

## **10. Brimbank Planning Scheme Amendment C53 – Environmental Significance Overlay**

**Division:** City Development  
**General Manager:** Stephen Sully  
**Policy:** Brimbank Planning Scheme, Brimbank Natural Heritage Strategy (1997), Brimbank Biodiversity Strategy (forthcoming)

### **Purpose**

To advise Council of the status of Amendment C53 (the amendment) to the Brimbank Planning Scheme (the planning scheme) and advise of the next steps to progress the amendment, including a proposal to split the amendment.

### **Report**

#### **1. Background**

The amendment originally proposed to:

- introduce a Natural Heritage Policy at Clause 22.06 of the Local Section of the Brimbank Planning Scheme; and
- introduce 3 new schedules to the Environmental Significance Overlay:
  - Schedule 3 – applicable to the Solomon Heights area, be included on a permanent basis in the Scheme;
  - Schedule 4 – to protect sites of biological significance, identified in the Strategy, and
  - Amend Schedule 1, applicable to the Broadcast Australia site, to include additional detail on fauna values on the site.

The aim was to protect and enhance biodiversity in the municipality by ensuring sites that support threatened flora and fauna are protected from inappropriate development.

#### **2. Consultation**

The amendment was first placed on public exhibition for a period of seven (7) weeks from 8 July 2008 to 22 August 2008.

At the conclusion of this exhibition period, eighteen (18) submissions were received. Of these, sixteen (16) submitters expressed an objection to the proposed provisions. The main locations of concern were the Solomon Heights area in North Sunshine and Green Wedge areas along the Maribyrnong River.

Pursuant to section 30(1) of the *Planning and Environment Act 1987*, an amendment lapses two (2) years after the amendment has been placed on public exhibition. An extension of time to consider this amendment was approved by the Minister in February 2010, where a one year extension was given. A further extension was received in April 2011 and Council now has until April 2012 to exhibit the amendment. The extension of time was sought while Council investigated planning options at Solomon Heights and finalised the Brimbank Green Wedge Management Plan.

### **Brimbank Planning Scheme Amendment C53 – Environmental Significance Overlay (cont'd)**

Given the time that had passed, the amendment was placed on public exhibition again from 1 December 2011 until 31 January 2012. At the conclusion of the exhibition period eighteen (18) submissions were received, of which seventeen (17) are objecting submissions. All of the submissions relate to the Solomon Heights area.

#### **3. Analysis**

Since the exhibition of the amendment in 2008, there have been a number of project and policy changes that have taken place that affect the application and content of the amendment as originally proposed. These include:

##### *Feasibility Study for the Solomon Heights Structure Plan*

The Solomon Heights Structure Plan was prepared in 2007 to guide the future development of the Solomon Heights area in North Sunshine. The objectives of the structure plan included determining the preferred land uses for the area, identifying design guidelines to address abutting land uses and the provision and cost recovery for infrastructure provision. The structure plan recognised the significance of the native vegetation in the area and the need to protect it.

In 2009 a feasibility study was undertaken to explore the financial feasibility of retaining the area's industrial zoning and implementing a special charge scheme to fund the installation of services and infrastructure.

##### *Abzeco Assessment of Remnant Vegetation, Solomon Heights, Sunshine North.*

The Solomon Heights study area has undergone a re-survey to determine the extent, condition and value of the existing flora and fauna in the area, completed in May 2011. This report recommended the extension of the ESO area to include habitat for the striped legless lizard. It was found that all of the vegetation identified before 2008 remains intact.

##### *Broadcast Australia Site, Delahey*

Under the Commonwealth *National Transmission Network Sales Act 1998* the site enjoys exemptions from Victorian law, including the *Planning and Environment Act 1987* and consequently the Brimbank Planning Scheme.

##### *Brimbank Green Wedge Management Plan, 2010*

The management plan identifies a set of policies, programmes and action for the area. A key action is the 'inclusion of sites of biological significance in Environmental Significance Overlays as proposed by Amendment C53'.

There are many areas within the Maribyrnong River corridor that are identified as having biological significance. These sites were proposed to be included in an ESO as part of Amendment C53.

It is now proposed that these areas be included as part of a comprehensive environmental significance overlay amendment for the whole of Maribyrnong River as it extends through the municipality and not just for that area within the Green Wedge. This will be done as part of proposed Amendment C146.

**Brimbank Planning Scheme Amendment C53 – Environmental Significance Overlay (cont'd)**

*Brimbank Planning Scheme Amendment C131 – Environmental Significance Overlay, Kororoit Creek, 2011*

One of the key recommendations of the Kororoit Creek Regional Strategy Plan was to prepare a planning scheme amendment to introduce an Environmental Significance Overlay along the creek corridor to ensure the future protection of waterway.

