

## TOWN PLANNING

### 1 **CARDINIA PLANNING SCHEME AMENDMENT C226**

FILE REFERENCE INT1767468

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Angela Gleeson

#### RECOMMENDATION

The Council:

1. In accordance with Section 23 of the *Planning and Environment Act 1987*, the submissions received to Planning Scheme Amendment C226 be referred for consideration to an independent planning panel to be appointed by the Minister for Planning.
2. That all submitters to Amendment C226 be advised of Council's decision.

#### Attachments

- 1 Explanatory report 10 Pages
- 2 Summary of submissions 5 Pages

#### EXECUTIVE SUMMARY

The amendment was considered under delegation as the Minister for Planning authorised the Amendment to be processed under section 20(2) of the *Planning & Environment Act 1987*, which involves limited notification in order to fix up inconsistencies in the Officer Precinct Structure Plan.

Amendment C226 was placed on public exhibition for a period from Thursday 22 June 2017 to Monday 24 July 2017. The amendment seeks to correct an inconsistency between Officer Precinct Structure Plan (PSP) (2011) Incorporated Document, the Urban Growth Zone Schedule 3 (UGZ3) and the Rural Conservation Zone (RCZ).

Specifically, the Amendment makes the following changes to the Cardinia Planning Scheme:

- Inserts a new Schedule – Rural Conservation Zone Schedule 3 (RCZ3) to Clause 35.06 (which is the applied zone in the Urban Growth Zone 3).
- To remove the minimum subdivision area (40 hectares) and insert a new minimum subdivision area of 0.1ha for the three (3) properties specified within the Officer PSP to correct the inconsistency with provisions in the Urban Growth Zone Schedule 3 (UGZ3), Rural Conservation Zone (RCZ) and the Officer PSP.

The Amendment does not seek to alter or remove any other subdivision or development controls of the site.

During the exhibition of the amendment Council received two (2) submissions with both opposing the proposed planning scheme amendment. Council officers recommend that the submissions be referred to an independent planning panel to be appointed by the Minister for Planning.

### Land affected by the Amendment

The Amendment applies to the following lots in the Officer Precinct Structure Plan (OPSP) area:

- Lot 2 PS327845 130 Whiteside Road (PSP Property No: 377)
- Lot 5 PS321195 Whiteside Road (PSP Property No:376)
- Lot W PS738911 part of 325 Princes Highway (previously Lot 2a PS517997) (PSP Property No: 152)



Figure 1. Location of land affected by the amendment



Figure 2. Aerial map of land showing the three parcels of land affected by the amendment

### BACKGROUND

In 2011, the Minister for Planning approved the Cardinia Planning Scheme Amendment C149 which incorporated the Officer Precinct Structure Plan and Officer Development Contributions Plan. The land was already zoned Urban Growth Zone and the subject land zoned Rural Conservation Zone within the Urban Growth Boundary.

The Conservation Living Area is approximately 27.5 hectares of land in the north-west section of the precinct which has limited development potential. The majority of the area is located within the Bushfire Management Overlay (BMO) and remnant vegetation to be protected under the Officer Native Vegetation Precinct Plan (Officer NVPP).

The retention of vegetation protects the character and biodiversity values of the area. The area is of high landscape value providing a green backdrop of the southern foothills of the Dandenong Ranges.

Surrounding the Conservation Living Area is a zone that has a high risk of bushfire. The combination of topography and proximity to vegetation to be retained within the Officer NVPP limits the development potential of the area. Therefore, larger lots are required to achieve vegetation protection objectives and adequate defendable space around dwellings and ensure dwellings can be constructed to an appropriate standard against bushfire.

#### Next steps

Amendment C226 is at **Stage 2** of the Planning Scheme Amendment Process as detailed below in Figure 3, whereby submissions are considered by Council and the amendment may be changed, abandoned or the submissions referred to a planning panel.



**Figure 3. Steps in the Planning Scheme Amendment process**

If Council resolves to refer the submissions to an independent planning panel (to be appointed by the Minister for Planning) a hearing will be held at which submitters can request to be heard by the Panel.

