

2 CARDINIA PLANNING SCHEME AMENDMENT C244 - PAKENHAM PARKING OVERLAY

FILE REFERENCE INT1940696

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RECOMMENDATION

That:

1. Council adopts the updated *Pakenham Parking Precinct Plan 17 June 2019* in accordance with Attachment 2.
2. Council adopts Amendment C244 to the Cardinia Planning Scheme with changes under Section 29(1) of the *Planning and Environment Act 1987* generally in accordance with Attachment 4.
3. Council submits adopted Amendment C244 to the Minister for Planning for approval under Section 31(1) of the *Planning and Environment Act 1987*.
4. Council advise all submitters to Amendment C244 of Council's resolution.

Attachments

1	Copy of Council's Response to Submissions	3 Pages
2	Pakenham Parking Precinct Plan - Final	75 Pages
3	Pakenham Parking Precinct Plan - Tracked Changes	57 Pages
4	Planning Scheme Amendment C244 Documents	29 Pages
5	Panel Report - Cardinia Planning Scheme Amendment C244 - Pakenham Parking Overlay	16 Pages

EXECUTIVE SUMMARY

The purpose of this report is for Council to consider the recommendations of the Ministerial Planning Panel and adoption Amendment C244 to the Cardinia Planning Scheme.

The Pakenham Parking Precinct Plan (PPPP) was initially prepared following concerns raised by the community during the preparation of the Pakenham Structure Plan (March 2017). Council first adopted the PPPP in December 2017. An updated version was adopted on 21 May 2018 following community consultation.

A key action of the PPPP is to apply a Parking Overlay to the commercial areas of the Pakenham Activity Centre. Accordingly, on 21 May 2018, Council also resolved to seek Ministerial authorisation to prepare and exhibit Amendment C244 to the Cardinia Planning Scheme.

Amendment C244 was exhibited from 4 October to 6 November 2018. Six submissions were received: one submission did not object and sought no change; one submission sought a change; four submissions opposed the Amendment.

At its meeting on 18 February 2019 Council considered all submissions and resolved to make changes to Amendment C244 and refer all submissions to an independent Ministerial Planning Panel for consideration.

The Panel considered all written submissions and Council's response to those submissions and has provided its report to Council. The Panel recommends Amendment C244 be adopted as exhibited with changes.

Council officers have considered the Panel Report and recommend that Amendment C244 is adopted with changes outlined in this report and summarised in the conclusion, and is then submitted to the Minister for Planning for approval.

BACKGROUND

During the preparation of the *Pakenham Structure Plan, March 2017*, the community raised concerns about traffic movement and insufficient car parking supply within the Pakenham Activity Centre. As a result, the *Pakenham Parking Precinct Plan* (PPPP) was prepared by Salt3 Traffic Engineers in conjunction with Council officers and a community reference group. Council first adopted the PPPP in December 2017. An updated version was adopted on 21 May 2018 following community consultation.

A key action of the PPPP is to apply a Parking Overlay to the commercial areas of the Pakenham Activity Centre. Accordingly, on 21 May 2018, Council also resolved to seek Ministerial authorisation to prepare and exhibit Amendment C244 to the Cardinia Planning Scheme.

The Pakenham Activity Centre is located close to the designated growth area of outer south-east Melbourne, and is expected to experience strong growth as identified in the *Pakenham Structure Plan (2017)*. In response to this growth, additional strategies and controls are needed to manage the impacts of expected new development, including addressing the forecast car parking implications.

What does Amendment C244 do?

Amendment C244 seeks to implement the objectives of the PPPP by introducing a Parking Overlay into the Cardinia Planning Scheme and applying Schedule 1 to the Parking Overlay to the Pakenham Activity Centre. These controls will provide greater statutory guidance for applicants and planners relating to car parking infrastructure within the activity centre.

The proposed Schedule 1 to the Parking Overlay includes a statutory mechanism for Council to collect financial contributions which are to be paid in lieu of providing car parking spaces. The funds collected through this financial contribution scheme must be used to upgrade Council owned public car parking facilities.

The proposed Parking Overlay will also assist Council to better manage the car parking assessment process for new developments.

Exhibition and Submissions

Amendment C244 was exhibited from 4 October to 6 November 2018. Six submissions were received: one submission did not object and sought no change; one submission sought a change; four submissions opposed the Amendment.

Post exhibition changes to the Amendment

In response to submissions, changes were made to the *Pakenham Parking Precinct Plan, May 2018* and the Amendment documents. Changes were also made in response Victorian Planning Provisions that had been amended via Amendment VC148, as well as some other minor corrections. As the changes were minor in nature, the intent of the documents did not change.

