

**TOWN PLANNING****1 CARDINIA PLANNING SCHEME AMENDMENT C209 AND CONCURRENT PLANNING PERMIT P1502 FOR A TWO LOT SUBDIVISION**

FILE REFERENCE INT1716324

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**RECOMMENDATION**

1. That Council split Amendment C209 into two parts
2. That Council adopts Part A of the Amendment C209 under Section 29 of the Planning and Environment Act 1987 (The Act) and submit it to the Minister for Planning for approval under Section 31 of the Act.
  - Part A proposes to rezone Oaktree Drive road reserve from Road Zone Category 2 (RDZ2) to Public Park and Recreation zone and apply the Design and Development Overlay (DDO1) and Vegetation Protection Overlay (VPO1) to the land proposed to be rezoned and rezone the existing Council owned land within the Pakenham Golf Course that is zoned Road Zone category 2 to Public Park and Recreation zone.
3. That Council abandon Part B of the amendment under Section 28 of the Planning and Environment Act 1987 and advise the Minister for Planning in writing of its decision. Part B of the amendment proposed to:
  - Rezone part (proposed to be Lot 1 PS743978C) of the land from a Public Park and Recreation Zone (PPRZ) and the land in the Oaktree Drive road reserve from Road Zone Category 2 (RDZ2) to Low Density Residential Zone Schedule 3 (LDRZ3), allowing a minimum subdivision size of 0.2 hectares. Apply the Design and Development Overlay (DDO1) and Vegetation Protection Overlay (VPO1) to the land proposed to be rezoned
  - 1, 3, 5, 7, 9, 11 and 13 Ryan Road Pakenham and 1, 2, 3, 4, and 5 Johanna Court Pakenham
  - Remove the land from Schedule 1 to the LDRZ and include it in Schedule 3 to the LDRZ to include the land providing for a minimum subdivision of 0.2 hectare.
  - 62 Cameron Way, Pakenham- Rezone land in the existing Oaktree Drive road reserve (to be known as Proposed Lot 2 PS743978C) from Road Zone Category 2 to Public Park and Recreation Zone.
  - Planning Permit Application P1502 - Consider concurrently planning permit application P1502 for a two lot subdivision (boundary realignment), to Council owned land to create a lot at 25 Oaktree Drive to include the land to be rezoned to LDRZ3, with the balance lot to contain land in the PPRZ.

**Attachments**

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## EXECUTIVE SUMMARY

Council exhibited planning scheme Amendment C209 to make the following changes to the Cardinia Planning Scheme and consider concurrently Planning Permit P1502 in accordance with The Deep Creek Master Plan 2010, as follows:

### **25 Oaktree Drive, Pakenham:**

- Rezone part (proposed to be Lot 1 PS743978C) of the land from a Public Park and Recreation Zone (PPRZ) and the land in the Oaktree Drive road reserve from Road Zone Category 2 (RDZ2) to Low Density Residential Zone Schedule 3 (LDRZ3), allowing a minimum subdivision size of 0.2 hectares.
- Apply the Design and Development Overlay (DDO1) and Vegetation Protection Overlay (VPO1) to the land proposed to be rezoned.

1, 3, 5, 7, 9, 11 and 13 Ryan Road Pakenham and 1, 2, 3, 4, and 5 Johanna Court Pakenham: Remove the land from Schedule 1 to the LDRZ and include it in Schedule 3 to the LDRZ to include the land providing for a minimum subdivision of 0.2 hectare.

### **62 Cameron Way, Pakenham:**

Rezone land in the existing Oaktree Drive road reserve (to be known as Proposed Lot 2 PS743978C) from Road Zone Category 2 to Public Park and Recreation Zone.

### **Planning Permit Application P1502**

Consider concurrently planning permit application P1502 for a two lot subdivision (boundary realignment), to Council owned land to create a lot at 25 Oaktree Drive to include the land to be rezoned to LDRZ3, with the balance lot to contain land in the PPRZ.

The amendment was placed on public exhibition between 24 June 2016 until the 31st August 2016, for a period of seven weeks and at the conclusion of the exhibition period 13 submissions were received.

