

1 PAKENHAM HERITAGE AMENDMENT C242 PANEL REPORT RECOMMENDATIONS

FILE REFERENCE INT1940653

RESPONSIBLE GENERAL MANAGER Tracey Parker

AUTHOR Genna Walkley

RECOMMENDATION

That:

1. Council resolves to adopt the recommendations (1 to 5 and 6b) of the Cardinia Amendment C242 Panel Report and modify the documentation for the Planning Scheme Amendment C242.
2. Council resolves to adopt the modified Amendment C242 to the Cardinia Planning Scheme under Section 29 of the *Planning and Environment Act 1987* and submit to the Minister for Planning for approval under Section 31 of the *Planning and Environment Act 1987*.

Attachments

1	Planning Scheme Amendment C242 Post-Panel Documents	70 Pages
2	Cardinia Pakenham Structure Plan Heritage Review (May 2019 Version)	212 Pages
3	Cardinia C242 Panel Report	63 Pages

EXECUTIVE SUMMARY

The Amendment is required to implement the recommendations from the *Pakenham Structure Plan Heritage Review, February 2018 (revised July 2018)*, ensuring that the protection of the Pakenham Activity Centre's cultural, aesthetic and architectural heritage by applying heritage controls to a number of places and precincts. Protecting the municipality's heritage places will assist in understanding Cardinia Shire's past, and enrich the residents of Pakenham's present and protect places for future generations.

The Amendment includes the eight individual places, one group listing and three precincts from the Pakenham Activity Centre to the Schedule to Clause 43.01 Heritage Overlay. The Amendment inserts the *Pakenham Structure Plan Heritage Review (May 2019)* (Heritage Review 2019) as a reference document at Clause 21.02; and updates the Cardinia Residential Heritage Precincts Incorporated Plan by varying the Schedule to Clause 72.04 Incorporated Document with the three proposed Pakenham Precincts.

The Amendment was placed on public exhibition from Thursday 9 August 2018 to Friday 7 September 2018 and during this time, 34 submissions were received. Two submissions requested clarification of the Amendment. Three Submissions support and seek no changes to the Amendment. Two submissions requested changes to the Amendment and have been resolved. 27 submissions oppose the Amendment and remain unresolved. All submissions were referred to an independent planning panel to be appointed by the Minister for Planning. The Panel hearing was held on 27 to 28 March 2019 at Cardinia Shire Council.

On 30 April 2019, the Panel report was received with a number of minor changes recommended to the Amendment.

Officers support the Panel's recommendations and in response to this, it is recommended that the following changes are made to the amendment:

- A reduction to the extent of the Heritage Overlay mapping for two properties
- Update the citation for St James Village Precinct in the Heritage Review 2018 (May 2019)
- Update two exemptions for a planning permit in the Cardinia Residential Heritage Precincts Incorporated Plan; and
- Revise both the Henty Street and James Street Precincts

All of the recommended changes have been made to the Amendment documents.

BACKGROUND

The Amendment was initiated by Action 82 from the Pakenham Structure Plan, which was implemented into the Cardinia Planning Scheme in March 2017 by Amendment C211. The heritage places and precincts identified by the Amendment, were previously identified by the *Pakenham Structure Plan inter-war and post-war heritage study, May 2013*.

A review of the 2013 study was undertaken during 2017, and completed in 2018 and analysed the recommendations and identified places and precincts of the 2013 study. This process either re-affirmed or reduced the significance of the place or precinct. The methodology used in the study was underpinned by the nationally accepted heritage guidelines, The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Heritage Significance (1999).

Amendment C242 is required to implement the recommendations from the *Pakenham Structure Plan Heritage Review, February 2018 (May 2019)*, ensuring the protection of the Pakenham Activity Centre's cultural, aesthetic and architectural heritage by applying heritage controls to the places and precincts listed below.

The Amendment introduces permanent Heritage Overlay's for the places and precincts listed in the study and includes updating the Heritage Overlay Schedule and an Incorporated Document.

Specifically, the Amendment:

- Amends the Schedule to Clause 43.01 Heritage Overlay to apply the Heritage Overlay to the addresses listed below.
- Amends the Cardinia Planning Scheme maps no. 14HO, 15HO and 17HO to include the proposed heritage places and precincts listed below.
- Inserts the *Pakenham Structure Plan Heritage Review (May 2019)* as a reference document at Clause 21.02-6.
- Updates the Cardinia Residential Heritage Precincts Incorporated Plan varying the Schedule to Clause 72.04 Incorporated Document with the three proposed Pakenham Precincts.

Before the Panel Recommendations the Amendment applied to the following Individual places, Group listings and Precincts. An '*' identifies the Heritage Overlays (HO) that are to be modified as a result of the recommendations of the Panel that is discussed later in this report.

