



**11.1 COUNCIL SUBMISSION TO SOUTH EAST WATER'S FISHERMANS BEND WATER RECYCLING FACILITY PROJECT (RESPONSE TO PLANNING SCHEME AMENDMENT C434MELB)**

**EXECUTIVE MEMBER: LAUREN BIALKOWER, ACTING GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT**

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**1. PURPOSE**

- 1.1 To seek Council endorsement of the submission prepared by Council officers in response to Planning Scheme Amendment C434Melb (South East Water Fishermans Bend Water Recycling Facility Project) for land located within the City of Melbourne.

**2. EXECUTIVE SUMMARY**

- 2.1 The Victorian Government's Fishermans Bend Framework and Fishermans Bend Water Sensitive City Strategy support the delivery of a Water Recycling Plant to supply Class A recycled water via a third pipe network to the area.
- 2.2 South East Water (SEW) has identified land at 10-28 and 21-51 Sardine Street, Port Melbourne as the preferred site for a Water Recycling Plant. This land is located within the City of Melbourne. SEW is seeking to have the plant fully operational by 2030. In order to achieve this, land acquisition would need to be finalised by the end of 2023.
- 2.3 Fishermans Bend is forecast to grow to 80,000 residents and 80,000 jobs by 2050, with 68,000 residents living within the City of Port Phillip's Montague, Sandridge and Wirraway Precincts. This growth will significantly increase demand for water, both within private developments and in public spaces, including current and future open spaces within Fishermans Bend and adjoining neighbourhoods. Irrigation requirements will likely also increase to maintain the condition of these spaces for year-round use by the community.
- 2.4 The operation of the Plant will provide Council with the opportunity to utilise recycled water to irrigate public spaces including open spaces, and potentially open spaces in adjoining neighbourhoods to assist in maintaining the quality of the surfaces of these open spaces year round while at the same time reduce the reliance on potable water for this purpose. This alternative water source will become increasingly important into the future with the impacts of climate change and increased climatic variations.
- 2.5 Planning Scheme Amendment C434MELB has been prepared by the Minister for Planning at the request of SEW. The amendment will apply a Public Acquisition Overlay to land at 10-28 Sardine Street and 21-51 Sardine Street, Port Melbourne. The amendment will reserve the land for the facilitation of a water recycling plant and will allow SEW to compulsorily acquire the land (as Acquiring Authority) to deliver this facility. This provides a statutory pathway for land acquisition.
- 2.6 The Minister for Planning sent a letter dated 7 April 2023 to advise that targeted consultation had been initiated, including with Council, under section 20(5) of the



Planning and Environment Act 1987 to understand their views prior to making a decision. A copy of the Minister for Planning's letter is included at **Attachment 1**.

- 2.7 The proposed Council submission (included at **Attachment 2**) provides in-principle support for the land acquisition proposal via the planning scheme amendment process. This submission is focussed on the matter to be considered as part of the planning scheme amendment process. However, the submission also requests Council involvement in the project as it moves through design, delivery and operational phases, including the roll-out of a 'third-pipe' network for use of the recycled water. As part of this the submission seeks to ensure the cost to Council and its ratepayers is minimised for the delivery and use of this third pipe network for supplying recycled water.

### 3. RECOMMENDATION

That Council:

- 3.1 Endorses the submission to Planning Scheme Amendment C434Melb included (Attachment Two) and authorises the Mayor to sign this submission and be lodged with the Minister for Planning on behalf of Council.
- 3.2 Thanks the Minister for Planning for seeking Council's view on the proposed planning scheme amendment prior to her making a decision.
- 3.3 Authorises the Chief Executive Officer (or delegate) to make minor editorial adjustments to the submission prior to lodgement.