The matter was referred to an independent panel appointed by the Minister for Planning for consideration. The Panel hearing was held on 17 Nov 2017. The panel recommended the approval of the rezoning of the land within the Oak Tree Drive Road Reserve zoned Road Zone Category 2 and part of the Golf Course zone Road zone Category 2 to be rezoned to the relevant adjoining zone, Public Park and Recreation zone. The Panel also recommended that the balance of the amendment with rezones part of the existing golf course from Public Park and Recreation Zone to Low Density Residential Schedule 3 and a two lot subdivision of part of the golf course, and rezoning the Low Density Residential Land 1, 3, 5, 7, 9, 11 and 13 Ryan Road Pakenham and 1, 2, 3, 4, and 5 Johanna Court Pakenham, as well as the proposed two lot subdivision of the land to not be supported and therefore should be abandoned.

## BACKGROUND

Amendment C209 sought to

- Implement The Deep Creek Master Plan adopted by Council on the 20th September 2010.
- Allow for surplus Council land to be rezoned to Low Density Residential Zone and the application of the Vegetation Protection Overlay and Design and Development Overlay consistent with adjoining land.
- Allow for the appropriate application of a schedule to the Low Density Residential Zone consistent with serviced land with limited environmental constraints allowing for suitable housing choice within the urban growth boundary.

- Allow for Council owned land that was previously earmarked for a road widening that is no longer required to be incorporated into the adjacent public open space.

The Deep Creek Reserve Master Plan was developed after a comprehensive consultation process with all Government stakeholders and the local community. The Master Plan contains the following features:

- Passive recreation, including a 2.8 kilometre walking trail and linkages with adjacent recreational trail networks.
- Revegetation of endangered plant communities and creation of threatened wildlife habitat over more than 20 hectares.
- Sustainably manage threatened species including the Growling Grass Frog located on site and provide direction for environmental activities while managing fire hazard obligations.
- Siting all development features around a retarding basin area of 5.4 hectares that is required to be developed by Melbourne Water.
- Extension of golf course by two holes into the Greenfield area
- The redevelopment and relocation of the golf course club house with a catering, community spaces and function room combined with a sustainable living eco-centre and associated car park, at the southern end of the golf course.
- Consideration of future uses of 2.7 hectares of land if the golf course club house is to be relocated.
- Recreational facilities including, playground, BBQ, toilets, community garden area and informal kick around area.
- Possible relocation of the Cardinia Environment Coalition to the sustainable living eco-centre.
- Introduction of a native nursery for provision of plant stock to natural reserves.
- Providing clear direction on recreational access points, including potential access through private property and the railway line.
- A 9.4 hectare area of private land south of the railway line that Melbourne Water is seeking to acquire for flood mitigation and a biodiversity link.
- Identification that there is a need to increase permanent surveillance over the site to sustainably manage infrastructure in the reserve.

The master plan has identified that Council funding is limited and external funding is required for the development proposals to be achieved. During the development of the Deep Creek Master Plan two parcels of land within the Pakenham Golf Course have been identified as surplus land, being:

- Parcel 1 contains the existing club house. It is bordered by the Princes Highway to the north, Oak tree Drive to the west, vacant land in private ownership to the east and the golf course fairways to the south. The area available is approximately 2.5 hectares.
- Parcel 2 is an unused area of the golf course. It is located on the eastern boundary is land locked and not serviced by any infrastructure. The land to the north, east and south is privately owned properties, with the land to the south being part of the golf course. The area available is approximately 1.9 hectares.

All land within the golf course is currently zoned Public Park and Recreation Zone (PPRZ). It was proposed to rezone two parts of the land to allow development of the land for future residential purposes.

## POLICY IMPLICATIONS

It was considered that the amendment complied with the Victorian Planning Provisions, through the application of underlying zoning and overlays to existing Council land identified as surplus and the application of an appropriate schedule to the Low Density Residential Zone allowing a minimum subdivision area of 0.2 hectares for the area serviced by reticulated sewerage with no environmental constraints consistent with the Planning Practice Note 78 - June 2015 -Applying the Residential Zones.

The amendment was based on the view that it satisfied the relevant policies of the State Planning Policy Framework, in particular:

Clause 11 (Settlement) requires that planning to is anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Clause 13 (Environmental Risks) requires that planning should adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. More specifically;

Clause 15 (Built environment and heritage) requires that planning should ensure that all new land use and development appropriately responds to its landscape, valued built for and cultural context, and protect places and sties with significant heritage, architectural, aesthetic, scientific and cultural value. More specifically;

Clause 16 (Housing) acknowledges that planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure. More specifically;

Clause 19.03-2 (Water supply, sewerage and drainage) identifies the need to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment. Strategies to address this objective include providing for sewerage at the time of subdivision, or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.