Council considered all submissions at its meeting on 18 February 2019. A copy of Council's consideration and response to submissions is contained in Attachment 1.

Council resolved to:

- Endorse the following changes to the PPPP and the Amendment Documents.
 - Inclusion of appendix 1 and 2 in the PPPP which were not provided in the current adopted version;
 - Minor formatting and typographical changes to the PPPP;
 - Updating of Section 2 of the PPPP in accordance with Amendment VC148;
 - Inclusion of details in the PPPP on the Principal Public Transport Network Area as introduced by Amendment VC148;
 - Noting in the PPPP Action Plan that Actions 3 and 12 have now been completed;
 - Amended wording in Section 7 of the PPPP which provides additional information and actions to strengthen the role of enforcement within the Pakenham Activity Centre;
 - Inserting a new Section 2.2.5 in the PPPP to acknowledge existing car parking credits and how they will be taken into consideration; and
 - Inserting a requirement for an empirical car parking demand assessment to be submitted as part of an application for a permit under Clause 45.09 in the Schedule 1 to Clause 45.09.
- Refer all submissions to an independent Ministerial Planning Panel for consideration.

The Ministerial Planning Panel and Report

Directions Hearing

The Panel held a Directions Hearing on 22 March 2019 which was attended by Council officers and no submitters.

Council Officers advised the Panel that, in addition to the changes that were resolved by Council, a further change had been made to the Amendment Documents to correct the exhibited Parking Overlay Map which had incorrectly included residentially zoned properties on the corner of Henry Street and Slattery Place.

The Panel advised Council officers that it had not received a 'request to be heard' from any submitter.

On 1 April 2019, Planning Panels Victoria advised Council that the Panel would consider all submissions, and Council's response to those submissions, 'on the papers' as the submitters had not made a request to be heard. Accordingly, no Panel Hearing was held.

Panel Report

Council received the Panel Report on 29 April 2019, and DELWP made it public on 27 May 2019. The Panel Report can be found at attachment 5.

Issues raised by submissions

The Panel summarised the issues requiring consideration as follows:

- **Private parking** (Increased number of cars parking in private car parks due to car parking waivers)
- **Nexus** (Nexus and identification of projects to be funded to proper planning purposes)
- **Empirical analysis** (Empirical analysis of car park utilisation and predicted demand)
- **Column B rates in clause 52.06** (Application of Clause 52.06 Column B car parking rates)
- **Recognition of prior car parking payments**
- **Parking permits** (Parking permit for traders and staff)

- **Exemption of not for profit organisations**

In summary, in its consideration of these issues, the panel made the following conclusions and recommendations.

Increased number of cars parking in private car parks due to car parking waivers

The Panel was satisfied that the Amendment will facilitate appropriate consideration of whether car parking waivers should be allowed, will ensure improved car parking will be provided, and that Council's undertaking to improve enforcement in private car parks will encourage turnover. The Panel recommended no change to the Amendment.

Nexus and identification of projects to be funded to proper planning purposes

In relation to properly identifying projects to be funded by cash contributions, the Panel concluded that it is not adequate for the proposed schedule 1 to make reference to Figure 16 (previously Figure 3) in the PPPP, or "other initiatives in Pakenham Activity Centre outlined in the Pakenham Parking Precinct Plan", as this is unacceptably vague and could allow for the PPPP to be changed without a planning scheme amendment and change the whole nature of the cash-in-lieu scheme. The Panel concluded that this does not accord with Planning Practice Note 57 - The Parking Overlay. The Panel therefore recommended that specific projects to be funded by cash contributions be listed in the proposed schedule 1. Officers' response to this recommendation is discussed in the next section of this report.

Planning Practice Note 57 - The Parking Overlay requires that projects must demonstrate nexus to proper planning purposes. The Panel concluded that Actions 7, 8 and 9 of the PPPP, relating to the James Street and Drake Place car park upgrades, satisfy this nexus. These three projects are depicted Figure 16 (previously Figure 3) of the PPPP. The Panel recommended that these three Actions should be specifically listed as projects in the proposed schedule 1. Officers' response to this recommendation is discussed in the next section of this report.

In relation to 'other projects' in the PPPP relating to pedestrian movements and electrical bike charging stations, the Panel stated that these meet the nexus principle of the Practice Note for 'proper planning purposes', but because these are listed for future consideration when the PPPP is reviewed in 5 years' time, should not be included as specific projects in the proposed schedule 1 at this time. Officers' response to this discussion is discussed in the next section of this report.

