

### **3 ADOPTION OF PLANNING SCHEME AMENDMENT C211 AND THE SUITE OF PAKENHAM STRUCTURE PLAN DOCUMENTS**

FILE REFERENCE INT1716339

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#### **RECOMMENDATION**

That Council:

1. Adopt the following changes to Amendment C211 to the Cardinia Planning Scheme:
  - a. Add the Pakenham Structure Plan as a Reference Document in Clauses 21.03-2, 21.04-1, 21.04-3 and 21.04-4.
  - b. Add the *Pakenham Activity Centre Incorporated Provisions* as an Incorporated Document in Clause 81.01 and refer to it in Clause 21.03-2.
  - c. Add an expiry date of 31 December 2019 to the *Pakenham Activity Centre Incorporated Provisions* in the list at Clause 81.01.
2. Adopt the modified Amendment C211 to the Cardinia Planning Scheme 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.
3. Re-adopt the *Pakenham Structure Plan (March 2017)*.
4. Adopt the *Pakenham Activity Centre Incorporated Provisions (March 2017)*.
5. Adopt the *Pakenham Structure Plan Implementation Plan (2015 - 2035) (March 2017)*.

#### **Attachments**

1	Amendment documents	76 Pages
2	Changes to Pakenham Structure plan	3 Pages
3	Pakenham Structure Plan (March 2017)	169 Pages
4	Pakenham Activity Centre Incorporated Provisions (March 2017)	45 Pages
5	Pakenham Structure Plan implementation plan (March 2017)	11 Pages

#### **EXECUTIVE SUMMARY**

The Pakenham Structure Plan was adopted in April 2015, since this time officers have commenced implementing components of this document which includes pursuing Amendment C211 (the Amendment) to the Cardinia Planning Scheme.

Planning Scheme Amendment C211 proposed to incorporate the structure plan into the Planning Scheme. The amendment was exhibited May to June 2016. As there were unresolved objecting submissions to the Amendment, on 15 August 2016 Council resolved to appoint an Independent Planning Panel to consider all the submissions received.

The Planning Panel was held in October 2016 and in November 2016 officers received the Panel's report. The Panel recommended several changes to the amendment as well as the Pakenham Structure Plan. The Panel also recommended the creation of a new document to be known as the Pakenham Activity Centre Incorporated Provisions.

Officers support the recommendations made by the Panel. The required changes have been made to the Amendment documents and the Pakenham Structure Plan. Officers have also modified the suite of documents linked to the structure plan (which are also discussed in this report) to ensure the content of all documents is consistent.

This report is seeking Council adopt:

- the revised Pakenham Structure Plan (March 2017)
- the new Pakenham Activity Centre Incorporated Provisions (March 2017)
- the new Pakenham Activity Centre Implementation Plan (2015 - 2035) (March 2017)
- the modified Amendment C211 and submit it to the Minister for Planning for approval pursuant to section 31 of the Planning and Environment Act (1987) (the Act).

## **BACKGROUND**

### **Amendment C211 to the Cardinia Planning Scheme**

The Pakenham Structure Plan was adopted by Council in April 2015, since this time officers have commenced the process of implementation, including proceeding with Planning Scheme Amendment C211 to introduce the Pakenham Structure Plan into the Cardinia Planning Scheme.

Planning Scheme Amendment C211 proposed to:

- revise the Municipal Strategic Statement (MSS) to incorporate the Pakenham Structure Plan (April 2015) into the Local Planning Policy Framework (LPPF) and reference the document where applicable.
- amend the MSS to consider 'Activity Centre Structure Plans' in general and correct minor grammatical errors in the LPPF.

The Amendment was on public exhibition from Thursday 12 May to Tuesday 14 June 2016 and six submissions were received. Two submissions supported the Amendment, one submission was withdrawn and three submissions requested changes to the Amendment. Discussions occurred with the objecting submitters, however the submissions were not able to be resolved. Therefore, on 15 August 2016 Council resolved to appoint an independent planning panel to consider all submissions received.

