17 October 2018

STONNINGTON PLANNING SCHEME AMENDMENT C221

Special Building Overlay and Land Subject to Inundation Review

“Part A” Submission on behalf of Stonnington City Council
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Introduction

1. Stonnington City Council (Council) is the Planning Authority for Amendment C221 (the Amendment) to the Stonnington Planning Scheme (Scheme). Council has prepared the amendment alongside Melbourne Water and is the proponent of the Amendment.

2. Amendment C221 proposes to update the mapping associated with the Special Building Overlay (SBO) and Land Subject to Inundation Overlay (LSIO) The amendment also seeks to distinguish between Melbourne Water and Council drainage systems using two schedules:
   - Schedule 1: flooding associated with main drainage infrastructure (managed by Melbourne Water)
   - Schedule 2: flooding associated with local drainage infrastructure (managed by Council)

3. Specifically, Amendment C221 sought to update the following planning maps:
   - LSIO maps 1, 2, 3, 6, 7, 9 and 10
   - SBO maps 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10


5. Melbourne Water will make a separate submission to the Panel regarding the consideration of submissions involving the LSIO and the schedule 1 areas of the SBO.

6. Melbourne Water’s updates to the LSIO and SBO relies on background documents that include, but are not limited to:
   - City of Port Phillip Main Drain Catchment Drainage Survey, September 1997
   - Melbourne Water City of Stonnington Drainage Survey 1996/7
   - Flood Mapping of Gardiner’s Creek, October 2010
   - Flood Mapping: Tooronga Road Main Drain Catchments, October 1996
   - Report for Murrumbeena Drain Catchment Flood Mapping, July 2010
   - Prahran Main Drain Flood Mapping, April 2008
   - Scotchmans Creek Flood Mapping, March 2018
   - Tooronga Road/Creswick Street Main Drains Catchment, October 2016
   - Yarra River Flood Mapping Hydrologic and Hydraulic Study, June 2016
These documents are available in the Panel Folder as Documents 2.1.1-2.1.9.

7. Council's submission to the Panel will rely on the Stonnington Special Building Overlay Review 2017 (Prepared by GHD), January 2018 (Panel Folder Document 2.1.10) and the background documents to this review, including:

- Stonnington Flood Mapping Revisions 2008, GHD October 2009, which includes (but is not limited to):
  - Package 1 (Yarra Street)
  - Package 2 (Wrights Terrace)
  - Package 3 (East Street and High Street)
  - Package 4 (Rotherwood Drive and Peverill Street, Scotchmans Ck)
  - Package 5 (Argyll Street, Holmesglen)
  - Darling Road Catchment Reports (GHD July 2015)
  - Melbourne Metro Rail Project Flood Mapping (GHD 2016)
  - Tooronga Road and Creswick Street Main Drain Mitigation Flood Mapping (GHD 2017)
  - Commercial Road Catchment Flood Mapping (GHD 2017)

This evidence will be relied on to illustrate the merits of the amendment. In addition, the 9 July 2018 Council Report and its response to submissions (Panel Folder Document 1.4.3).

8. The Panel has directed that Council must circulate the “Part A Submission” to all parties on the distribution list by 17 October 2018.

9. The Panel has directed that Council’s “Part B Submission” should be presented at the Panel Hearing on 24 October 2018.

10. This “Part A” submission is structured under the following headings:

- Background and Chronology to Amendment C221
- An Explanation of the methodology used to develop the SBO and LSIO maps
- Strategic Context and Assessment
- Identification of the issues raised in submissions and response
- Changes to the Amendment documentation in response to the issues raised in the submissions
Background and Chronology of Amendment C221

11. This section provides an overview of the strategic basis of this Amendment, including the relevant State and Local policies. A brief overview of the key 'background' steps is outlined below and a chronology of the key events in the background to the amendment is provided at Attachment 1 to this submission.

12. Updating the LSIO and SBO is an iterative process without a discrete endpoint. The SBO was last updated through Stonnington Planning Scheme Amendment C18 on 12 May 2005. The LSIO was incorporated into the scheme with the New Format Planning Scheme in July 2000.