Empirical analysis of car park utilisation and predicted demand

The Panel supported Council's response which was to amend the Amendment C244 to include a requirement in the proposed schedule 1 for an empirical assessment of car park utilisation and predicted demand to be submitted with permit applications. The Panel recommended no further change to the Amendment.

Application of Clause 52.06 Column B car parking rates

The Panel supported Council's application of Column B car parking rates, stating that it is the correct rate to be applied as set-out by Clause 52.06 and the Practice Note. The Panel recommended no change to the Amendment.

Recognition of prior car parking payments

The Panel concluded that Clause 52.06-7 provides for sufficient consideration of car parking payments made in the past and noted that Council had added text from Clause 52.06-7 regarding this matter in Section 8.2 of the PPPP. The Panel recommended no further change to the Amendment.

Parking permits for traders and staff

The Panel noted that the PPPP states that Council will consider providing parking permits to traders and staff to enable them to park for longer time periods closer to their premises. The panel recommended no change to the Amendment.

Exemption of not for profit organisations

The Panel stated that there is nothing in the Amendment that will impose costs on the not for profit organisation or its clients and that the PPPP recommends that Council considers paid parking in the activity centre at the five year review of the Plan but that will be subject to a future process. The

Panel also stated that if the not for profit organisation sought to redevelop the site and provided on-site parking as required by the planning scheme, a cash contribution would not be required. The Panel recommended no change to the Amendment.

Other matters raised by the Panel

References within the proposed schedule 1 to Clause 45.09

The Panel stated that the two references in the application requirements and decision guidelines to Clause 45.09 should rather be to Clause 52.06. It was recommended that these two references be reviewed. Officers' response to this recommendation is discussed in the next section of this report.

Administrative corrections

The panel recommended that:

- The notation on proposed Parking Overlay maps 14, 15 and 17 be amended from PO to PO1.
- The header in the PPPP be revised to ensure the correct date is entered.
- The pagination of the PPPP is checked to ensure figure and table numbers and titles are in the correct position.

Officers' response to this recommendation is discussed in the next section of this report.

Response to the Panel Report

Response to the Panel's recommendations

All recommendations of the Panel are accepted.

The reference and administrative corrections to the proposed schedule 1 and the PPPP that were raised by the Panel have been made to the Amendment Documents as recommended.

Officers' agree that listing Actions 7, 8 and 9 of the PPPP in the proposed Schedule 1 to Clause 45.09 as specific projects that can be funded by cash contributions, will provide more transparency and clarity to those who are required to make cash-in-lieu payments. This approach aligns more closely with Planning Practice Note 57 - The Parking Overlay.

As per the Panel's recommendations, the Amendment documents have been changed by replacing the generic dot-points at section 5.0 of the proposed Schedule 1 to Clause 45.09 with Actions of the Pakenham Parking Precinct Plan (June 2019) as specific projects, as follows:

- *Action 7: Upgrade the Council owned James Street Car Park as Stage 1 (ensuring that the any upgrade allows for the development of the site for commercial, at the ground floor, providing for decked car parking on top) lighting improvements and ongoing maintenance.*
- *Action 8: Upgrade the Council owned Drake Place car park, undertaking lighting improvements and ongoing maintenance.*
- *Action 9: Progress conceptual planning and design for the James Street and Drake Place car park sites and prepare cost estimates for financial contributions.*

Response to the Panel's discussion on 'other projects'

The Panel also discussed 'other projects' in the PPPP relating to pedestrian movements and electrical bike charging stations. The Panel concluded that these could be projects that meet the principle of nexus for 'proper planning purposes' required by the Planning Practice Note 57 - The Parking Overlay, but stated that as these are listed for future consideration when the PPPP is reviewed they should not be included in the proposed schedule 1 as projects.

Officers agree with the Panel's comments, accept that it is only electrical bike charging stations that are listed for future consideration when the PPPP is reviewed in five years' time. Although not listed as an explicit Action of the PPPP, the content of the exhibited Amendment Documents (the PPPP, the Explanatory Report, and proposed Schedule 1) made clear Council's intention to use cash contributions to fund other projects relating to other parking improvement measures, such as pedestrian movements.

