SCO, VC148 prevents further sites being introduced to Clause 51.01.

Due to being the first SCO in the Melton Planning Scheme, Amendment C218 (**Appendix 1**) will introduce Clause 45.12 Specific Controls Overlay to the Melton Planning Scheme. It will also add the updated '*Mount Cottrell Water Storage Facility*' February 2020 Incorporated Document to the schedule of documents. In the circumstance that DELWP proceeds with an Amendment to add other sites to the list of SCO before gazettal of this Amendment, it will result in a minor change to the Schedule number of the SCO. This minor change does not impact the planning controls. Transitioning of an Incorporated Document from Clause 51.01 to the SCO does not change the content of the document or the uses or development permitted within the Incorporated Document. DELWP have commenced mapping to transfer the list of addresses at Clause 51.01 to the new Specific Controls Overlay, including this site. However, the timing of an Amendment to introduce this site into the SCO is unknown. As a result, this Amendment C218 is likely to be the first SCO introduced into the Melton Planning Scheme.

The *Planning and Environment Act 1987* requires Council to update its planning scheme. Therefore transitioning this specific control from the *Specific Sites and Exclusions* to the SCO is considered appropriate.

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. The proponent is required to pay the fees associated with the amendment process.

5. Consultation/Public Submissions

Planning Scheme Amendments are subject an exhibition process in accordance with the *Planning and Environment Act 1987*.

A 20(2) Amendment (limited notice) is proposed, as there are no changes to the built form or look of the development from the existing endorsed plans which were fully exhibited as part of Amendment C138 in 2016. Full exhibition of C218 would duplicate this process and is not considered to be required. Notification as part of a 20(2) Amendment to the planning scheme normally includes direct notification to affected landowners and government agencies, prescribed Ministers, local newspapers and the Government Gazette. Prior to Council undertaking the amendment, the Department of Environment, Land, Water and Planning (DELWP) advised that limited public notice as part of the 20(2) is the most appropriate method of notification.

6. Risk Analysis

If Council resolves not to support the Amendment, it could hinder or delay the provision of water infrastructure to growing areas. In accordance with the *Planning and Environment Act 1987*, Council is required to update its planning scheme. If Council chooses not to seek authorisation to prepare Amendment C218, the planning scheme will continue to have redundant planning controls.

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7. Options

Council can resolve to:

1. Seek authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C218 in accordance with the Planning and Environment Act 1987, apply for an exemption from notice requirements under section 19 and authorise the General Manager Planning and Development to negotiate and resolve any issues; or
2. Not proceed with the Amendment

LIST OF APPENDICES

1. Amendment documents - undated
2. Site map - undated
3. Incorporated document - dated February 2020