Amendment C18 (2005)

13. Amendment C18 to the Stonnington Planning Scheme was exhibited from 1 November 2001 to 28 November 2001 and sought to apply the SBO over land affected by overland flooding from both Melbourne Water and Council drainage systems.

14. A total of 135 submissions were received. In response, Council requested its consultants to undertake a re-survey of the mapping taking into account information provided by submitters as well as changes to physical conditions since the original mapping in 1998.

15. The amendment was set to lapse on 1 November 2003 but due to outstanding mapping work on the Tooronga Road Main Drain by Melbourne Water, the Minister for Planning extended Amendment C18 for two years, with a new lapse date of November 2005.

16. The outcome of the revised mapping was that the SBO was reduced or removed entirely from a number of properties. In some cases, the remapping revealed an increase to the flood extent on properties. It was decided to not include this additional extent in Amendment C18 as it would require further exhibition of the amendment. Where applicable, these changes have been reflected in the mapping associated with Amendment C221.

17. On 10 May 2004, Council resolved to proceed Amendment C18 to Panel. The Panel hearing was held in September 2004. The amendment was gazetted into the scheme on 12 May 2005.

18. Since the application of the SBO, both Council and Melbourne Water have periodically undertaken updated flood studies based on changes to the built environment (including infrastructure capital works and property development), advancements in modelling technology and storm activity data.
Amendment C221 (2015)

19. Given updates in both Melbourne Water and Council mapping, Council and Melbourne Water Officers decided there was benefit in preparing a joint amendment to the Stonnington Planning Scheme to revise the Special Building Overlay as it applies in the municipality.

20. At its meeting on 21 September 2015, Council resolved to formally request authorisation to prepare Amendment C221 to the Stonnington Planning Scheme to update the Special Building Overlay (Panel Folder Document 1.4.1).

21. On 8 October 2015, Melbourne Water wrote to Council formally requesting an amendment to the Stonnington Planning Scheme to update the SBO as it applied to Melbourne Water infrastructure (Panel Folder Document 1.3.1).

22. Authorisation to prepare and exhibit amendment C221 was granted by the Minister on 13 October 2015.

23. Due to delays in collecting data, preparation of mapping, competing workload priorities and further flood mapping of major projects including the Melbourne Metro Rail Project (now known as the Metro Tunnel Project) needing to be undertaken, the amendment was not exhibited at this time.

Amendment C221 (2018)

24. Between October 2015 and November 2017, Council and Melbourne Water continued to undertake flood studies and updates to flood maps, including an update to flood maps for Gardiners Creek and the Yarra River by Melbourne Water. On 14 November 2017, Council requested advice from The Department of Environment, Land, Water and Planning (DELWP) on re-using the existing C221 amendment number and revising the amendment to include updates to flood mapping since the previous authorisation in October 2015.

25. On 22 November 2017, DELWP advised that they would accept Council’s proposal to vary the existing C221 Amendment to include additional SBO mapping undertaken since the original authorisation as well as an update to the LSIO (led by Melbourne Water).

26. The GHD Report, ‘Stonnington Special Building Overlay Review 2017’ (Panel Folder Document 2.1.10) was produced in January 2018 and provides a high level summary of a number of changes both physical (within the local area) and technical in the modelling of 1 in 100 year floods, which form the basis for the extent of the Special Building Overlay. These local and technical changes amount to improvements in modelling technology, data gathered
from recent storm activity, capital works to drainage infrastructure as well as construction activity.

27. At its meeting on 5 February 2018, Council resolved to formally request authorisation to prepare Amendment C221 to the Stonnington Planning Scheme to update the Special Building Overlay and Land Subject to Inundation Overlay (Panel Folder Document 1.4.2).

28. On 7 February 2018, Council also requested an exemption from Ministerial Direction No. 15 to exhibit and notify both owners and occupiers, instead directly notifying only owners. It was considered impractical to directly notify occupiers as well.

29. Authorisation to prepare and exhibit the updated amendment C221 and the exemption to Ministerial Direction No. 15 was granted by the Minister on 19 February 2018.