To ensure that these other parking improvement measures can be achieved, text in the PPPP has been amended to be more explicit about funding improved pedestrian connections and way-finding signage, access to public transport, cycle paths and end-of-trip facilities. A new Action 10 has been included in the PPPP to provide complete clarity as follows:

- *Action 10: Through future cash in lieu contributions, deliver improved access to public transport, pedestrian connections and wayfinding signage, cycling paths and lanes, and end of trip facilities*

Action 10 has also been added to Section 5.0 of the proposed Schedule 1 to Clause 45.09 as a specific project, as follows:

- *Action 10: Deliver improved access to public transport, pedestrian connections and way-finding signage, cycling paths and lanes, and end of trip facilities.*

This will ensure cash in lieu contributions can be used to fund the delivery of other parking improvement measures that aim to reduce congestion in Main Street by:

- identifying where Council owned car parks are located on the periphery of the activity centre
- encouraging use of Council owned car parks to reduce reliance on car parking within high demand and high occupancy areas.
- reducing car parking dependency by encouraging alternative transport options.
- providing safe and accessible pedestrian connections to and from Council owned car parks.

Action 10 is also important to ensure that smaller parking improvement projects can be undertaken in the interim as funds become available through the cash in lieu scheme rather than waiting until a large fund is built up to deliver the larger actions. This will allow the Pakenham Activity Centre to see some benefit of the funds in the short term.

Given the above, it is considered that Action 10 is for 'proper planning purposes' and accords with both the Panel Report and Planning Practice Note 57 - The parking Overlay.

The revised Amendment C244 Documents are included as Attachment 4.

Next Steps

We are at the final stage 4 of the Planning Scheme Amendment process.

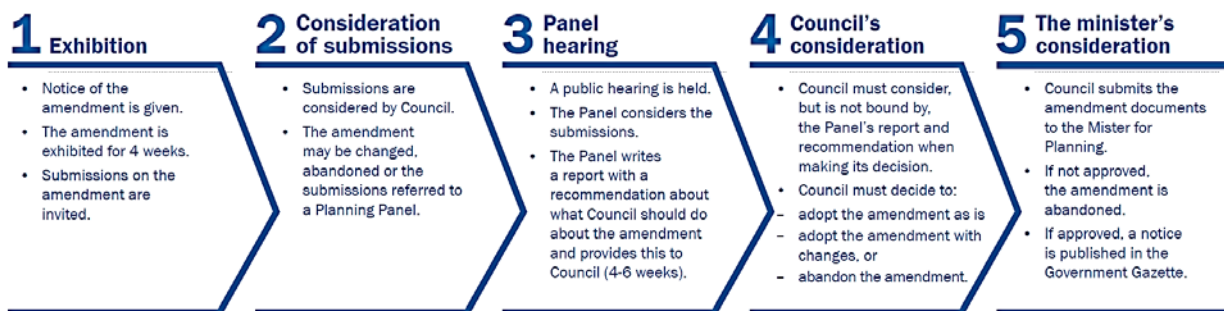


Figure 1. Steps in the Planning Scheme Amendment process

As detailed in Figure 1 above, after considering the Panel Report and its recommendations, Council must decide whether to:

- abandon the amendment;
- adopt the amendment with changes; or
- adopt the amendment with no changes.

If Council resolves to adopt the Amendment with changes as recommended, officers will finalise the Amendment Documents and submit these to the Minister for Planning for Approval (Stage 5). Ministerial Approval timeframes cannot be confirmed and are subject to DELWP's internal processes.

POLICY IMPLICATIONS

A full strategic assessment of Amendment C244 against all relevant policies can be found in the Explanatory Report in Attachment 4.

RELEVANCE TO COUNCIL PLAN

The following key actions within the 2018-19 Council Plan are relevant:

Section 3 Our Environment is relevant of which the objective is: *we will continue to plan and manage the natural and built form environment for present and future generations.*

- *Action 3.2.3 Develop transport networks that incorporate effective public transport.*
- *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.*

Section 3 Our Economy is relevant, of which the objective is: *we will create and support local employment and business opportunities for our community and the wider region.*

- *Action 4.1.2 Support the development of existing and new businesses within the Shire.*
- *Action 4.1.4 Plan the development of Officer and Pakenham town centres.*
- *Action 4.3.3 Advocate for the delivery of small and large scale projects that enhance and drive economic activity.*

Section 5 Our Governance is relevant, of which the objective is: *we will consult with the community, as appropriate, in an open and accountable way to help in the key direction of Council.*

- *Action 5.3.1 Make financial decisions that achieve the objectives of Council and long term financial sustainability.*
- *Action 5.3.2 Make financial decisions that are fair and ethical and balance the costs and benefits between present and future generations.*

CONSULTATION/COMMUNICATION

All submitters have received either email or post notification of the release of the Panel Report.

FINANCIAL AND RESOURCE IMPLICATIONS

The Amendment process has been funded by the operating budget of the Policy, Design and Growth Area Planning Department.

