

## **2 PLANNING SCHEME AMENDMENT C221 - REZONE OF URBAN FLOOD ZONE TO GENERAL RESIDENTIAL ZONE FOR LAND AT CARDINIA VIEWS ESTATE**

FILE REFERENCE INT1716460

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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### **RECOMMENDATION**

That Council adopt Planning Scheme Amendment C221 to the Cardinia Planning Scheme under Section 29 of the Planning and Environment Act 1987 and submit the Amendment to the Minister for Planning for approval under Section 31 of the Planning and Environment Act 1987 in the form attached to this report.

### **Attachments**

1 Planning Scheme Amendment C221 documents 7 Pages

### **EXECUTIVE SUMMARY**

Council received a request from Villaworld Development Pty Ltd Group to rezone the areas of Urban Floodway Zone (UFZ) to General Residential Zone Schedule 1 (GRZ1) for the residential lots at 27-39, Vantage Drive, Pakenham and part Lot A of PS738364U as these are no longer subject to flooding as a result of the works that have been undertaken on the lots and within the Deep Creek corridor. The amendment was authorised under delegation due to the urgency of the amendment as the UFZ prohibits residential development on the lots.

The amendment was exhibited from 15 December 2016 to 6 January 2017 and no submissions were received. Melbourne Water have already provided support for the Amendment prior to exhibition. As no opposing submissions have been received, it is recommended that Amendment C221 to the Cardinia Planning Scheme be adopted under Section 29 of the Planning and Environment Act 1987 and the Amendment be submitted to the Minister for Planning for approval under Section 31 of the Planning and Environment Act 1987.

### **BACKGROUND**

Melbourne Water as a referral authority requested planning permit conditions which have now been completed under subdivision permit T060603 (issued 2/11/2007) and amended Planning Permit T060603-1 (issued 14/12/2015) which means the lots are no longer subject to Flooding Risk. The inclusion of small portions of the lots within the Urban Floodway Zone is an administrative mapping error which effectively prohibits residential use over the lots in their entirety. The error occurred in the revision to the Development Plan DPO7 (originally approved 19/7/2007) and subsequently revised and approved 19/11/2014. This amendment realigned Vantage Drive and inadvertently included UFZ land within residential lots.

A request has been made by the Villaworld Development Pty Ltd Group to rezone the areas of Urban Floodway Zone (UFZ) to General Residential Zone Schedule 1 (GRZ1) for the residential lots at 27-39, Vantage Drive, Pakenham and part Lot A of PS738364U.

The site is currently fully serviced vacant residential lots with titles issued and is primarily zoned General Residential Zone Schedule 1, with a small portion of the lots zoned as Urban Floodway Zone.

The General Manager Planning and Development resolved to seek authorisation from the Minister of Planning and exhibit the amendment under delegation due to the administrative nature of the amendment and as a result of the request being received during caretaker period. This authorisation was received and the amendment was exhibited from 15 December 2016 to 6 January 2017. No submissions were received and Melbourne Water support from the Amendment was obtained prior to authorisation.

## **POLICY IMPLICATIONS**

The following clauses in the Cardinia Planning Scheme are relevant to this amendment:

- State Planning Policy Framework

### **Clause 9 – Plan Melbourne**

A key direction for liveable communities and neighbourhoods is to support a network of vibrant and safe neighbourhood centres that demonstrate 20-minute neighbourhood principles.

The proposed rezoning will facilitate the residential use of the land within a residential area with good access to a range of services and facilities including shops, cafes and restaurants, early-years centres, schools, retail precincts and community facilities as envisaged in a city of 20-minute neighbourhoods.

This rezoning is also supported by Direction 4.3 that seeks to ensure that our communities are designed to be healthy, safe and active places. The relationship between well-designed communities and enhanced individual and community health is increasingly recognised by health professionals concerned with preventable chronic disease. Healthy communities are those in which housing is within walking, cycling or public transport distance of employment, education, social, cultural, recreational and health facilities, and where people have access to open space and places where they can gather.

### **Clause 10 - Operation of the State Planning Policy Framework**

The State policies must be considered in preparing amendments. The proposed rezoning meets the following objectives of planning in Victoria:

- To provide for the fair, orderly, economic and sustainable use, and development of land.
- To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
- To balance the present and future interests of all Victorians.

### **Clause 11 – Settlement**

The objective of this clause is for planning to 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.

Of relevance is sub Clause 11.02-1 Supply of urban land of which the objective is to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses which considers the limits of land capability and natural hazards and environmental quality.

