Planning and Environment Act 1987

# Monash PLANNING SCHEME

# AMENDMENT C163mona

# EXPLANATORY REPORT

## Who is the planning authority?

This amendment has been prepared by Monash City Council is the planning authority for this amendment.

## Land affected by the amendment

The amendment applies to:

* 2 to 18 Miller Crescent, Mount Waverley
* 277 Huntingdale Road, Chadstone
* 27 Regent Street, Mount Waverley and Valley Reserve
* 49 Westerfield Drive, Notting Hill
* 12, 14-16 Dixon Street, Clayton

## What the amendment does

The amendment makes corrections to zoning maps to apply the Commercial 1 Zone to two shops in local activity centres, and rezone three parcels of land to a residential zone or Public Use Zone that reflects its private or public ownership and to make minor, consequential adjustments to the boundaries of the Vegetation Protection Overlay.

Specifically, the amendment makes minor changes to the zoning maps in the Monash Planning Scheme to:

* Rezone the existing shops at 277 Huntingdale Road, Chadstone and 49 Westerfield Drive, Notting Hill from the General Residential Zone to the Commercial 1 Zone.
* Rezone the rear of properties at 2 to 18 Miller Crescent from Public Use Zone 4 to the Neighbourhood Residential Zone – Schedule 3 to reflect VicTrack’s disposal of the land to the adjoining landowners and apply the Vegetation Protection Overlay.
* Rezone land along the northern boundary with 27 Regent Street, Mount Waverley from the Public Park and Recreation Zone to the Neighbourhood Residential Zone 2 to reflect a successful historic adverse possession claim and apply the Vegetation Protection Overlay.
* Rezone land at 12 and 14-16 Dixon Street, Clayton from the Residential Growth Zone – Schedule 3 to the Public Use Zone 3 to reflect its ownership by the Monash Medical Centre and its use as a car park for the hospital.

## Strategic assessment of the amendment

## Why is the amendment required?

Council regularly undertakes reviews of the Monash Planning Scheme to ensure that it remains relevant, up-to-date, of a high quality and standard, and meets the State Government’s requirements. Council maintains a list of corrections that are added to when the planning scheme is reviewed or discovered from other officers from time to time, or are made at the request of the landowner.

The majority of the corrections in this amendment come as direct requests from landowners. The 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.

The following is more detail for each change in the planning scheme:

1. VicTrack sold surplus railway land at the rear of 2 to 18 Miller Crescent, Mount Waverley to adjoining residential landowners but did not rezone the land at the time. The current zone (PUZ4) does not reflect the residential use of the land and some properties are in more than one zone. VicTrack is in agreement with the proposed changes.
2. The shop at 277 Huntingdale Road, Chadstone (currently used a pharmacy) is in a residential zone but visually appears as part of the small shopping strip, which is zoned Commercial 1. The construction of the shop and extension of the shopping strip (to include this property), including adjustments to the adjoining car parking area, occurred in the 1970s but the rezoning of the land did not follow. This anomaly was discovered by Council officers.
3. As part of a successful (and historic) adverse possession claim to part of Valley Reserve, a small part of the land along the northern boundary with 27 Regent Street, Mount Waverley should be rezoned to reflect this claim. While it has not been possible since 2005 to adversely possess public land, this claim was made in 1998 and successfully determined (in favour of the claimants) by the Supreme Court in February 2000.
4. The shop at 49 Westerfield Drive, Notting Hill (currently vacant but previously used as a convenience shop) is in a residential zone but (similar to No. 2 above) visually appears as part of the small shopping strip. This land was zoned commercial up until 1985, however, it was then erroneously zoned residential and this followed through to the Monash Planning Scheme in the mid 1990s and then the New Format Planning Scheme in November 2000. The affected landowner has written to Council to request the rezoning.
5. The Monash Medical Centre purchased land at 12, 14-16 Dixon Street, Clayton to be used as a car park for the hospital. The current zoning of the land (Residential Growth Zone 3) therefore does not reflect the use of the land for public purposes and it should be rezoned to the same zone as the public hospital site (Public Use Zone 3 – Health and Community). The Monash Medical Centre has written to Council to request the rezoning.