There is no statutory mechanism in the planning scheme at present to allow Council to generate funds to improve and increase the parking inventory in the Pakenham Activity Centre. A parking overlay is required to allow Council to collect financial contributions to fund the construction of car parking facilities and improvements.

CONCLUSION

Amendment C244 will provide greater statutory guidance for applicants and planners relating to car parking infrastructure within and around the Pakenham Activity Centre. The proposed Schedule 1 to the Parking Overlay includes a statutory mechanism for Council to collect financial contributions

which are to be paid in lieu of providing car parking spaces. The funds collected through this financial contribution scheme must be used to construct new public car parking facilities and improvements to existing public car parks, as well as measures to address other parking issues.

As confirmed by the Panel Report, the Amendment is strategically justified. In addition to some minor corrections, the Panel Report recommends a change to the Amendment whereby specific actions contained in the *Pakenham Parking Precinct Plan (June 2019)* are listed in the proposed Schedule 1 to Clause 45.09 as the projects that will be funded by the cash in lieu contributions. All recommendations of the Panel are accepted.

Based on the Panel Report's discussion on projects and nexus, to clarify that cash in lieu contributions will fund other improvements that help reduce car parking dependency and improve access to and from Council owned car parks located on the periphery of the activity centre, an additional action has been added to both the *Pakenham Parking Precinct Plan (June 2019)* and the proposed Schedule 1 to Clause 45.09.

It is recommended that Council adopts Amendment C244 to the Cardinia Planning Scheme as exhibited, subject to the following changes:

Post-exhibition changes endorsed on 18 February 2019 by Council:

- Inclusion of appendix 1 and 2 in the PPPP which were not provided in the current adopted version;
- Minor formatting and typographical changes to the PPPP;
- Updating of Section 2 of the PPPP in accordance with Amendment VC148;
- Inclusion of details in the PPPP on the Principal Public Transport Network Area as introduced by Amendment VC148;
- Noting in the PPPP Action Plan that Actions 3 and 12 have now been completed;
- Amended wording in Section 7 of the PPPP which provides additional information and actions to strengthen the role of enforcement within the Pakenham Activity Centre;
- Inserting a new Section 2.2.5 in the PPPP to acknowledge existing car parking credits and how they will be taken into consideration; and
- Inserting a requirement for an empirical car parking demand assessment to be submitted as part of an application for a permit under Clause 45.09 in the Schedule 1 to Clause 45.09.

Pre-Panel changes submitted to the Panel at the Directions Hearing on 22 March 2019:

- Correction of the exhibited Parking Overlay Map to remove the residentially zoned properties on the corner of Henry Street and Slattery Place which had been incorrectly included.

Post-Panel changes in accordance with Panel recommendations:

- In the proposed schedule 1, the two references in the application requirements and decision guidelines are amended to refer to Clause 52.06 rather than Clause 45.09.
- Notation on the proposed Parking Overlay map is amended from PO to PO1.
- The header in the Pakenham Parking Precinct Plan is amended to show the correct date, being the date of Council's adoption of the updated Plan (17 June 2019).
- Pagination of the Pakenham Parking Precinct Plan is updated so that figure and table numbers and titles are shown in the correct position.
- Replace the generic dot-points at section 5.0 of the proposed Schedule 1 to Clause 45.09 with Actions of the Pakenham Parking Precinct Plan (June 2019) as specific projects, as follows:
 - Action 7: Through future cash in lieu contributions upgrade the Council owned James Street Car Park as Stage 1 (ensuring that the any upgrade allows for the development of the site for commercial, at the ground floor, providing for decked car parking on top) lighting improvements and ongoing maintenance.
 - Action 8: Through future cash in lieu contributions, upgrade the Council owned Drake Place car park, undertaking lighting improvements and ongoing maintenance.
 - Action 9: Progress conceptual planning and design for the James Street and Drake Place car park sites and prepare cost estimates for financial contributions.

Post-Panel changes in addition to Panel recommendations:

- Amending the PPPP to be more explicit about using cash in lieu contributions for improved pedestrian connections and way-finding signage, access to public transport, cycle paths and end-of-trip facilities.

- Adding new Action 10 the PPPP, as follows:
 - Action 10: Through future cash in lieu contributions, deliver improved access to public transport, pedestrian connections and wayfinding signage, cycling paths and lanes, and end of trip facilities
- At section 5.0 of the proposed Schedule 1 to Clause 45.09 include the following Action of the Pakenham Parking Precinct Plan (June 2019) as a specific project:
 - Action 10: Deliver improved access to public transport, pedestrian connections and way-finding signage, cycling paths and lanes, and end of trip facilities.