### 4. KEY POINTS/ISSUES

#### Benefits of a Water Recycling Plant

- 4.1 The Water Recycling Plant will be developed to supply Class A recycled water via a third pipe system. 'Class A' is the highest grade of recycled water in Victoria, which can be used for non-drinking purposes, such as toilet flushing, laundry and irrigation across private and public developments. The 'third pipe' system refers to an additional pipe network required for recycled water in addition to current water and sewage pipes.
- 4.2 Fishermans Bend is forecast to grow to 80,000 residents and 80,000 jobs by 2050, with 68,000 residents living within the City of Port Phillip's Montague, Sandridge and Wirraway Precincts. This growth will significantly increase demand on the current and future open spaces within Fishermans Bend and adjoining neighbourhoods. Irrigation requirements will likely also increase to maintain the condition of these spaces for year-round use by the community.
- 4.3 The operation of the Plant will provide Council with the opportunity to utilise recycled water to irrigate these open spaces and potentially open spaces in adjoining neighbourhoods to assist in maintaining the quality of the surfaces of these open spaces year round whilst reducing the reliance on potable water for this purpose. This alternative water source will become increasingly important into the future with the impacts of climate change and increased climatic variations.
- 4.4 Other potential benefits of a Water Recycling Facility in Fishermans Bend include:
  - Reducing water consumption, helping to conserve a natural resource.
  - Potentially reducing the need to upgrade trunk potable water infrastructure, such as saving the need to link into the Punt Road main, and to supply a pumping station, transfer main and additional water storage.



- Supplementing rainwater, helping to achieve the target of potable water consumption of less than 100L per person per day by 2050 in Fishermans Bend.
- Assisting to reduce the volume of effluent entering the Port Phillip Bay by 50% by 2050 compared to a scenario of having no source of Class A water in Fishermans Bend.
- Supplying water for irrigation – supporting a green and biodiverse landscape, enabling plant choices that are not limited to being drought tolerant, increasing potential opportunities for biodiversity, shade, use of deciduous trees and evapotranspiration.
- Generally increasing the liveability of urban areas by promoting design that contributes to mitigating climate change impacts and mitigating the urban heat island affect.

#### South East Water's proposed land acquisition for delivery of water recycling plant

- 4.5 SEW is the authority responsible for the delivery of water recycling plant, with the facility planned to be operating by 2030.
- 4.6 SEW have undertaken investigations to identify appropriate sites for the facility, with 10-28 and 21-51 Sardine Street identified as the preferred site.
- 4.7 SEW has identified land at 10-28 and 21-51 Sardine Street, Port Melbourne has been identified as the preferred site for the Project, notably because of its size and shape, relative risk of contamination, close proximity to an extraction pump station and will have a minimal impact with the public interface.
- 4.8 SEW is seeking to have the plant fully operational by 2030. In order to achieve this, land acquisition would need to be finalised by the end of 2023. Planning scheme amendment C434Melb sets out a statutory pathway for this land acquisition process.

#### Policy Support for a Water Recycling Plant in Fishermans Bend

- 4.9 The Victorian Government's Fishermans Bend Framework sets a vision for "A thriving place that is a leading example for environmental sustainability, liveability, connectivity, diversity and innovation."
- 4.10 The Fishermans Bend Framework (released 2018) and Fishermans Bend Water Sensitive City Strategy (released 2022) support delivery of a water recycling facility to service the area. The relevant strategies and priorities are set out within Strategies 5.2.1, 5.2.2 and 5.2.3 of the Framework, and strategic pillar and priority 2.3.2 of the Water Sensitive City Strategy. The water recycling plant is identified in the Framework as a catalyst project, however no location for the facility is identified. Site identification, acquisition and delivery form part of the strategy's implementation as future work.
- 4.11 Council's Act and Adapt – Sustainability and Environment Strategy 2018-2028 includes Action 33 to 'Support plans for recycled water processing at Fishermans Bend, with water being used by residents and for irrigation of Council reserves'.

#### Proposed Planning Scheme Amendment C434Melb

- 4.12 Planning Scheme Amendment C434Melb will apply a Public Acquisition Overlay (PAO11) to land at 10-28 and 21-51 Sardine Street, Port Melbourne.
- 4.13 The amendment identifies South East Water as the acquiring authority and a water recycling plant as the purpose for the acquisition.