Preliminary hearing dates have been scheduled and are as follows:

- Directions Hearing scheduled to commence week commencing 13 November 2017.
- Panel Hearing scheduled to commence week commencing 4 December 2017.

Following the hearing, the Panel prepares a report with a recommendation on how Council should proceed with the Amendment and provides this to Council (within 4-8 weeks).

Once Council officers receive the Panel's report, a Council report will be prepared for Council detailing the recommendations of the Panel and seeking a resolution to either:

1. Adopt the Amendment as is; or
2. Adopt the Amendment with changes as recommended by the Panel; or
3. Abandon the Amendment.

If option 1 or 2 is preferred, then a resolution will also be sought for Council to adopt the Amendment and submit the Amendment to the Minister for Planning for approval. However, the Officer Precinct Structure Plan will be subject to a broader review in which further consideration of the subject area to the Amendment will be considered at that time. The purpose of this Amendment is to rectify an omission and to ensure consistency between the Officer PSP and the Cardinia Planning Scheme

## **POLICY IMPLICATIONS**

Refer to the attached explanatory report that lists and details the relevant strategic planning policy.

## **RELEVANCE TO COUNCIL PLAN**

The following relevant key challenges within the 2016 - 17 Council Plan have been identified:

The *Liveability Plan 2017–29* focuses on liveability, and recognising the role of urban planning in creating environments which enhance the health and wellbeing of our community and the natural environment. The Victorian Government sets the policy for land use planning in Victoria, with *Plan Melbourne 2017–2050* setting the long-term vision for Melbourne's liveability. However, it is the responsibility of Council to govern and implement land use policy locally.

***The relevant challenge within this plan is 'open spaces and places', specifically by ensuring that areas of environmental significance are protected and enhanced.***

## **CONSULTATION/COMMUNICATION**

Discussions were held with the landowners prior to the application proceeding to authorisation.

On 30 March 2017 a request for Authorisation under 20(2) of the *Planning & Environment Act 1987* was sent to the Minister for Planning for Council to prepare Planning Scheme Amendment C226 to the Cardinia Planning Scheme which was subsequently received on the 3 May 2017 which allowed the following:

- An Amendment under 20(2) of the *Planning & Environment Act 1987* which allowed exemption from notification requirements of sections 19(2) and 19(3) of the Act.

Notice of the Amendment was given to the relevant prescribed Ministers

Notice of the Amendment was given by direct mail (written and e-mail) to seven (7) landowners, two (2) Public Authorities (CFA and APA Group) and the relevant Ministers.

### **Submissions received**

During the exhibition period, two (2) submissions were received that opposed the Amendment.

Key issues raised within the submissions are as follows:

Submitter 1: Bosco Jonson on behalf of Parklea Pty Ltd:

- The amendment fails to facilitate subdivision or development because it does not deal with impediments to development.
- Allotments are configured and located in an efficient manner.

- The development contributions levied on the land is affordable.
- The tree retention and fire prevention provisions allow for efficient subdivision and development.
- The amendment should incorporate changes to the Officer PSP and Development Contributions Plan as necessary to facilitate development of the land. The following should be addressed:
  - If Council has determined that the land is capable of sustaining a minimum lot size of 1000sqm, then the yield from affected properties should be reviewed on the basis of efficient servicing and environmental matters. Consequential changes to the PSP should be included in this Amendment.
  - The Amendment should take account of the bushfire management necessary for Conservation Zone living. Obviously this is provided in the Bushfire Management Overlay on the land and provisions in the Cardinia Planning Scheme. The unnecessary and contradictory provisions of the Officer PSP should be deleted.
  - The Development Contributions Plan must remove an obligation to pay a levy on a per hectare basis.
  - Native vegetation retention should be allowed on land other than a lot that contains a dwelling as required by the PSP.