## How does the amendment implement the objectives of planning in Victoria?

The Amendment ensures that the Planning Scheme zones are correctly applied to land so that it can be used and developed in accordance with the Act. Specifically, the amendment provides for the fair and orderly use and development of land through applying zones that reflect the public or private ownership of the land, and provides for the economic use of land in providing places for local retail activity through applying the appropriate zone. The amendment also provides for the protection of natural resources through the application of the Vegetation Protection Overlay to the parts of private land that are being rezoned – ensuring that a permit is required regardless of where on the site any affected trees are located.

## How does the amendment address any environmental, social and economic effects?

There are limited social, economic effects or environmental effects arising from this Amendment. The social effects are positive in allowing people to use and develop their land in accordance with a single zone applying to their land, and positive environmental effects in ensuring that a permit is required for tree removal for all parts of the (residential) land. The economic effects are positive in allowing commercial premises to continue (or change with or without a permit) to meet local economic needs of the community.

## Does the amendment address relevant bushfire risk?

The Amendment is administrative in nature, reflecting the current use of the land and does not affect land where there is a significant risk of bushfire.

## Does the amendment comply with the requirements of any Minister’s Direction applicable to the amendment?

The amendment complies with the requirements of all of the Minister’s Directions that are applicable to the amendment, including the Ministerial Direction on the Form and Content of Planning Schemes. The amendment only includes mapping changes.

## How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The Amendment is consistent with the Planning Policy Framework (PPF), specifically:

* Clause 16.01-1S (Housing supply) in allowing for a range of minimal change residential that protects valued areas (creek environs areas).
* Clause 17.02-1S (Business) through planning for an adequate supply of commercial land and providing convenient shopping facilities (in Notting Hill and Jordanville);
* Clause 19.02-1S (Health facilities) through allowing (Monash Medical Centre) to expand to cater to changing demographics and health needs, and reinforcing the (Monash) regional health precinct.

## How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The Amendment is consistent with the Local Policy Framework (LPPF), specifically there is a consistency with Clause 21.04 (residential development) in applying the appropriate residential zone to land acquired from VicTrack (Miller Crescent) and from Council (Regent Street); and Clause 21.09 (key regional assets) in recognising the regional importance of Monash Medical Centre.

## Does the amendment make proper use of the Victoria Planning Provisions?

The Amendment corrects errors in the application of the Victoria Planning Provisions and will ensure that the Monash Planning Scheme is of a high quality and standard and meets the *Planning and Environment Act 1987* requirements. The corrections include ensuring that properties are within a single zone and that the VPO is applied across the entire site.

## How does the amendment address the views of any relevant agency?

The views of VicTrack and the Department of Treasury and Finance (DTF) were sought prior to including land at the rear of 2 to 18 Miller Crescent, Mount Waverley in the amendment. Both agencies agreed to the rezoning of this land from PUZ4 to NRZ3. The rear of 14 Miller Crescent is Crown Land, hence the need to consult with DTF.

Monash Medical Centre requested the rezoning of their land at 12, 14-16 Dixon Street, Clayton and the amendment fully reflects that request.

## Does the amendment address relevant requirements of the Transport Integration Act 2010?

The Amendment is not affected by the *Transport Integration Act 2010*.

## Resource and administrative costs

### What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The Amendment will have a negligible impact on the resource and administrative costs on the Responsible Authority. The changes would reduce the complexity of assessing applications on sites that are currently in more than one zone.

## Where you may inspect this amendment

The amendment can be inspected free of charge at the City of Monash website at <https://shape.monash.vic.gov.au/amendment-c163>

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.planning.vic.gov.au/public-inspection.](http://www.planning.vic.gov.au/public-inspection.)

## **Submissions**

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by 28 June 2021.

A submission must be sent:

* By mail: Strategic Planning Co-ordinator, Monash City Council, PO Box 1, Glen Waverley VIC 3150; or
* By email: [strategicplanning@monash.vic.gov.au](mailto:strategicplanning@monash.vic.gov.au) (included “Amendment C163” in the subject line); or
* Online using the submission form at: [www.monash.vic.gov.au/amendment-c163](http://www.monash.vic.gov.au/amendment-c163)

## **Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

* directions hearing: Week beginning 23 August 2021
* panel hearing: Week beginning 20 September 2021