Individual places

Proposed HO Number	Address
HO279	18A Henry Street, Pakenham

H0281	49 James Street, Pakenham
H0283	39 Main Street, Pakenham
H0284	62 Main Street, Pakenham
H0285	84 Main Street, Pakenham
H0286*	90-92 Main Street, Pakenham
H0288*	1-7 Station Street, Pakenham
H0290	23 Rogers Street, Pakenham

Group listing

Proposed HO Number	Addresses included in Group Listing
H0287	11, 14, 17 & 5-19 Rogers Street, Pakenham

Precincts

Proposed HO Number	Precinct Name	Addresses included in Precinct
H0291*	St James' Village Precinct	1-23 Dame Pattie Avenue, Pakenham 2-18 Dame Pattie Avenue, Pakenham
H0292*	Henty Street Precinct	3-10 Henty Street, Pakenham
H0293*	James Street Precinct	5-21 James Street, Pakenham 6-32 James Street, Pakenham 1 Snodgrass Street, Pakenham

The Amendment will protect Pakenham Activity Centre's culturally and locally significant, aesthetic and architectural heritage by applying heritage controls to properties and areas of significant value within Pakenham. Protecting the municipality's heritage places will assist in understanding Cardinia Shire's past, and enrich the residents of Pakenham's present and protect places for future generations.

The heritage overlay applies the Victorian Government's policies and reflects our objectives to protect historically significant buildings, precincts, trees, structures and places. These places and precincts contribute to the neighbourhood character and the historical richness of the area.

A Heritage Overlay requires a planning permit to undertake improvements or works for things such as (on rare occasions, internal controls can apply - but none are proposed as part of this Amendment) external alterations, build a front fence, demolishing a property, painting the property and significant tree removal.

The Heritage Overlay does not discourage development, rather retaining heritage properties adds to the character and charm of an area. Heritage buildings can be readapted for new uses and can provide the opportunity to increase density, scale and height in developments, while maintaining the heritage character and façade.

With the loss of a significant amount of heritage in the 1970's and 1980's, particularly in Main St, and most recently in James Street, protecting the remaining heritage within the Pakenham Activity Centre is important.

As an extra protective measure, interim controls have been implemented via Amendment C231 (expires 31 August 2019) which protects the properties and precincts identified in Amendment C242, as the amendment process to apply the permanent heritage controls is lengthy.

The Panel Report

The Panel hearing for Planning Scheme Amendment C242 was held on 27 and 28 March 2019 at Cardinia Shire Council, with Council and five (5) submitters requesting to be heard at the Panel hearing. The submitters raised the following concerns with the Amendment:

- Heritage protection conflicting with structure planning objectives that encourage the redevelopment of the activity centre at greater intensity and scale
- The adequacy of consultation with property owners
- Unreasonable financial impacts, development constraints and permit requirements
- Whether the heritage significance of places warrants protection
- The inconsistent approach adopted whereby Council owned properties were excluded from the Amendment.

The Panel considered that *"the threshold set in the 2013 Heritage Study for the delineation of precincts was too low, and that this resulted in areas with insufficient integrity to warrant inclusion in the HO being incorporated. The 2018 Heritage Review and the authorisation process for the Amendment resulted in a more discerning approach.*

The Panel considered the 2018 Heritage Review, which built on and refined previous assessments, provides a sound basis for the Amendment. It was prepared by a reputable heritage expert and used the widely accepted methodologies and criteria set out in Planning Practice Note 1 Applying the Heritage Overlay, August 2018 (PPN01).

The development of Pakenham has been characterised by buildings modest in both scale and materials. The Panel notes that the rarity of older buildings in Pakenham has the effect of elevating the significance of the places that survive so they reach the threshold of local significance for inclusion in the HO."

The Panel endorses Council's position and the assessments that the Heritage Overlay should apply to most of the places as exhibited, with some exceptions as listed below in their recommendations.

The Panel report was provided to Council on 30 April 2019 and released to the public on Tuesday 28 May 2019.