30. Amendment C221 was placed on formal public exhibition from 8 March to 23 April 2018 in accordance with the requirements of the Planning and Environment Act 1987. Notification and exhibition of the Amendment were carried out via the following measures:

   - Direct notification (via letter) to all owners who were currently or proposed to be located within or being removed from the SBO or LSIO as well as prescribed authorities on 5 March 2018.
   - Public viewing file of amendment documentation at Council's Planning Counter, Malvern.
   - An Interactive Map on the City of Stonnington website, showing the extent of the Overlays and searchable via property address.
   - Fact Sheets and Frequently Asked Questions pamphlet available on the City of Stonnington website.
   - Information regarding the amendment available on the Melbourne Water website.
   - Full amendment documentation on the Department of Environment, Land, Water and Planning and City of Stonnington’s websites.
   - 5 drop-in information sessions were held across March and April attended by Strategic Planners, Statutory Planners, Council Drainage Engineers and Melbourne Water Officers if affected parties wished to obtain more detailed information on the Amendment.

31. As a result of exhibition, Council received forty-four (44) submissions. Two (2) of these support the Amendment as exhibited and forty-two (42) take an alternative position.
32. Of the forty-four (44) submissions, twenty-four (24) submissions relate exclusively to Council assets and SBO2, sixteen (16) submissions relate exclusively to Melbourne Water assets, SBO1 and/or the LSIO, and four (4) submissions relate to both Melbourne Water and Council assets.

33. On 9 July 2018, Council considered the submissions to the Amendment. The key themes identified in the submissions were:

- Strategic Justification of the flood maps
- The extent of Overlay applying to land
- Drainage Infrastructure Maintenance/Improvement
- Impact of the amendment on Insurance costs and Property Value
- Drafting of Planning Controls
- Impact of Water Sensitive Urban Design Policies

A more detailed summary of the submissions and Council’s responses can be found in Council’s Report dated 9 July 2018 (Panel Folder Document 1.4.3).

34. At the Council meeting it was resolved:

That Council:

1. Requests that the Minister for Planning appoint a Panel pursuant to Section 23 of the Planning and Environment Act 1987 to hear and consider submissions to proposed Amendment C221 to the Stonnington Planning Scheme.

2. In its submission to the Panel hearing, adopts a position in support of Amendment C221, generally in accordance with the officer's response to the submissions as contained in this report and Attachment 1.

3. Refers the submissions and any late submissions received prior to the Directions Hearing to the Panel appointed to consider Amendment C221.

4. Advises the submitters to proposed Amendment C221 of Council’s decision.

35. In response to the submissions, Council resolved to make a number of changes to the Amendment in its position to the Planning Panel. These changes are set out in the Council report. (Panel Folder Document 1.4.3) and are repeated here for the convenience of the Panel and submitters:
• Remove or change the extent of the overlay on the following properties in accordance with the position of Melbourne Water on overlays associated with Melbourne Water assets:
  o 12-20 Weir Street, Glen Iris
  o 113 Claremont Avenue, Malvern
  o 13 Lambert Road, Toorak
  o 54 Aintree Road, Glen Iris
• Remove the flood areas along Coppin Street, George Street, and Beaver Street in Malvern East associated with Council assets due to drainage improvement works taking place after modelling was undertaken.
• Remove 7 Merriwee Crescent, Toorak from the SBO (associated with Council assets) following identification of a mapping error.

36. On 11 July 2018, Officers wrote to the submitters advising of Council’s resolution (Panel Folder Document 1.3.11).

Amendment VC148

37. Planning Scheme Amendment VC148 was gazetted 31 July 2018 and now forms part of the scheme. Amendment VC148 makes significant changes to the structure and operation of the Victoria Planning Provisions. Specifically, the changes affecting Amendment C221 are:

38. The structure of the State Planning Policy Framework has been altered and has moved the location of several objectives and policies. The Strategic Context and Assessment uses the updated Planning Policy Framework for its assessment.

39. Changes have been made to the LSIO and SBO that now allow a “Statement of Risk” and “Objectives” to be included in the schedule to these overlays. These changes are also reflected in the revised Ministerial Direction on ‘The Form and Content of Planning Schemes’.