The applicant requests that Council:

- Amends Section 4.5.13 of the Officer PSP by deleting the current requirement of buildings not to be located within 30 metres of native vegetation retained in the relevant lot,
- Amends Figure 10a and figure 10b of the Officer PSP by deleting the current note and diagram respectively stating that buildings are to be setback at least 30m from native vegetation where it is retained within the same lot,
- Amends sub clause 3.2 of the Urban Growth Zone – Schedule 3 (UGZ3) by deleting the Residential Subdivision requirement for building envelopes to have a setback of 30m from any native vegetation in the relevant lot.
- Amends table 7 of the Officer PSP (Conservation Living Area) to remove reference to the development of up to 4 dwellings on Lot 2a PS517997 limitation. Based on the arguments presented we question the criteria behind this limitation as we believe the subject site is capable of potentially accommodating more than 4 dwellings/lots whilst enabling adequate fire risk management and the retention of significant native vegetation identified in the Officer NVPP as appropriate.
- We request that native vegetation to be retained is located in a lot that contains a dwelling be removed.
- Amends Officer Development Contributions Plan to acknowledge the reduced development/subdivision potential of the Officer PSP Conservation Living area by amending section 3.1.5 to replace 'per hectare' with 'building envelope area'.

Submitter 2: APA Group

A high pressure gas transmission pipeline which is managed by the APA Group is located within the northern section of the Officer PSP and runs east west through a number of properties.

APA Group state that the Officer PSP creates a poor outcome with regard to pipeline safety and access for the transmission pipeline as states that the Gas Easement is to be:

- Used as a road;
- Included in public open space; or

- Incorporated into the design of subdivisions to be at the front of lots, forming a setback for the dwelling.
- The preference of the PSP “Planning and Design Guidelines that should be met” is for the Gas Easement to be used as a road.

This is not APA’s preferred urban outcome.

It is APA’s preference that roads being constructed over pipeline easements be avoided wherever possible. The creation of roads over pipeline easements results in the following issues:

- Loss of control over easement area which has been secured through legally enforceable easement agreements.
- Increased potential for external interference with the pipeline due other parties utilising the road reservation for infrastructure (water, sewer etc.) over or around the pipeline.
- Increased difficulty accessing the pipeline due to the need for access approval from Council or other roads authorities.
- Increased cost in accessing the pipeline due to the need to make good a road reserve.
- Loss of ability to duplicate or loop the pipeline in the future.
- APA consents in principle (and subject to detailed assessment), to periodic road or services crossings over the easement on the basis that Council and other utility operators (as relevant) enter into an agreement with APA to maintain our existing easement rights in the area to be covered by road.
- The proponent must demonstrate that the number of crossings has been minimised. Crossings are to be as perpendicular as possible to the pipeline to minimise the area of impact.
- APA also do not support locating the gas easement within the frontage of residential lots as it substantially fragments the pipeline tenure, would require warning signs at each title boundary, limits access opportunities to maintain the pipeline and would limit the type of vegetation that can be grown in the dwellings front yard.
- Schedule 3 to Clause 37.07 (UGZ3) also fails to recognise the transmission pipeline, the measurement length (ML) and in particular fails to require referral of the sensitive land uses within the ML to the pipeline operator. The ML area is the heat radiation zone associated with a full-bore pipeline rupture. APA is mandated to consider community safety in the ML due to the high consequences of pipeline rupture to life, property and the economy. APA seeks to limit sensitive uses from establishing within the ML so as to retain a high level of compliance with applicable safety standards. Australian standard AS2885 defines a sensitive use as one which may increase the consequences of failure due to its use by members of the community who may be unable to protect themselves from the consequences of a pipeline failure. To this end, APA’s preferred position is that all sensitive land uses be located outside of the ML.

### **APA’s position with regard to Amendment C226**

APA’s preferred position is that the Gas Transmission Easement be treated as a public open space reserve and that the PSP be updated to reflect this. This would help bring the Officer PSP into line with a number of recent PSP approvals which have identified the pipeline as linear open space.

APA would also seek the UGZ3 be updated to reference the pipeline measurement length on Map 1, and include a permit trigger for sensitive land uses (as listed above) where not already triggered and to refer applications for sensitive land uses to the pipeline operator as a recommending referral authority.

### **Council officer response to submissions**

In response to the above, the issues raised within the submissions is outside the realm of the Amendment. The Amendment seeks to correct an inconsistency between the Officer PSP and Cardinia Planning Scheme which currently does not allow the land to be developed in accordance with the Officer PSP.