### **The Panel report**

The Panel hearing for Planning Scheme Amendment C211 was held on 25 October 2016 with Council and one of the objectors requesting to be heard. The Panel report was provided to Council on 21 November 2016 through the Councillor Bulletin and released to the public on 6 December 2016.

The panel report provides a number of recommendations including specific changes to clauses in the Cardinia Planning Scheme as well as changes to the contents of the Pakenham Structure Plan:

- Adopt the Pakenham Structure Plan (2015) as a reference document in Clauses 21.03-2, 21.04-1, 21.04-3 and 21.04-4.
- Prepare a revised document to be known as the Pakenham Activity Centre Incorporated Provisions (or similar) that extracts the content of the Structure Plan that directly relate to decision making on permit applications into a more succinct document suitable for incorporation. The elements that should be extracted are:

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- Vision
  - Overarching framework plan
  - Key objectives
  - Strategies and plan
  - Application requirements
- Amend Clause 81.01 and Clause 21.03-2 Urban Growth Areas to refer to the Pakenham Activity Centre Incorporated Provisions document.
  - Add an expiry days of 31 December 2019 to the Pakenham Activity Centre Incorporated Provisions in this list at Clause 81.01.
  - Amend the Structure Plan in line with the requests by VicTrack and PTV (Public Transport Victoria) in their submissions.
  - The Pakenham Structure Plan Implementation Plan (2015 - 2035) and 5 Year Action Plan (2016 - 2021) which support the Amendment should be updated to include specific action items to either make a request to VicTrack to acquire the land, or apply a Public Acquisition Overlay to the land, as part of implementation of the Structure Plan open space plan.

The Amendment documents and the Pakenham Structure Plan and associated documents have been updated to reflect these recommendations. An explanation of the changes recommended by the Panel are outlined below.

#### **Incorporated provisions document**

Developing an incorporated provisions document, in this case the Pakenham Activity Centre Incorporated Provisions, ensures the most important components of the Pakenham Structure Plan are incorporated into the Cardinia Planning Scheme. One of the benefits of incorporating documents into the planning scheme is that the document carries the same weight as other parts of the scheme. If a document is incorporated into a planning scheme, its content or strategic basis is less likely to be capable of challenge when using it to make a planning decision.

This report recommends Council adopt the Pakenham Activity Centre Incorporated Provisions (March 2017) and adopt Amendment C211 to add it as an Incorporated Document in the Cardinia Planning Scheme.

#### **Pakenham Structure Plan as a reference document**

The Pakenham Structure Plan becoming a reference document still ensures that the structure plan is an important planning document. The structure plan will complement the incorporated provisions by providing the background information that will assist in understanding the context of the incorporated provisions document.

This report recommends Council adopt the Pakenham Structure Plan (March 2017) and adopt Amendment C211 to add it as a Reference Document in the Cardinia Planning Scheme.

#### **Expiry date for incorporated provisions document**

Officers accept the Panel recommendation that an expiry date of 31 December 2019 be added to the Incorporated Document. The addition of an expiry date for an incorporated document is not unusual. In this instance, the purpose of the expiry date is to ensure that the future strategic work for the Pakenham Activity Centre (as identified by Council in its submission to the Panel) remains a priority.

The further strategic work for the Pakenham Activity Centre includes urban design guidelines, a car parking precinct plan, further detailed work in relation to the orbital road as well as other investigative work as outlined in the actions in the structure plan. Officer's envisage that this strategic work will lead to a future amendment to the Cardinia Planning Scheme (prior to the expiry of the incorporated provisions documents) to consolidate all the work done for the Pakenham Activity Centre by introducing the Activity Centre Zone (ACZ) into the scheme.

The ACZ was developed specifically for activity centres in metropolitan Melbourne and is the preferred tool to guide and facilitate the use and development of land in activity centres, such as the Pakenham Activity Centre.

