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### **12.3.2. PLANNING SCHEME AMENDMENT C99MALX - ADOPTION, AUTHORISATION, EXHIBITION**

This Report is For Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Coordinator Strategic Planning, Lauren Watt

Attachments: 1. Authorisation documentation combined for Council meeting - Amendment C 99 malx - August 2023 [12.3.2.1 - 12 pages]

#### **Executive Summary**

The purpose of this paper is to seek Council support to request authorisation from the Minister for Planning to prepare an amendment to the Mount Alexander Planning Scheme (Amendment C99malx).

This amendment seeks to correct inconsistencies in the Mount Alexander Planning Scheme (the Planning Scheme) associated with the Heritage Overlay and the Operational Provisions.

These inconsistencies were identified following the implementation of previous Amendment C97malx (an amendment which sought to correct errors and anomalies within the Planning Scheme).

#### **RECOMMENDATION**

**That Council:**

- 1. Approves to seek authorisation from the Minister for Planning to prepare Planning Scheme Amendment C99malx to the Mount Alexander Planning Scheme to correct inconsistencies, in line with the supporting documents attached to this Briefing paper.**
- 2. Approves to exhibit the Planning Scheme Amendment following authorisation from the Minister for Planning to prepare the Amendment.**

**MOVED COUNCILLOR GARDNER**

**That the recommendation be adopted**

**SECONDED COUNCILLOR MALTBY**

**CARRIED.**

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## **Context**

Following the gazettal of Amendment C97malx (4 May 2023), there were several inconsistencies identified which arose out of this amendment.

Amendment C99malx addresses these inconsistencies, which are associated with the Heritage Overlay and Operational Provisions of the Planning Scheme.

## **Issues**

The specific changes proposed to be made to the Planning Scheme through Amendment C99malx includes:

- Amend the Schedule to Clause 74.02 (Further Strategic Work) to remove the dot point relating to the rezoning of the Calder Freeway area, given this rezoning was completed as part of Amendment C97malx. The dot point currently reads: “Engaging with VicRoads to ensure that the reservation of the Calder Freeway is appropriately zoned.”
- Correct Planning Scheme Maps for places in the Heritage Overlay (see maps in Attachment 1) to ensure that the correct Heritage Overlay is applied to the property.

The Heritage Overlay mapping changes proposed as part of this amendment affects ten properties within the Shire (see Appendix 1 – ‘Mapping reference table’ in Attachment 12.3.2.1) This provides a list of these properties and the associated changes, including the background to the Heritage Overlay mapping inconsistencies).

Of these properties, two are owned publicly by Council (42 High Street, Maldon), and the Country Fire Authority (85 High Street, Maldon). There are also some areas affected which are contained within Council road reserve areas. The remaining properties are privately owned.

## **Finance and Resource Implications**

Amendment C99malx is likely to assist in reducing the resource and administrative costs to Council, given it will create a more accurate planning scheme.

The preparation of the amendment documentation has been carried out by the Regional Planning Hub, with support and assistance provided by current Strategic Planning staff resources.

The next steps in the amendment process will be carried out by the Strategic Planning unit utilising current staff resources. These steps include:

- Seek authorisation from the Minister for Planning to prepare the Amendment.
- Public notification (exhibition) of the Amendment.

The Strategic Planning unit will have the capacity to progress these next steps given the administrative nature of the Planning Scheme Amendment.

Any amendment fees are to be funded by the Strategic Planning operating budget in 2023/2024.

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## **Risk Analysis**

In broad terms, the Planning Scheme Amendment is considered to be low risk, given its policy-neutral and administrative nature.

### Strategic risk:

Given all property owners directly affected by the Amendment will be notified, this provides the opportunity for these landowners to make a submission to the Amendment. If a submission to the Amendment seeks a change to the amendment documentation, it may need to be referred to an independent planning panel for review.

However, this is not likely to occur given the proposed changes are administrative in nature, addressing clear inconsistencies in the Planning Scheme which arose out of a previous amendment (Amendment C97malx).

### Reputational risk:

As the Amendment seeks to fix errors that were a result of a recent, previous Planning Scheme Amendment, there is some reputational risk. This is to be managed by providing clear information about how the errors came about and ensuring that the errors are fixed by following through with this subsequent Amendment.

## **Climate Impact Statement**

Mount Alexander Shire is vulnerable to weather events that will be magnified by a changing climate. Given the policy-neutral nature of this Amendment, it is not expected that there will be any detrimental impacts on the land and broader environment.

## **Alternate Options**

The alternative option is to not seek authorisation from the Minister for Planning to proceed with the proposed Planning Scheme Amendment. This is not recommended as the Amendment will ensure that the Planning Scheme is administered correctly and the Planning Scheme mapping accurately reflects land use and built form.

Further, progressing the Amendment will ensure that places are not left vulnerable and have the appropriate planning controls (specifically, the correct Heritage Overlay) applied.

## **Communication and Consultation**

Given the administrative nature of the amendment, a 'reduced' exhibition process will occur (under Section 19 of the *Planning and Environment Act 1987*). This exhibition period will ensure that only those parties directly affected by the amendment will be notified, in addition to other relevant notification requirements as set out in Section 19 of the *Planning and Environment Act 1987*.

This will include directly notifying:

- Relevant agencies and authorities including Heritage Victoria, the Department of Transport and Planning, the Country Fire Authority, Council's Property Portfolio Coordinator, and prescribed Ministers.
- Property owners whose land the Amendment directly affects.
- Dja Dja Wurrung Clans Aboriginal Corporation, given the proposed Amendment affects land within a Recognition and Settlement Agreement Area.

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## **Legislation**

### Planning and Environment Act 1987

Section 4(1) of the *Planning and Environment Act 1987* sets out the objectives of planning in Victoria, the first of which is to provide for the fair, orderly, economic and sustainable use, and development of land. Correcting inconsistencies associated with the Planning Scheme ensures that use and development of land is appropriate.

Section 8A(2) of the *Planning and Environment Act 1987* stipulates that a municipal council may only prepare an amendment to a planning scheme if it is authorised to do so by the Minister for Planning. This report seeks a resolution to request authorisation from the Minister for Planning.

Section 12 of the *Planning and Environment Act 1987* requires planning authorities to (among other things) provide sound, strategic and coordinated planning of the use and development of land in its area, regularly review the provisions of the planning scheme for which it is a planning authority and prepare amendments to a planning scheme. The Amendment will assist in the efficiency of the Mount Alexander Planning Scheme by addressing inconsistencies associated with the Heritage Overlay.

Section 19 of the *Planning and Environment Act 1987* sets out what notice a planning authority must give. Relevant authorities and agencies, in addition to landowners directly affected by the proposed changes as part of this Amendment, will be notified of the Amendment.

## **Strategies and Policy Impacts**

### Council Plan 2021-2025

*Environment - A flourishing environment for nature and people.*

- We are maintaining, improving and celebrating our places and spaces.

By addressing inconsistencies associated with the Heritage Overlay as part of this Amendment, this will ensure that these places are appropriately protected for their heritage values and not left vulnerable to inappropriate development.

## **Declarations of Conflict of Interest**

Under section 130 of the *Local Government Act 2020*, Officers providing advice to Council must disclose any interests, including the type of interest.

### No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.