The amendment sought to facilitate as appropriate zoning of public land and satisfies the relevant policies of the Municipal Strategic Statement and the Local Planning Policy Framework, in particular:

- Clause 21.01-3 (Key Issues) provides for the provision of infrastructure which meets the needs of the existing and future community.
- Clause 21.02-5 (Open space) acknowledges that Cardinia Shire has a significant amount of regional open space and significant waterways and streams that provide passive open space linkages. It is also recognised that land is provided and developed for a range of open space functions to meet community needs for active and passive open space.
- Clause 21.03 - (Settlement and Housing) recognises that housing within Cardinia Shire is currently dominated by detached dwellings in both urban and rural areas. Objectives to address this issue include to encourage a diversity in housing to meet the needs of existing and future residents, and to encourage the provision of housing to cater for groups within the community with specific housing requirements.
- Clause 22.04-2 (Housing choice and affordability) seeks to provide a diversity of housing in defined locations that cater for different households and are close to jobs and services. This is to be achieved through measures including reducing the cost of living by increasing housing supply near services and public transport.

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## RELEVANCE TO COUNCIL PLAN

The rezoning sought to implement a number of directions of the Council Plan including improved health and wellbeing for all through the provision of active and passive recreation facilities to meet the needs of residents, increases opportunities for participation in a range of sport, recreation and leisure activities and develops new parks gardens and reserves in a sustainable manner.

## CONSULTATION/COMMUNICATION

Amendment C209 to the Cardinia Planning Scheme was placed on public exhibition from the 24th June 2016 to the 1 August 2016. Council became aware that a plan demonstrating the proposed subdivision of the land into two lots (boundary realignment) was omitted from the exhibition documents. Based on this occurrence, the exhibition of Amendment C209 and concurrent planning permit P1502 was extended for two weeks until Wednesday 31st August 2016.

Notice of the Amendment was given by direct mail to all residents living adjacent, government departments and service authorities while a notice was placed in the Pakenham-Berwick Gazette. The amendment was also made available for viewing at the Pakenham Library and Cardinia Shire Council.

At the conclusion of the exhibition period 13 submissions were received, of which three were from referral agencies.

Most of the submissions object to the amendment, while 4 supported the amendment, with 2 submissions requesting their properties to be included as the part of the rezoning to allow their land to be rezoned to 0.2 hectares.

At the September 2016 Council meeting, Council recommended that the matter be referred to an independent planning panel appointed by the Minister for Planning. The Panel was heard on 17 November 2017.

### Discussion

Council received the recommendations of the Planning Panel on 9 January 2017.

The panel state in their recommendation as follows:

"Based on the reasons set out in this report, the Panel recommends that Amendment C209 be abandoned and that Planning Permit Application P1502 for a two lot subdivision (realignment of title boundaries) be refused."

While the recommendation of the panel states to abandon the amendment, the report does identify support to rezone the Road Zone Category 3 land to the relevant adjoining Low Density Zone (LDRZ) and Public Park and Recreation Zone (PPRZ) on the basis that the road zone is no longer required for the bypass road. This can be split for the balance of the amendment and be submitted to the Minister for Planning for approval. This will facilitate fixing up inappropriate zones within the Cardinia Planning Scheme.

In relation the balance of the amendment the panel does not support the amendment as there is no strategic justification to support the amendment. The panel provides the following comments:

- To support this amendment Council would need to further consider the future of the surplus Golf Club land within the broader open space network.

- Review all Low Density land within this area to determine what role this land plays in not only accommodating housing growth, but also providing a diversity of housing types, including appropriate lot sizes and ensure this clearly identified within the local strategic framework in the Cardinia Planning Scheme. This work needs to be undertaken in consultation with current landowners
- Should further subdivision of this LDRZ land be considered appropriate, how should this occur taking into consideration the existing subdivision layout, built form as well any environmental constraints/values that may exist in the area. It should also consider what the appropriate planning tool would be to ensure that any future subdivision/development of the land is undertaken in a coordinated manner.

**Where to from here?**

We are currently at Stage 4 in the process of the planning scheme amendment.