40. Council sought the advice of DELWP who have advised that Council should prepare a policy-neutral revision to the exhibited schedules consistent with the revised Ministerial Direction. Council will table these draft schedules for the consideration of the panel as part of its “part B” Submission. It is not mandatory to include “Objectives” or a “Statement of Risk” and so Council submits this change will not prejudice its consideration by the Minister for Planning.

C221 Methodology
41. Council will make reference only to the methodology that underpins the mapping of the local drainage system for the SBO – Schedule 2. The changes to the mapping for the main drainage system (SBO – Schedule 1) and mainstream flooding (LSIO) will be addressed by Melbourne Water in their submission.

42. Council is continually updating its stormwater mapping on an iterative basis, rather than as a single large package. Council has worked with GHD Engineering Consultants to undertake the hydrological survey on Council’s behalf.

43. The SBO2 mapping, as an iterative process, was undertaken through a number of methods, these are described at Panel Folder Document 2.1.10. Some sections of earlier mapping were undertaken using 1D hydraulic modelling with constant flow rates. The more recent modelling (largely undertaken in 2008/09) was undertaken using 2D TUFLOW modelling. The report acknowledges that hydrological technology is continually evolving and the mapping may be further refined in future.

44. In determining the criteria for formulating the flood maps, GHD Engineering referred to published guidelines including Flood Mapping Guidelines & Technical Specification (Melbourne Water 2012).

45. Council considers that the flood mapping methodology undertaken by GHD Consultants is appropriate.

**Strategic Context and Assessment**

46. This section provides an overview of the strategic basis of this Amendment, including the relevant State and Local planning policies.

47. It is noted that the Explanatory Report exhibited with the Amendment includes a strategic assessment. That assessment is adapted here for the purposes of Council’s Part A submission.

48. The proposed updates to the SBO are borne out of an action within the Flood Management Plan for City of Stonnington and Melbourne Water (April 2013). The proposed updates to the LSIO are Melbourne Water led, borne out of updated flood studies.

As the document provides only context for the amendment, a copy of this document has not been provided to the Panel, but can be provided on request.
Planning & Environment Act 1987

49. Section 4 of the Planning & Environment Act describes the objectives of planning in Victoria. The objective at 4(1)(c) reads:

- To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.

50. It is considered that the update to the SBO and LSIO through Amendment C221 seeks to achieve this objective in relation to significant flood events by allowing better management of properties within flood areas.

Planning Policy Framework (Formerly State Planning Policy Framework)

51. The Amendment is well supported by the Planning Policy Framework and supports or gives effect to the following State planning policies.

52. Clause 11.02-1S (Supply of urban land), which states that planning for urban growth should consider the limits of land capability and natural hazards and environmental quality.

53. Clause 13.03-1S (Floodplain management), which aims to protect life, property and community infrastructure and environmental assets from flood hazards by:

- Identifying land affected by flooding, including floodway areas, as verified by the relevant floodplain management authority, in planning scheme maps.
- Avoiding the intensification of impacts of flooding through inappropriately located uses and developments.

54. Clause 14.02-1S (Catchment planning and management), which contains strategies to minimise the quantity and retard the flow of stormwater runoff from developed areas.

55. Clause 14.02-2S (Water quality), which aims to discourage incompatible land uses in areas subject to flooding to ensure minimum impact on downstream water quality or flow volumes.

56. Clause 19.03-4S (Stormwater), which aims to reduce the impact of stormwater on catchments through a range of strategies, including reductions in run-off and peak flows.

57. In relation to the above strategies, the Amendment will assist in the protection of life, property and community infrastructure from flood hazard, the natural flood carrying capacity of rivers, streams and floodways, and will protect the flood storage functions of floodplains and
waterways. The Planning Policy Framework places a clear onus on Responsible Authorities to ensure that flooding and drainage information is clearly shown in planning schemes and taken into consideration as part of the planning process. The proposed amendment will assist in achieving this intent.