The Panel report provides the following recommended changes:

The Panel recommends that Cardinia Planning Scheme Amendment C242 be adopted as exhibited subject to the following:

1. *Reduce the extent of the curtilage of the Heritage Overlay for the following places:*
 - *HO288 1 Station Street to apply only to the 1957 two storey building on the corner*
 - *HO286 90-92 Main Street to apply to the shop and dwelling plus three metres of land adjoining the buildings but not the remainder of the property.*
 - *Update the overlay map, the place citation and the schedule to the Heritage Overlay accordingly.*
2. *Revise the citation for HO291 St James' Village Precinct to:*
 - *replace reference to Criterion G (association with a community or cultural group) with Criterion H (association with a person/persons) to recognise the association with the St James Anglican Parish and more recently with Benetas, rather than a particular person.*
 - *include the 2013 Study table of housing with an update to note the different housing types*
 - *refer to aluminium rather than vinyl over-cladding.*
3. *Amend the Cardinia Residential Heritage Precincts Incorporated Plan to add an exemption from permit requirements for the replacement of asbestos with a material of similar appearance.*
4. *Exclude 6 Henty Street from the Henty Street Precinct. Update the mapping of HO292 Henty Street Precinct, the schedule to the Heritage Overlay, the citation and the Cardinia Residential Precinct Incorporated Plan accordingly.*

5. *Revise H0293 James Street Precinct to:*
- *exclude 6-18 James Street*
 - *designate 11 and 28 James Street as non-contributory.*
 - *exclude 21 James Street (individual H0228) from the James Street Precinct map in the Cardinia Residential Precinct Incorporated Plan accordingly.*
 - *Update the mapping, the schedule to the Heritage Overlay, the Cardinia Residential Precinct Incorporated Plan and the place citation accordingly.*

The recommendations of the Panel are supported by Council officers as it provides greater clarity to property owners on how heritage properties or properties adjoining heritage sites are to design and respond to heritage elements at the planning permit application stage. The additional and clarified exemptions for non-contributory and contributory places within the Precincts, as identified by the Incorporated Plan would be appropriate to avoid triggering unnecessary permit applications.

Panel Further Recommendations for Future Work

These additional recommendations by the Panel are considered to be outside the scope of Amendment C242, and therefore have been identified as requiring additional work via a separate process or future work:

Additional recommendations by the Panel	Response
<p>Recommendation 6: Review the drafting of the following exemptions from permit requirements in the Cardinia Residential Heritage Precincts Incorporated Plan to ensure they achieve the intended purpose:</p> <p>a) the floor area of outbuildings b) the height of additions to non-contributory buildings in Pakenham.</p>	<p>6a) Requires further review to ensure the exemption for outbuildings is achieving its intended purpose.</p> <p>6b) Council has reviewed and updated the Incorporated Document to ensure consistency across all precincts for contributory and non-contributory properties by removing reference to the Pakenham Precincts in these specific exemptions. The reviewed and updated exemptions for contributory and non-contributory places within the Precincts, as identified by the Incorporated Plan are appropriate to avoid triggering unnecessary permit applications</p>
<p>Recommendation 7: Reassess the heritage values of the Pakenham Kindergarten and, if appropriate, apply a Heritage Overlay through a separate Amendment process.</p>	<p>Requires further strategic work and further consideration by the Senior Leadership Team and Council.</p>
<p>Recommendation 8: Consider including all Council and other publicly owned properties assessed as having heritage significance in the Heritage Overlay in future heritage amendments.</p>	
<p>Recommendation 9: Consider providing guidance about the transition in built form at interfaces between</p>	<p>Will be addressed as part of Planning Scheme Amendment C228 Pakenham Activity Centre.</p>

<p>new development and heritage places in the Activity Centre Zone or Urban Design Framework to be proposed in Amendment C228.</p>	

Changes to the Amendment

The Amendment documents have been updated to reflect the recommendations of the Panel.

This has resulted in:

- the reduction to the extent of the Heritage Overlay mapping for two properties,
- updated the citation for St James Village Precinct in the Heritage Review 2018 (May 2019 version),
- updated the exemptions (as per recommendation nos. 3 and 6b) for a planning permit in the Cardinia Residential Heritage Precincts Incorporated Plan, and
- revised both the Henty Street and James Street Precincts.

Next steps

We are at **Stage 4** of the Planning Scheme Amendment Process as detailed below in Figure 1.