The issues raised within the submissions are more significant than the scope of this amendment and will be subject to further consideration when Council undertake a broader review of the Officer PSP and Officer Development Contributions Plan in due course.

### **Financial and resource implications**

Council will be required to pay for the amendment process however this can be sufficiently covered by the budget.

### **Conclusion**

Amendment C226 seeks to correct an inconsistency with the Officer Precinct Structure Plan required to allow the subdivision and subsequently the development of the land in accordance with the Officer Precinct Structure Plan (September 2011) and corrects an inconsistency between the policy intentions of the Officer Precinct Structure Plan (PSP), the Urban Growth Zone Schedule 3 (UGZ3) and the Rural Conservation Zone (RCZ). The Amendment will facilitate the subdivision of the land in accordance with the Officer Precinct Structure Plan.

As stated within the report the issues raised within the submissions are more significant than the scope of this Amendment and will be subject to further consideration when Council undertake a broader review of the Officer PSP and Officer Development Contributions Plan in due course.

Amendment C226 was exhibited from Thursday 22 June 2017 to Monday 24 July 2017. Two (2) submissions were received in response to the Amendment.

Following exhibition of the amendment two (2) opposing submissions were received. To fully allow the consideration of these submissions it is recommended that Council resolve to seek an independent panel appointed by the Minister for Planning in accordance with *Section 23 of the Planning and Environment Act 1987*.

# CARDINIA PLANNING SCHEME

## AMENDMENT C226

### 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 is being prepared by Cardinia Shire Council on behalf of Keymore Pty Ltd and Planning People Places.

#### Land affected by the Amendment

The Amendment applies to the following lots in the Officer Precinct Structure Plan (OPSP) area, described below and shown in Figure 1:

- Lot 2 PS327845 130 Whiteside Road (PSP Property No: 377)
- Lot 5 PS321195 Whiteside Road (PSP Property No:376)
- Lot W PS738911 part of 325 Princes Highway (previously Lot 2a PS517997) (PSP Property No: 152)



Figure 1. Location of land affected by the amendment

#### What the amendment does

The Amendment is to correct an inconsistency between Officer Precinct Structure Plan (PSP) (2011) Incorporated Document, the Urban Growth Zone Schedule 3 (UGZ3) and the Rural Conservation Zone (RCZ). The amendment corrects inconsistencies between the applied zone being the Rural Conservation Zone (RCZ) and the Officer PSP through the inclusion of a specific schedule to allow the land to be developed in accordance with the Officer PSP.



Specifically, the Amendment makes the following changes to the Cardinia Planning Scheme:

- Inserts a new Schedule – Rural Conservation Zone Schedule 3 (RCZ3) to Clause 35.06 (which is the applied zone in the Urban Growth Zone 3), to remove the minimum subdivision area (40 hectares) and insert a new minimum subdivision area of 0.1ha for the 3 sites specified to correct the inconsistency with provisions in the Urban Growth Zone Schedule 3 (UGZ3), Rural Conservation Zone (RCZ) and the Officer PSP.
- Amending Table 1 in Clause 37.07-3 UGZ3 subclause 2.2, from ‘Rural Conservation Zone’ to ‘Rural Conservation Zone, Schedule 3’.

The Amendment does not seek to alter or remove any other subdivision or development controls of the site.

## **Strategic assessment of the Amendment**

### **Why is the Amendment required?**

The amendment is required to allow the subdivision and subsequently the development of the land in accordance with the Officer Precinct Structure Plan (September 2011) and corrects an inconsistency between the policy intentions of the Officer Precinct Structure Plan (PSP), the Urban Growth Zone Schedule 3 (UGZ3) and the Rural Conservation Zone (RCZ).

