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**11.3 AMENDMENT C100 TO THE MELTON PLANNING SCHEME - DRY STONE WALLS**

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| **PURPOSE OF REPORT** To consider the recommendations of the Planning Panel in their report on Amendment C100 to the Melton Planning Scheme.  **RECOMMENDATION:**  That Council:  1. Adopt Amendment C100 to the Melton Planning Scheme subject to the changes recommended in the Panel Report.  2. Adopt the exclusion of the westernmost 22 metres of dry stone wall F93 from Schedule 200 of the Heritage Overlay (HO200).  3. Adopt the removal of the interim control provisions in Clause 52.37 of the Melton Planning Scheme.  4. Submit the Amendment to the Minister for Planning for approval.  Crs Ramsey/Bentley. That the recommendation be adopted.  CARRIED  **REPORT**  **1. Executive Summary**  Amendment C100 seeks to amend the Melton Planning scheme to implement the recommendations of the *Melton Dry Stone Wall Study*. The *Melton Dry Stone Wall Study*  was adopted by Council at its Ordinary Meeting on 10 November 2011.  The Study surveyed over 300 dry stone walls and structures. All of these were mapped and their details recorded. It was found that there were 10 types of walls in Melton, and that some of these are unique in Australia. Many, however, were in a poor and deteriorated condition. Based on the assessment undertaken it was recommended that 140 of the walls be protected through their inclusion to the Schedule of the Heritage Overlay in the Melton Planning Scheme.  At its meeting on 17 December 2013, Council resolved to prepare and exhibit Amendment C100 to the Melton Planning Scheme that implements the recommendations of the *Melton Dry Stone Wall Study*.  Following the Council meeting of 17 December 2013, Council officers submitted the relevant documentation to the Minister for Planning seeking authorisation to commence Amendment C100. Authorisation was given, and Amendment C100 was placed on public exhibition from 5 May - 7 August 2015. 25 submissions were received and were considered by Council at its Ordinary Meetings on 8 September 2015 and 13 October 2015.  At its Ordinary Meeting on 8 September 2015, Council:  considered submissions received to Amendment C100 and approved the removal of 13 dry stone walls (or parts thereof) from the Heritage Overlay (as either the walls had been removed or did not possess values which merited their inclusion in the Heritage Overlay), and  resolved that Council request the Minister for Planning convene a Panel to consider unresolved submissions to Amendment C100 in accordance with the requirements of the *Planning and Environment Act* 1987.  A number of submissions to Amendment C100 were received late in the exhibition period, and Council officers were not able to arrange site inspections to assess whether they should be included in the Heritage Overlay prior to the Ordinary Meeting of Council on 8 September 2015. Hence, Council officers put a supplementary report to Council on 13 October 2015 where Council resolved to remove or make changes to the extent of the Heritage Overlay to a number of walls.  As a result of the resolutions at the Ordinary Meetings of Council on 8 September and 13 October 2015, Council resolved to not include 13 dry stone walls in the Heritage Overlay and resolved to reduce the extent of the Heritage Overlay polygon for an additional four dry stone walls.  The Panel Hearing was held 9, 10 and 11 November 2015, which considered all unresolved submissions made to Amendment C100.  The Panel issued its report on 17 December 2015, which recommends adoption of the amendment subject to a number of changes to the Heritage Overlay, and subsequent changes to the relevant Statements of Significance.  It is recommended that Council makes the changes as recommended by the Planning Panel and adopts the amendment and sends it to the Minister for Planning for approval.  **2. Background/Issues**  **Melton Dry Stone Wall Study**  The *Melton Dry Stone Wall Study* was adopted by Council at its Ordinary Meeting on 10 November 2011.  The Study surveyed over 300 dry stone walls and structures (recording matters such as the location, height, width, and construction type of each dry stone wall), and recommended that 140 of the walls be protected through their inclusion in the Schedule of the Heritage Overlay.  **Amendment C100**  At its Ordinary Meeting on 17 December 2013, Council resolved to prepare and exhibit Amendment C100 to the Melton Planning Scheme that implements the recommendations of the *Melton Dry Stone Wall Study* (**Appendix One**).  Amendment C100 was placed on Public Exhibition from 5 May 2015 to 7 August 2015. 25 submissions were received.  To protect dry stone walls while Amendment C100 is being processed, Council has implemented the Schedule of Clause 52.37. This applies to all dry stone walls constructed prior to 1940 across the municipality, and provides an interim control that requires all landowners across the municipality to apply for a planning permit to demolish a dry stone wall. This control will apply until Amendment C100 has been gazetted, or 1 July 2016, whichever is earlier.  