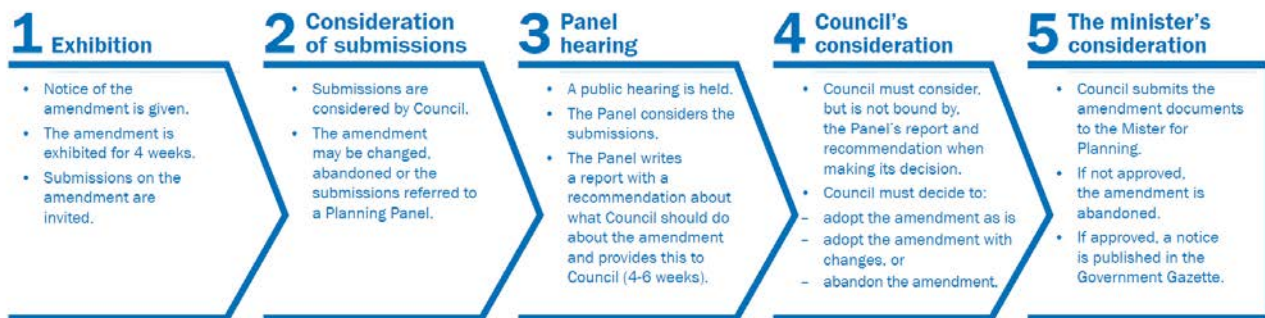


Figure 1. Steps in the Planning Scheme Amendment process

Following adoption of the modified amendment documentation, Council officers will prepare the final documents and submit these to the Minister for Planning for Approval (**Stage 5**). Approval timeframes of the Amendment cannot be confirmed and are subject to processes undertaken by DELWP.

POLICY IMPLICATIONS

Plan Melbourne 2017-2050 - Metropolitan Planning Strategy

Plan Melbourne is the Metropolitan Planning Strategy for Melbourne and sets the vision for and guides Melbourne's growth through the year 2050. It identifies heritage as being relevant to the Pakenham Activity Centre by preserving heritage while the next generation of growth is planned to complement existing communities and create attractive new neighbourhoods.

The relevant directions and policies of Plan Melbourne are as follows:

- Direction 4.4 of Plan Melbourne to 'Respect Melbourne's heritage as we build for the future'
- Policy 4.4.1. 'Recognise the value of heritage when managing growth and change' – 'with all three levels of government sharing responsibility for protecting Melbourne's post-settlement cultural heritage, decision making must be consistent and credible and be based on clear and widely accepted heritage conservation principles and practices'.

Planning Policy Framework

Clause 15.03 *Heritage* of the Planning Scheme encourages the conservation of places of natural, environmental, aesthetic, historic, cultural, scientific or social significance as a means of maintaining and enhancing Victoria's image and cultural growth.

The amendment supports the objectives of these policies by including the identified heritage places and precincts into the Schedule to the Heritage Overlay and the three precincts into the Incorporated Plan, which provides various planning controls.

Local Planning Policy Framework

Clause 21.01 identifies 'the protection and enhancement of areas and places of heritage significance' as a key issue for the municipality.

Clause 21.02-6 Post-contact heritage 'provides for the protection and appropriate management of sites of heritage significance'.

Clause 81.01 Cardinia Shire Pakenham Structure Plan 2017 is an incorporated document which guides the development in the Pakenham Town Centre and specifically mentions the protection and preservation of Heritage properties.

The implementation of this amendment will ensure Cardinia Shire's heritage places are preserved, protected and managed now and into the future.

RELEVANCE TO COUNCIL PLAN

The proposed amendment fulfils the following objective and actions from the Council Plan.

3. Our Environment

3.5. Balanced needs of development, the community and the environment.

- Action 3.5.1. Review the Municipal Strategic Statement and the Cardinia Planning Scheme regularly to ensure it continues to meet Council objectives.
- Action 3.5.2. Plan for the development of the urban growth area with a mix of residential, commercial, employment, recreational and community activities to meet the needs of our growing community in a sustainable way.
- Action 3.5.3. Provide for the sustainable development of rural townships while taking into account their existing character and community needs.

CONSULTATION/COMMUNICATION

The Amendment was placed on public exhibition from Thursday 9th August 2018 to Friday 7 September 2018. At the conclusion of the public exhibition period 34 submissions were received plus two responses from referral authorities.

All submitters have received email or letter notification of the release of the Panel report and will receive the outcome of this General Council Meeting 17 June 2019.

FINANCIAL AND RESOURCE IMPLICATIONS

The Amendment has been funded out of the operating budget of the Strategic Planning department 2018-2019. The application of the Heritage Overlay and Incorporated Provisions for Heritage

Precincts provides a clear policy framework to assist Council planners when assessing and making decisions on applications in the Pakenham Activity Centre.

CONCLUSION

The changes made to the Amendment recommended by the Panel (1 to 5 and 6b) include a reduction to the extent of the Heritage Overlay mapping for two properties, update the citation for St James Village Precinct in the Heritage Review 2018 (May 2019 version), update the exemption for a planning permit in the Cardinia Residential Heritage Precincts Incorporated Plan, and revise both the Henty Street and James Street Precincts. All changes have been made to the Amendment documents (Attachment 1).

The approval of Amendment C242 will protect and conserve the heritage properties located in or directly adjoining the Pakenham Activity Centre for future generations. Therefore, it is recommended that Council resolve to adopt the modified Amendment C242 to the Cardinia Planning Scheme under Section 29 of the Act and submit to the Minister for Planning for approval under Section 31 of the Act.