Council must consider the content of the panel report and determine whether to;

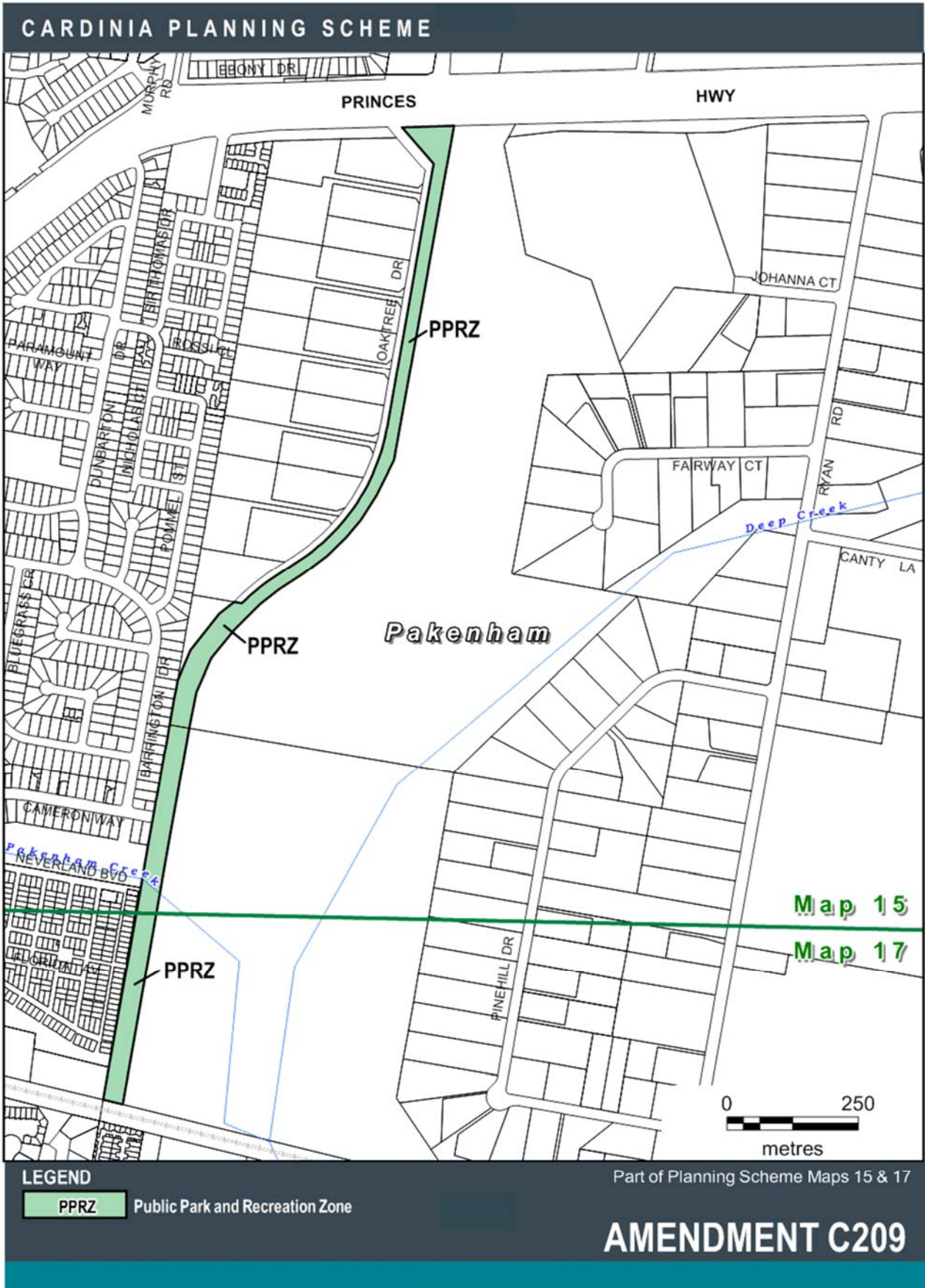
- adopt the amendment as is;
- adopt the amendment with changes: or
- abandon the amendment.



The Minister for planning takes seriously the comments provided by planning panel reports, on the basis of the panel's report it is recommended that the amendment be split into two parts. Part A, which supports the rezoning of the Oak Tree Drive Road Reserve and the part of the Golf Course that is also in the Road zone, from Road Zone Category 2 to the adjoining zone of PPRZ, and the balance of the amendment be abandoned in accordance with the panel's recommendation.

**CONCLUSION**

It is therefore recommended that Part A of the amendment be submitted to the Minister for Planning for approval, and that Part B be abandoned and the Minister for Planning advised of this decision.



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