- 4.14 The amendment is restricted to the subject of land acquisition only. It does not address other aspects like funding, financing, design, delivery, ownership and maintenance arrangements.
- 4.15 The amendment has been prepared by the Minister for Planning who is the planning authority for this amendment. The amendment has been made at the request of South East Water (SEW). The amendment applies to land within the City of Melbourne, under the Melbourne Planning Scheme.
- 4.16 The affected land is located within the Fishermans Bend Employment Precinct and National Innovation and Employment Cluster, within the City of Melbourne (see: figure 1)



Figure 1: Indicative location of subject site within Fishermans Bend precincts



Figure 2: Subject Site Aerial Photo

Consultation with Council on the amendment

- 4.17 In August 2022, South East Water, the proponent, sought views from affected parties and relevant stakeholders about proposed Amendment C434melb prior to submitting a request to the Minister for Planning to consider the amendment. Council Officers provided preliminary feedback on 29 September 2022, supporting the potential planning scheme amendment land acquisition process in-principle but seeking further information on other aspects related to its delivery, operations and maintenance arrangements.
- 4.18 The Minister for Planning has now prepared the amendment at the request of South East Water, and will assess the amendment under Section 20(4) of the Planning and Environment Act. This means that the usual exhibition and notification requirements of sections 17, 18 and 19 of the Act will not apply in respect of this amendment. If the Minister decides to support the amendment, it would proceed to approval and gazettal in the planning scheme.
- 4.19 Before considering the proposed amendment, the Minister has decided to undertake targeted consultation with the landowner, local councils, agencies and stakeholders under section 20 (5) of the Planning and Environment Act 1987 to understand their views prior to making a decision.
- 4.20 Council was advised of the proposed amendment in mid April via a letter dated 7 April 2023, with submissions due by 12 May 2023. A copy of the Minister for Planning's letter is included at **Attachment 1**.
- 4.21 Council Officers have notified the Department of Transport and Planning that a late submission will be provided by Council, to allow time to seek formal Council endorsement of a submission, and still be considered as part of the Minister's decision making process.



Overview of Proposed Council Submission

- 4.22 The proposed Council submission is focussed on the matters relevant to the planning scheme amendment and those that can be considered by the Minister for Planning in making a decision. The submission also raises concerns about the facility's future design, delivery and operation, where further information and Council involvement in the project is requested. The submission seeks to ensure there is no legal or cost burden to Council throughout this process.
- 4.23 There is clear support for the Water Recycling Facility for Fishermans Bend in both the Fishermans Bend Framework and more recently in the Water Sensitive City Strategy for Fishermans Bend.
- 4.24 The operation of the facility has the potential to support Council in irrigating of open spaces in Fishermans Bend and potentially adjoining neighbourhoods, as an alternative to using potable water, particularly in the context of climate change and increased variability in rainfall.
- 4.25 Council support is provided for:
- the intent to progress land acquisition for a water recycling facility that services Fishermans Bend, including precincts in the City of Port Phillip.
  - the proposed land acquisition pathway via application of the Public Acquisition Overlay.
- 4.26 On the broader issue of the infrastructure funding, planning, design, delivery and operation, Council:
- seeks to ensure that the cost burden to Council and its ratepayers for the provision of the 'third pipe' network and use of the recycled water is minimised.
  - is supportive in-principle of the Fishermans Bend Framework goals and objectives to deliver a Water Recycling Facility and associated integrated water management infrastructure to service all precincts within Fishermans Bend.
  - is supportive in-principle of the State Government identifying, funding and delivering the infrastructure including engagement with key stakeholders including Council.
  - notes that Council support is focussed on the matter of the planning scheme amendment's land acquisition process only and does not constitute a broader commitment.
  - requests SEW engage with Council outside of the planning scheme amendment process on broader issues related to the design, construction and operation of the facility. These include but not limited to:
    - how the water recycling facility and third pipe network will be funded (both the construction and ongoing operation and maintenance), delivered and operated;
    - how costs associated with the construction and operation of the facility and third pipe network will be minimised to Council and its ratepayers;
    - the area the facility will service and how the water can be used including irrigating open space; and
    - the design of the facility and how it will be delivered.
- 4.27 The proposed Council submission is included at **Attachment 2** for Council consideration and endorsement.