Sub Clause 11.04-4 Liveable communities and neighbourhoods seeks to create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities. The relevant strategies include:

- Create a city of 20-minute neighbourhoods
- Create neighbourhoods that support safe communities and healthy lifestyles.

#### Clause 13 – Environmental Risks

The objective of this clause is planning should adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. Planning should identify and manage the potential for the environment, and environmental changes, to impact upon the economic, environmental or social well-being of society.

Of relevance is sub Clause 13.02 Floodplain management of which the objective is to assist the protection of life, property and property and community infrastructure from flood hazard, the natural flood carrying capacity of rivers, streams and floodways, the flood storage function of floodplains and waterways, floodplain areas of environmental significance or of importance to river health.

The proposed amendment satisfies this policy as the works are in accordance with Melbourne Water requirements and the lots are outside the area of flooding hazard.

#### Clause 16 Housing

Of relevance is sub Clause 16.01-2 Location of residential development of which the objective is to locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

The amendment is also consistent with and gives effect to the Local Planning Policy Framework (LPPF) as outlined below:

#### Clause 21.01 Cardinia Shire Key Issues and strategic vision

This clause identifies that the anticipated population growth within the Cardinia growth area from 77,000 people (2011) to 120,000 people by 2021 and to approximately 155,000 people by 2031. Sub Clause 21.01-3 Key Issues outlines the key issues which include environment – the protection of life and property in terms of flooding and wildfire and particular use and development – encouraging and attractive, functional and sustainable built form in existing and future development.

Sub Clause 21.01-4 Strategic vision outlines the Vision for Cardinia which is Cardinia will be developed in a planned manner to enable future generations to enjoy and experience the diverse and distinctive characteristics of our Shire.

#### Clause 21.02 - Environment

Sub Clause 21.02-1 Housing identifies that a key issue is that a catchment is an integrated environmental system and that development and actions undertaken in one part of the catchment have an effect on other parts of the catchment.

The relevant Objective is to effectively manage development to mitigate impacts on the operation and health of waterway systems.

It is submitted that by undertaking the subdivisional works in accordance with Melbourne Water and Cardinia Shire Councils conditions that these matters have been considered and addressed.

#### Clause 21.03 - Settlement and Housing

Sub Clause 21.03-1 Housing identifies that housing within Cardinia Shire is currently dominated by detached dwellings in both urban and rural areas. The urban growth area in the Cardinia Shire will continue to attract predominantly young families into the foreseeable future. However, as the housing market progressively matures and the needs of households change there will be increasing demand for more diverse forms of housing. Housing needs may differ between the townships of the municipality and the urban growth area.

The relevant key issue is as follows:

- Providing for a diversity of housing types and densities, including increased housing density around activity centres.

Sub Clause 21.03-2 Urban growth area identifies the subject site as being within the Casey-Cardinia Growth Area Framework Plan and located in the Pakenham Precinct. The objective of this clause is to create a functional, attractive, safe and sustainable urban environment for the existing and future community of the Cardinia Urban Growth Area.

The amendment supports the relevant clauses and their objectives of the LPPF by rezoning the subject land to GRZ1 to enable residential use. It is considered that the land is suitable and identified for residential use.

The amendment is consistent with these policies and will allow for land that is currently restricted from residential development to be developed for housing in a location with good access to services and facilities and public transport in an area no longer subject to flooding risk.

**RELEVANCE TO COUNCIL PLAN**

The amendment responds to Section 3.5 of the Council Plan which seeks to achieve balancing the needs of development, the community and the environment by planning 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.

**CONSULTATION/COMMUNICATION**

The amendment was placed on exhibition from the 15 December 2016 to 6 January 2017 with a direct mail to landowners, adjacent neighbours, service authorities and relevant Ministers. As the Amendment is a 20(2) Amendment no public notice or gazette notice was required.