Amendment C131 applies an Environmental Significance Overlay to Kororoit Creek. The amendment is with the Minister for Planning for approval.

*Maribyrnong River Valley Design Guidelines (2010) and proposed Brimbank Planning Scheme Amendment C146, 2011*

The Maribyrnong River Valley Design Guidelines were approved by the Minister for Planning in April 2010.

Amendment C146 proposes the application of an ESO along the Maribyrnong River corridor. This amendment will be exhibited later this year.

*Draft Brimbank Biodiversity Strategy, 2011*

The revision of Amendment C53 has taken place in consultation with Council's Environment Department to ensure consistency with the draft Strategy.

*Revised Municipal Strategic Statement– Amendment C93, 2011*

Amendment C93 has been approved in March 2012.

The MSS incorporates all the policy directions that were previously contained within the local policies section of the planning scheme, with the exception of the Heritage Policy.

Section 21.05 *Natural Environment* of the MSS, includes updated policy directions in relation to native vegetation. The policy directions that were proposed in the draft Local Policy are now proposed to be included in the revised Environmental Significance Overlay Schedule 6.

*Re-exhibition of the modified Amendment C53*

Due to all the project work listed above, a revised Amendment C53 was prepared. The amendment has been modified to include:

- Mapping changes to reflect the removal of sites within both the Kororoit Creek and Maribyrnong River corridors and the significant vegetation adjacent to these areas, as well as the Broadcast Australia site, Delahey;
- Inclusion of additional areas of *Pimelea spinscens* in Solomon Heights;
- The removal of Schedule 3 to the ESO, as the policies within this Schedule have been included in the new Schedule 6 which encompasses all the significant vegetation, other than the Maribyrnong River and Kororoit Creek environs.

At the November 2011 Ordinary Council Meeting, a resolution was carried to re-exhibit the amendment to allow affected land owners and occupiers, and the broader community, to review the modified amendment. It also ensured that any new or change in land owner will be advised of the amendment.

Those areas and sites that have been removed from C53 (i.e. Kororoit Creek and Maribyrnong River corridors) are subject of separate amendments.

**Brimbank Planning Scheme Amendment C53 – Environmental Significance Overlay (cont'd)**

***Issues raised in submissions***

The issues raised in the objecting submissions include:

- Lack of real solution to current landowners to the future of the land,
- The ESO will restrict any future use of land,
- If the land is so important, it should be purchased by a public authority and adequately maintained and protected,
- The existing illegal dumping of rubbish is causing degradation of the native vegetation,
- Relocate the vegetation to allow development of the land,
- Rates have been paid on this land that cannot be developed (in some cases for over 50 years),
- The vegetation is being infested with weeds,
- Rezone the land to residential,
- Council has made no commitment to the servicing of the area,
- Council needs to make a decision regarding the future of this area.

Council has recently engaged Brett Lane & Associates to further investigate the potential options and management arrangements for the protection of the native vegetation in this area.

The majority of other land parcels included in this amendment are in public ownership – Council, Melbourne Water and Parks Victoria. No objecting submissions were received in relation to any of these sites.

To progress the amendment it is recommended to 'split' the amendment into 2 parts:

- Part 1: include all those areas where no objecting submissions were received. This part of the amendment can be adopted by council and then forwarded to the Minister for Planning for approval.
- Part 2: will include only the Solomon Heights area, ie: where the objecting submissions were received. This area is also subject to further work to be undertaken on behalf of Council, with a view to investigating options for the area's future. All landowners would be further advised of this course of action.

**4. Resource Implications**

The cost of processing the amendment is budgeted for as part of the City Strategy Department's 2011/2012 budget.

**5. Compliance Statement**

This report has been prepared in accordance with Part 3 (Amendments) of the *Planning and Environment Act 1987*.

**Brimbank Planning Scheme Amendment C53 – Environmental Significance  
Overlay (cont'd)**

**6. Recommendation**

**That:**

- a. **Under Part 3, Division 1 of the *Planning and Environment Act 1987*, Council resolves to split Amendment C53 to the Brimbank Planning Scheme into two (2) parts.**
- b. **Amendment C53 Part 1, which includes all land within public ownership and those areas outside the Solomon Heights area, be adopted by Council and the adopted Amendment be forwarded to the Minister for Planning for approval.**
- c. **Following the completion of the further investigation into the future management options for native vegetation within the Solomon Heights area, a report on Amendment C53 Part 2 be submitted to Council's Planning Committee.**