## 5. CONSULTATION AND STAKEHOLDERS

- 5.1 The proposed Water Recycling Facility delivers on the Victorian Government's Fishermans Bend Framework (released 2018) and Fishermans Bend Water Sensitive City Strategy (released 2022), which are publicly released documents.
- 5.2 SEW undertook preliminary consultation in August 2022 prior to requesting the Minister for Planning to prepare the amendment. SEW consulted with the City of Melbourne, City of Port Phillip, Fishermans Bend Taskforce, Port of Melbourne and Melbourne Water as part of the process.
- 5.3 Planning Scheme Amendment C434 has been prepared under Section 20(4) of the Act, exempting the amendment from the usual notice requirements of Sections 17, 18 and 19 of the Act.
- 5.4 Before deciding to exercise their powers under Section 20(4) of the Act the Minister for Planning has decided to notify the Council of the proposed amendment and seeks to understand Council's views as a relevant stakeholder.

## 6. LEGAL AND RISK IMPLICATIONS

- 6.1 As the acquiring authority, SEW will be liable for the delivery of the facility including acquisition of the land and the construction of the facility.
- 6.2 Council's submission includes seek confirmation that there is no undue cost burden on Council and its ratepayers associated with the subsequent delivery and future operation of the water recycling facility and 'third-pipe' recycled water distribution network.
- 6.3 There are limited legal implications for Council generated through this consultative process for the planning scheme amendment, noting the amendment affects the City of Melbourne Planning Scheme.

## 7. FINANCIAL IMPACT

- 7.1 As the acquiring authority, SEW will be liable for costs associated with the compulsory acquisition of the land.
- 7.2 Council's submission will seek to confirm that there is no legal or cost burden on Council associated firstly with the land acquisition process, as well as future delivery and operation of the water recycling facility and network.

## 8. ENVIRONMENTAL IMPACT

- 8.1 The Public Acquisition Overlay (PAO) will facilitate the delivery of the water recycling facility. The delivery of the water recycling facility will have positive impacts on the environment through using recycled water as a substitute for potable water for toilet flushing, laundry and irrigation across all public and private development.
- 8.2 The proposal strategically aligns with water and sustainability goals including:
  - Strategies 5.2.1, 5.2.2 and 5.2.3 of the Fishermans Bend Framework
  - Strategic pillar and priority 2.3.2 of the Fishermans Bend Water Sensitive City Strategy

## 9. COMMUNITY IMPACT

- 9.1 The facility will ultimately provide a water recycling facility service the Fishermans Bend community.



## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Council's Act and Adapt – Sustainability and Environment Strategy 2018-2028 includes Action 33 to '*Support plans for recycled water processing at Fishermans Bend, with water being used by residents and for irrigation of Council reserves*'.
- 10.2 The recommendations of this report are aligned to the Sustainable Port Phillip Strategic Direction within the Council Plan 2021-31.

## 11. IMPLEMENTATION STRATEGY

### 11.1 TIMELINE

- 11.1.1 **Mid-May:** Assuming Council endorses the proposed submission, Council Officers will submit this to the Department of Transport and Planning so that it can be considered by the Minister for Planning;
- 11.1.2 **Mid-May to end of June:** Submissions will be assessed in advance of a Ministerial decision being made in respect to the proposed planning scheme amendment.
- 11.1.3 **Mid-2023:** Submitters, including Council, informed of the Minister's decision on the planning scheme amendment.

### 11.2 COMMUNICATION

- 11.2.1 The Minister's office will be responsible for communicating the decision to Council and the community.

## 12. OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

### ATTACHMENTS

1. Minister for Planning Letter - Council Consultation Request [↓](#)
2. Proposed Council Submission to Amendment C434melb [↓](#)