**Local Planning Policy Framework**

58. In relation to the Local Planning Policy Framework, including the Municipal Strategic Statement, the following sections are considered relevant.

59. Foremost, Clause 21.07-4 (Flooding) is given effect by this amendment. Specifically, the amendment gives effect to the sole objective under this heading:

- To identify areas within the municipality which are liable to flooding damage, so as to take into account the health and safety of residents and flood protection of properties.

60. The SBO and LSIO identifies these areas which are liable to flood damage and implements strategy 1.1 which seeks to ensure that the siting of buildings and their floor levels take into account the flood depths and overland flow paths for 100-year ARI events.

61. The SBO and LSIO also ensure new development is protected from flooding and has safe access arrangements, consistent with Strategy 1.2.

62. The SBO further works to ensure the continuity of natural valleys and overland flow paths is maintained consistent with Strategy 1.3.

63. The SBO and LSIO identifies areas subject to flooding and in this way assists in implementing Strategy 1.4 in ensuring adequate drainage in and around flood areas.

64. The Amendment also gives effect to Clause 21.08-4 (Drainage and Utility Services). One of the identified key issues reads as follows:

- Ensuring future use and development occurs in appropriate locations and at an appropriate scale and density taking into account the capacity of local infrastructure.

65. It is noted that Council has an ongoing program of upgrading drainage infrastructure to the following standards:

- Easement drainage with a capacity to a 5-year ARI event, and
- Road drainage with a capacity to a 10-year ARI event, and
- Drains in higher risk flood areas with a capacity to 20-year ARI
66. Clause 21.09 of the Stonnington Planning Scheme includes *Guidelines for Development in Flood-Prone Areas, Melbourne Water* (2003) as a reference document under the heading “Open Space and Environment”. This document primarily provides guidelines to owners and developers for developing in areas subject to a 100-year ARI flood, but does not provide guidance on applying the Special Building Overlay and Land Subject to Inundation Overlay.

**Planning Practice Note 12: Applying the Flood Provisions in Planning Schemes**

67. Planning Practice Note 12, *Applying the Flood Provisions in Planning Schemes* was produced by DELWP in June 2015 and provides guidance for applying the following controls in local planning schemes:

- Clause 37.03: Urban Floodway Zone
- Clause 44.03: Floodway Overlay
- Clause 44.04: Land Subject to Inundation Overlay
- Clause 44.05: Special Building Overlay

68. In relation to defining the extent of flooding, the practice note acknowledges that it is not practical or economical to institute land use planning controls up to the “Probable Maximum Flood” (PMF), which defines the maximum probable extent and level of flooding. A lesser standard is adopted, which is a 100-year ARI flood event, defined as a “Design Flood Event”

69. The 100-year ARI flood event is also the “Design Flood Event” for determining what is considered flooding under the *Water Act 1989* and *Building Act 1993*.

70. As detailed in the methodology section of this submission, the flood information which forms the basis of this amendment is based on flood management best practice which requires the continual updating and review of flood maps, giving priority to areas with higher flood risks.

71. According to the Practice Note, the LSIO should be applied to mainstream flooding in urban areas. The SBO should be applied to stormwater flooding in urban areas.

72. It is submitted that the amendment gives effect to Planning Practice Note 12 and the Planning Policy Framework including the Municipal Strategic Statement and therefore implements the objectives of the Planning & Environment Act 1987.

**Issues raised in the Submission and Council’s Response**
73. Please refer to 9 July 2018 Council Report and the attached Response to Submissions Table (Panel Folder Document 1.4.3).

Changes to the Amendment

74. Please refer to 9 July 2018 Council Report and the attached Response to Submissions Table (Panel Folder Document 1.4.3).

Conclusion

75. Council and Melbourne Water have undertaken a thorough process to update and review the SBO and LSIO and prepare the Amendment.

76. Council's position to the Panel relies on the background documents to illustrate the strategic merit of the Amendment, as well as the Council Officer responses to submissions attached to the 9 July 2018 Council Report, this written submission and the expert evidence of GHD Engineering.

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On behalf of Stonnington City Council
17 October 2018
List of Attachments

Attachment 1 – Chronology of Key Events