**Next steps**

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

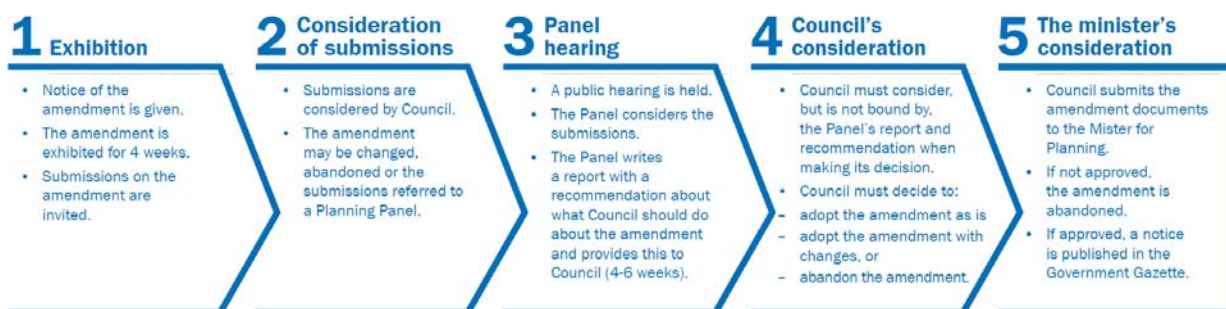


Figure 1

If Council resolves to adopt the Amendment, officers will prepare the final documents and submit these to the Minister for Planning for approval. Approval timeframes of the Amendment cannot be confirmed and are subject to process undertaken by the Department of Environment, Land, Water and Planning (DELWP).

#### **FINANCIAL AND RESOURCE IMPLICATIONS**

The fees for the amendment have been met by the proponent.

#### **CONCLUSION**

The amendment removes the redundant Urban Floodway Zone and will allow the future development of the sites in accordance with the appropriate residential zoning and the approved subdivision permit. It is recommended that Planning Scheme Amendment C221 be sent to the Minister for Planning for adoption.

*Planning and Environment Act 1987*

## CARDINIA PLANNING SCHEME

### AMENDMENT C221

#### EXPLANATORY REPORT

#### Who is the planning authority?

This amendment has been prepared by the Cardinia Shire Council who is the planning authority for this amendment.

The Amendment has been made at the request of Villaworld Developments Pty Ltd Group.

#### Land affected by the Amendment

The Amendment applies to 27-39, Vantage Drive, Pakenham and part Lot A of PS738364U.



#### What the amendment does

The amendment proposes to rezone the part of residential lots 27-39 Vantage Drive, Pakenham and part Lot A of PS738364U that are covered by the Urban Floodway Zone (UFZ) to General Residential Zone Schedule 1 (GRZ1).

Specifically the amendment will make the following change to the Cardinia Planning Scheme:

- Amend Cardinia Planning Scheme Map 15 to rezone the part lots 27-39 Vantage Drive and part Lot A of PS738364U from UFZ to GRZ1.



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## Strategic assessment of the Amendment

### Why is the Amendment required?

The amendment is required to remove the Urban Floodway Zone from the residential lots at 27-39, Vantage Drive, Pakenham and part Lot A of PS738364U as these are no longer subject to flooding as a result of the works that have been undertaken on the lots and within the Deep Creek corridor.

The inclusion of small portions of the lots within the Urban Floodway Zone is an administrative mapping error which effectively prohibits residential use over the lots in their entirety. The error occurred in the revision to the Development Plan DPO7 (originally approved 19/7/2007) and subsequently revised and approved 19/11/2014. This amendment realigned Vantage Drive and inadvertently included UFZ land within residential lots.

Subdivision and development approval for the subject land has been given by Council through the following planning permits:

- Planning Permit T060603 issued 2/11/2007
- Amended Permit T060603-1 issued 14/12/2015

### How does the Amendment implement the objectives of planning in Victoria?

The amendment seeks to implement the following objectives set out at Section 4 of the *Planning and Environment Act 1987* (the Act):

- *1(a) to provide for the fair, orderly, economic and sustainable use, and development of land*
- *1(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria*
- *1 (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)*
- *1(g) to balance the present and future interests of all Victorians.*

The proposed rezoning of the land is consistent with the land use directions and strategic planning policy objectives at both the State and local level and will enable the ongoing residential use of the land in an efficient, orderly and proper manner.

### How does the Amendment address any environmental, social and economic effects?

The amendment will have a positive social and economic effect by allowing landowners to utilise the lots for their residential purpose. The environmental effects have previously been considered by Melbourne Water and addressed by the raising the lots above future flood waters.

### Does the Amendment address relevant bushfire risk?

The site is not affected by the Bushfire Management Overlay (BMO). The subject land is within an existing urbanised area and has already been developed and therefore will not result in any additional bushfire risk.

### Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with Ministerial Direction – The Form and Content of Planning Schemes pursuant to Section 7(5) of the Act.

The Amendment is affected by Ministerial Direction Number 9 (Metropolitan Planning Strategy) Ministerial Direction 9 requires that planning scheme amendments to have regard

to *Plan Melbourne: Metropolitan Planning Strategy* (Department of Transport, Planning and Local Infrastructure, 2014).