Council at its Ordinary Meeting of 8 September 2015 (agenda item 11.14) considered the 25 submissions received to Amendment C100 to the Melton Planning Scheme, and agreed to changes to remove the Heritage Overlay from 13 dry stone walls (or parts thereof). Council resolved to request the Minister for Planning to convene a Planning Panel to consider the unresolved submissions to Amendment C100 in accordance with the requirements of the *Planning and Environment Act* 1987 (**Appendix Two**).  Council resolved to not include dry stone walls in the Heritage Overlay as some of the walls had been removed since the Study had been adopted, and some walls had been altered and no longer possessed values that merited their inclusion in the Heritage Overlay.  A Supplementary Report was considered by Council at its Ordinary Meeting of 13 October 2015 (agenda item 11.14) to consider submissions received late in the amendment process. At this meeting Council agreed to changes to the extent of Heritage Overlay for nine dry stone walls. Council also authorised the General Manager of Planning and Development to instruct Council‟s lawyers to present Council‟s submissions at the hearing of the Amendment by the Panel in a way that is consistent with the recommendations of an expert witness engaged by Council, including any recommendations to not pursue application of the Heritage Overlay where heritage fabric no longer exists (**Appendix Three**).  **Planning Panel**  The Planning Panel conducted a Directions Hearing on 7 October 2015, and considered the submissions at a Panel Hearing conducted on 9, 10 and 11 November 2015.  During the course of the hearing the Panel heard from Council‟s heritage expert witness who indicated that changes should be made to the extent of a further three dry stone walls as heritage fabric no longer existed (F98, F193 and B170).  The Panel considered all submissions (including the comments made by Council‟s expert witnesses) and concluded that the Amendment has merit as it will protect two individual walls of significance and groupings of walls that collectively contribute to the significance of each of the five precincts (**Appendix Four**).  The Panel found that:   * The application of the Heritage Overlay to dry stone walls in the City of Melton was justified. * The amendment is strategically justified under the Melton Planning Scheme. * The Melton Dry Stone Wall Study was prepared with rigour. The Panel reported that that the documentation in the Melton Dry Stone Wall Study *exhibits a rigorous process of field identification and recording, supported by an unusually detailed and meticulous consideration of relevant historical sources*. The Dry Stone Wall Study provides a sound basis for the application of the Heritage Overlay as proposed in Amendment C100. * That condition of dry stone walls should not in itself be a determinant of heritage significance. * That the structure of the amendment is appropriate and is supported by appropriate documentation. * That the amendment will not result in adverse economic effect on the community of the City of Melton. * That the proposed local policy (subject to minor changes) is appropriate and will result in dry stone walls being protected and will assist in making decision on proposed changes to the dry stone walls. * That the proposed dry stone wall precincts are justified and the walls located within them should be protected by the Heritage Overlay. Alterations are recommended by the Planning Panel to not include 15 of the walls in the Heritage Overlay, and to reduce the extent of the Heritage Overlay polygon to a further five walls (which is in line with Council’s submission during the course of the hearing. * That the proposed statements of significance are appropriate and should be altered to add reference to the Heritage Overlay number and to remove reference to the 15 walls agreed to be removed from the Heritage Overlay. * That a minor alteration to the extent of the polygon associated with Heritage Overlay Schedule 118 (HO118) is justified and should be included as part of this amendment, by removing the polygon from the western boundary of 1233-1287 Taylors Road, Plumpton.   The Panel recommended that Amendment C100 to the Melton Planning Scheme should be adopted as exhibited subject to the following changes:   1. Revise the local policy ‘Dry Stone Walls’ (Clause 22.14).   *During the course of the hearing a submitter proposed minor revisions to the proposed Local Policy (Clause 22.14). Council’s legal representative in his closing statement agreed to some of the proposed changes to the wording. The Panel’s recommended changes to the local policy are consistent with Council’s position at the hearing.*  The changes make it clearer when the local policy should be applied.  Council officers support the proposed changes to the local policy.  2. Remove HO200 (Mount Cottrell) from dry stone walls C67, F101, F103, F98 and F183.  *The proposed changes to C67, F101 and F103 are consistent with the changes approved by Council at its Ordinary Meetings on 8 September and 13 October 2015.*  *During the course of the hearing Council’s heritage expert witness conducted further site inspections of walls F98 and F183 and submitted that these walls should not be included in the Heritage Overlay.*  Council officers support the proposed changes to the extent of the Heritage Overlay pertaining to these five dry stone walls.  3. Remove HO201 (Mount Kororoit) from dry stone walls A270 and A280 (in part).  *The proposed changes to A270 and A280 are consistent with the changes approved by Council at its Ordinary Meetings on 8 September and 13 October 2015.*  Council officers support the proposed changes to the extent of Heritage Overlay pertaining to these two dry stone walls.  4. Remove HO202 (She Oak Hill) from dry stone wall R190.  *The proposed change to R190 is consistent with the changes approved by Council at its Ordinary Meeting on 8 September 2015.*  Council officers support the proposed change to the extent of the Heritage Overlay pertaining to this dry stone wall*.*  5. Remove HO203 (Mount Atkinson) from dry stone walls B117, B119, B122, B170 (in part), B41 and B42.  *The proposed changes to B117, B119, B122, B41 and B42 are consistent with the changes approved by Council at its Ordinary Meetings on 8 September and 13 October 2015.*  *During the course of the hearing Council’s heritage expert witness conducted a further site inspection of wall B170 and submitted that part of this wall should not be included in the Heritage Overlay.*  Council officers support the proposed changes to the extent of the Heritage Overlay pertaining to these six dry stone walls.  6. Remove HO204 (Greigs Road) from dry stone walls D83, J135, J136, J138, J143 and J18.  *The proposed changes to D83, J135, J136, J138, J143 and J18 are consistent with the changes approved by Council at its Ordinary Meetings on 8 September and 13 October 2015.*  Council officers support the proposed changes to the extent of the Heritage Overlay pertaining to these six dry stone walls    7. Revise the statements of significance in the proposed Incorporated Document by including the HO numbers (for each precinct and the two individual walls) and removing from the tables for the relevant precinct the walls listed in recommendations 2 to 6 above.  Council officers support the proposed changes as they are minor and are in line with the agreed changes above.  8. Realign the western boundary of HO118 to exclude the remains of the dry stone wall located on that boundary from the land to which the HO applies.  *During the course of the hearing one of the submitters stated their concern with the amendment is that they have an existing Heritage Overlay (HO118) which pertains to a dry stone wall dam. A small segment of dry stone wall exists on the property’s western boundary within the dry stone wall dam heritage overlay polygon, which under the provisions of this amendment would need a planning permit to remove or alter.*  *Council during the course of the hearing agreed that this segment of wall on the western boundary ideally should not be covered by the Heritage Overlay. Council was of the view that HO118 polygon could not be altered as it did not form part of this amendment. Council’s legal representative invited the Panel to explore this matter in its Panel report, and indicated that it would be open to changing the size of polygon HO118 if the Panel was of the view that this was appropriate.* |
| *The Panel considered this and has recommended that the polygon associated with HO118 can be altered through Amendment C100 as:*  *The change in shape of the polygon is minor and will not affect any other party and will not transform the amendment.*  *The dry stone wall on the western boundary was not considered to have heritage significance in the Melton Dry Stone Wall Study.*  Council officers therefore recommend that the Heritage Overlay polygon for HO118 be amended by deleting the westernmost five metres of the polygon from the Heritage Overlay. This will remove the dry stone wall on the western boundary from the Heritage Overlay polygon, and will retain the dry stone dam wall and dam within the polygon.  If the recommendations of the Planning Panel to the amendment are adopted the number of dry stone walls subject to the Heritage Overlay will be reduced from 140 dry stone walls to 125 dry stone walls, and the extent of wall covered by the Heritage Overlay for six of the dry stone walls will be reduced (including the proposed change to wall F93). Council officers support these proposed changes.  **Additional Changes to Amendment C100**  Council officers recommend two additional changes to Amendment C100 to the Melton Planning Scheme:  The Panel in its report suggested that Council officers conduct further investigation of Dry Stone Wall F93 to determine whether the part which was dismantled and rebuilt following the laying of a gas pipeline should be removed from the Heritage Overlay.  The westernmost 22 metres of the wall was dismantled and reinstated when a gas pipeline was laid through the site. The site inspection carried out during the hearing (9 November 2015) confirmed the westernmost 22 metres of the wall was removed to construct the gas pipeline and has been poorly reinstated, Council officers therefore recommend that this section of wall be excluded from the Heritage Overlay.  As discussed earlier in this report, Council applied for an interim control to protect dry stone walls while Amendment C100 was being processed. This interim control is provided in the Schedule to Clause 52.37, which will expire on 1 July 2016. Council officers recommend that Amendment C100 should be altered to remove this interim control from the Melton Planning Scheme, as it will not be required when Amendment C100 is finalised. |
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