#### **Text changes to reflect VicTrack & PTV submission**

The past, present and future use of Bourke Park was considered by the Panel. The Pakenham Structure Plan identifies the use of Bourke Park as a park. The agreement for Bourke Park between VicTrack and Council has been in place since 1948. From this time the land has been used as a park and Council has been responsible for the maintenance and upkeep of the land. Council will continue to maintain and manage Bourke Park until such time the lease agreement is terminated.

The Panel acknowledged that there has not been a request from VicTrack to amend or terminate the agreement therefore it is Council's position that until such a time that the agreement is broken, it is understood that both VicTrack and Council's intention was for this land to be utilised as a park.

As requested by VicTrack (and agreed by Council prior to the panel hearing), various text and figures referring to Bourke Park have been amended. The land has been identified as 'VicTrack owned land', however the land is still referred to and shown as a 'park' or as 'open space'.

Public Transport Victoria (PTV) requested minor changes to the structure plan which were agreed by Council in its submission to the Panel.

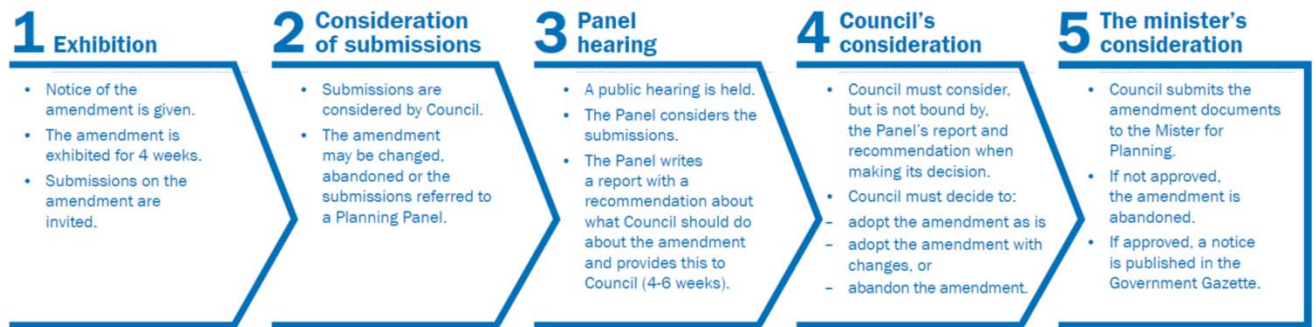
#### **New action relating to Bourke Park**

Officer's agree with the Panel's assessment that a 'historic impasse existed' between Council and VicTrack in relation to Bourke Park. The Panel stated that both VicTrack and Council would benefit from this matter being resolved.

A new action has been included in the structure plan as suggested by the Panel. The outcome of this process will help resolve the future use and designation of Bourke Park (VicTrack owned land).

**Council's consideration**

Figure 1 below outlines the steps in the planning scheme amendment process. We are at **Stage 4** of the process.



**Figure 1. Steps in the Planning Scheme Amendment process**

If Council resolves to adopt the Amendment, 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 process undertaken by the Department of Environment, Land, Water and Planning (DELWP).

**POLICY IMPLICATIONS**

Introducing the amended Pakenham Structure Plan (March 2017) into the Cardinia Planning Scheme as a reference document and the new Pakenham Structure Plan Incorporated Provisions as an incorporated document will provide developers, investors and the local community greater certainty and confidence about future development in Pakenham. It will ensure provide a framework, as well as conditions and requirements for the consideration of planning permits.

**RELEVANCE TO COUNCIL PLAN**

The Pakenham Structure Plan is relevant to all of the strategic objectives of the Council Plan:

Council Plan	Pakenham Structure Plan & suite of documents
Our People	
We support a variety of needs and lifestyles through programs and activities that promote and develop the wellbeing of Cardinia Shire's people.	The Pakenham Structure Plan facilitates the identification of opportunities and places where Council can achieve this.
Our Community	
We will foster a strong sense of connection between Cardinia Shire's diverse communities.	The Pakenham Structure Plan will help create a sense of place.