The amendment is consistent with the following Directions outlined in the Vision for Melbourne:

- **Direction 2.1 Understand and Plan for expected housing needs.** This Direction seeks to plan for plan for housing needs.
- **Direction 4.1 Create a city of 20-minute neighbourhoods.** This Direction envisages the creation of a city of 20-minute neighbourhoods that maintain their 'village' character and feel by supporting and improving access to cafés, dining and shopping that promote small business. This amendment provides for housing near the Cardinia Lakes and Pakenham employment centres
- **Direction 4.3 Create neighbourhoods and communities that support healthy lifestyles.** Direction 4.3 promotes the creation of neighbourhoods that support safe communities and healthy lifestyles where people of all ages have the opportunity to lead active and healthy lifestyles, and have access to high-quality health and community facilities.

The amendment has been evaluated in accordance with the strategic considerations provided by Ministerial Direction No. 11 Strategic Assessment of Amendments and is consistent with these requirements.

### **How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment supports the State Planning Policy Framework (SPPF) and implements these objectives in the following manner:

#### Clause 9 – Plan Melbourne

A key direction for liveable communities and neighbourhoods is to support a network of vibrant and safe neighbourhood centres that demonstrate 20-minute neighbourhood principles.

The proposed rezoning will facilitate the residential use of the land within a residential area with good access to a *range of services and facilities including shops, cafes and restaurants, early-years centres, schools, retail precincts and community facilities* as envisaged in a city of 20-minute neighbourhoods.

This rezoning is also supported by Direction 4.3 that seeks to ensure that *our communities are designed to be healthy, safe and active places. The relationship between well-designed communities and enhanced individual and community health is increasingly recognised by health professionals concerned with preventable chronic disease. Healthy communities are those in which housing is within walking, cycling or public transport distance of employment, education, social, cultural, recreational and health facilities, and where people have access to open space and places where they can gather.*

#### Clause 10 - Operation of the State Planning Policy Framework

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### Clause 11 – Settlement

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Of relevance is sub **Clause 11.02-1 Supply of urban land** of which the objective is *to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses which considers the limits of land capability and natural hazards and environmental quality.*

Sub **Clause 11.04-4 Liveable communities and neighbourhoods** seeks to *create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities.* The relevant strategies include:

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The proposed amendment satisfies this policy as the works are in accordance with Melbourne Water requirements and the lots are outside the area of flooding hazard.

### Clause 16 Housing

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It is submitted that the amendment is in accordance with relevant State Planning Policy.

### **How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment is consistent with and gives effect to the Local Planning Policy Framework (LPPF) as outlined below:

#### Clause 21.01 Cardinia Shire Key Issues and strategic vision

This clause identifies that the anticipated population growth within the Cardinia growth area from 77,000 people (2011) to 120,000 people by 2021 and to approximately 155,000 people by 2031.

Sub **Clause 21.01-3 Key Issues** outlines the key issues which include *environment – the protection of life and property in terms of flooding and wildfire and particular use and development – encouraging and attractive, functional and sustainable built form in existing and future development.*

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It is submitted that the amendment supports the relevant clauses and their objectives of the LPPF by rezoning the subject land to GRZ1 to enable residential use. It is submitted that the land is suitable and identified for residential use.

### **Does the Amendment make proper use of the Victoria Planning Provisions?**

The amendment makes proper use of the Victoria Planning Provisions (VPP) by rezoning the land to the GRZ1 which enables the effective and appropriate operation of the Cardinia Planning Scheme by ensuring that the most appropriate planning control is in place. The application of the GRZ1 enables the residential use of the land and reflects the established strategic vision and outcomes that have already been delivered on the site.

### **How does the Amendment address the views of any relevant agency?**

The views of relevant agencies, including Melbourne Water, have been considered and are supportive of the amendment.

### **Does the Amendment address relevant requirements of the Transport Integration Act 2010?**

There are no relevant considerations under the Transport Integration Act 2010 with vehicle and pedestrian transport networks in place providing a high degree of accessibility.

### **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

There are no significant cost implications for the responsible authority arising from this proposed amendment. The proposed rezoning will allow the land to be used for its intended

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residential purpose. Statutory costs associated with the amendment will be paid by the amendment proponent.

### **Where you may inspect this Amendment**

The Amendment is available for public inspection, free of charge, during office hours at the following places:

- Cardinia Shire Council, 20 Siding Avenue, Officer

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

### **Submissions**

Any person who may be affected by the Amendment may make a submission to the planning authority. Submissions about the Amendment must be received by 6 January 2017.

Electronic submissions are encouraged and a submission must be sent to:

[mail@cardinia.vic.gov.au](mailto:mail@cardinia.vic.gov.au) or posted to:

Strategic Planning – Amendment C221

Cardinia Shire Council,

PO Box 7

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