<b>Council Plan</b>	<b>Pakenham Structure Plan &amp; suite of documents</b>
Our Environment	
We will continue to plan and manage the natural and built environment for present and future generations.	The Pakenham Structure Plan is the key land use planning tool that will enable this to occur
Our Governance	
We will consult with the community, as appropriate, in an open and accountable manner to assist in determining the key direction of Council.	An extensive consultation phase was carried out in relation to the development of the Pakenham Structure Plan. Additional consultation was carried out during the public exhibition of The Amendment.

## CONSULTATION/COMMUNICATION

### External

Comprehensive consultation occurred during the development of the Pakenham Structure Plan prior to its adoption in April 2015. Furthermore, all landowners and occupiers within the Pakenham Activity Centre were sent notification of Amendment C211 when it was exhibited from Thursday 12 May to Tuesday 14 June 2016. Notification was also sent to community groups, government authorities and Ministers.

### Internal

Prior to SLT endorsing the Pakenham Structure Plan Implementation Plan (2015 - 2035) on 23 August 2016, a number of meetings/discussions were conducted with staff at officer, co-ordinator/team leader and/or manager level from a number of business units/departments including Engineering, Environment, Buildings & Facilities, Statutory Planning, Economic Development, Sustainable Communities, Recreation, Community Strengthening, Preventative Health Partnership, Social & Community Planning, Health Promotion, Operations, Open Space and Communications. Advice was sought in relation to current work plans and action plans. Input was also sought in relation a detailed literature review which assessed the Pakenham Structure Plan actions against a number of Council adopted documents.

The changes that have been made to the Pakenham Structure Plan and associated documents are not significant enough to warrant further consultation. However, the new action that requires investigative work in relation to Bourke Park will require input/discussion with several business units across the organisation.

## FINANCIAL AND RESOURCE IMPLICATIONS

The *Pakenham Structure Plan Implementation Plan (2015 - 2035)* will have an impact on the resource and administrative costs of Council, both in terms of delivery of actions identified as well as the administration side of managing and monitoring the progress of the actions.

The implementation plan will be a public document that takes the Pakenham Structure Plan to the 'next level' committing Council to deliver actions within a particular timeframe.

Council is responsible for the majority of actions in the implementation plan, however there are also several actions that Council will play an advocacy role.

#### **Capital Works Program (CWP)**

The action plan (internal working document which is informed by the implementation plan) ensures that items specific to the Pakenham AC are identified within the CWP. It also highlights actions that are dependent on external funding contributions.

#### **Development Contributions Plans (DCPs) vs Infrastructure Contributions Plans (ICPs)**

The structure plan identifies a series of actions which relate to a review of the DCP and/or new ICP system and whether it could assist in funding actions identified for the Pakenham Activity Centre.

The new ICP system took effect on 27 October 2016. Ministerial Directions and changes to the Planning and Environment Act 1987 have been introduced for both the ICP and DCP. Further investigation is required to see if either of these funding mechanisms could be applied within the Pakenham Activity Centre.

#### **Future budget allocations and work plans**

Actions identified in the structure plan/implementation plan place an additional financial strain on the existing Council budget. Council will need to explore a range of other sources to assist in funding these projects. Only some actions are to be funded through Councils existing budget.

Business units will also need to explore a range of external sources to assist in funding actions identified in the Pakenham Structure Plan. The time constraints and work load placed on officers to undertake this task needs to be reflected in current and future work plans.

### **CONCLUSION**

Planning Scheme Amendment C211 has been modified as per the recommendations made by the Panel, subsequent changes to the suite of Pakenham Structure Plan documents have also been made. Council has adopted:

- the revised Pakenham Structure Plan (March 2017).
- the new Pakenham Activity Centre Incorporated Provisions (March 2017).
- the new Pakenham Activity Centre Implementation Plan (2015 - 2035) (March 2017).
- the modified Amendment C211 and submitted it to the Minister for Planning for approval pursuant to section 31 of the Planning and Environment Act (1987) (the Act).