The Officer PSP identifies the Conservation Living Area as having a density of 9 dwellings. Furthermore, the planning and design guidelines that must be met for the Conservation Living Area are as follows:

- Ensure any development meets the requirements of:
  - The Officer Native Vegetation Precinct Plan (NVPP); and
  - The bushfire management provisions set out in Section 4.5.11 of the Officer PSP.
- Development of up to 3 dwellings on PSP Property No:376 Lot 5 PS321195 is permitted, provided that:
  - All dwellings are located in the south west corner of the site;
  - Each dwelling is located on a separate lot; and
  - Native vegetation to be retained is located in a lot that contains a dwelling.
- A single dwelling is permitted on PSP Property No: 377 Lot 2 PS327845.
- Development of up to 4 dwellings on PSP Property No: 152 Lot 2a PS517997 is permitted, provided that:
  - Each dwelling is located on a separate lot; and
  - Native vegetation to be retained is located in a lot that contains a dwelling.

The land is shown within the applied zone as Rural Conservation Zone (RCZ). The schedule to the zone Rural Conservation Zone (RCZ) allows for the minimum subdivision area of 40 hectares, which results in the conflict between the Officer PSP and the Rural Conservation Zone (RCZ) as the Conservation Living Area is approximately 27.5 hectares of land.

This Amendment, seeks to include a new schedule 3 to the Rural Conservation Zone (RCZ) that allows for a minimum subdivision area of 0.1 hectares and to align the Rural Conservation Zone (RCZ) and the Officer Precinct Structure Plan (OPSP) to allow

subdivision and development of the land in accordance with the Officer Precinct Structure Plan (OPSP).

In 2011, the Minister for Planning approved the Cardinia Planning Scheme Amendment C149 which incorporated the Officer Precinct Structure Plan and Officer Development Contributions Plan. The land was already zoned Urban Growth Zone and the subject land zoned Rural Conservation Zone within the Urban Growth Boundary.

The Conservation Living Area is approximately 27.5 hectares of land in the north-west section of the precinct which has limited development potential. The majority of the area is located within the Bushfire Management Overlay (BMO) and remnant vegetation to be protected under the Officer Native Vegetation Precinct Plan (Officer NVPP).

The retention of vegetation protects that character and biodiversity values of the area. The area is of high landscape value providing a green backdrop of the southern foothills of the Dandenong Ranges.

\Surrounding the Conservation Living Area is a zone that has a high risk of bushfire. The combination of topography and proximity to vegetation to be retained within the Officer NVPP limits the development potential of the area. Therefore, larger lots are required to achieve vegetation protection objectives and adequate defendable space around dwellings and ensure dwellings can be constructed to an appropriate standard against bushfire.

The Officer PSP states that the CFA have advised that rather than extending the BMO further into the precinct, a mechanism should be put into place to manage bushfire risk through the subdivision process.

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

The amendment implements the objectives of planning in Victoria by providing for the orderly, economic and sustainable use and development of the land by ensuring that the zone applying to the land is in accordance with the objectives set out in paragraphs (a), (b), (c), (d) (e) and (g) of Section 4 of the *Planning and Environment Act 1987*.

The objectives of planning in Victoria and the appropriate use of the planning framework will be implemented by the amendment that will result in allowing development 'subject to planning permission'; within an area that has approval under the incorporated Officer Precinct Structure Plan (2011).

#### ***1(a) To provide for the fair, orderly, economic and sustainable use, and development of land.***

The Amendment facilitates the subdivision of the land in accordance with the Officer Precinct Structure Plan. The site is appropriately located, providing for the fair and orderly use and development of the land.

#### ***1(c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.***

The development will provide for the development of the land in accordance with the provisions of the Officer PSP. The development of the land is to be planned and designed to be safe and convenient without detrimental impacts on the surrounding and in accordance with the Officer PSP and relevant provisions of the Cardinia Planning Scheme.

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

As the amendment is required to correct an inconsistency between the Officer Precinct Structure Plan (PSP), the Urban Growth Zone Schedule 3 (UGZ3) and the Rural Conservation Zone (RCZ), the PSP provides for specific subdivision and development requirements for these sites.

The Officer Precinct Structure Plan provides decision planning and design guidelines specifically to address the environmental, bushfire, lot density and design guidelines aspect of this area to ensure that development does not compromise the objectives of the clauses within the Officer PSP.

The proposed amendment does not impact social and economic considerations of the *Planning and Environment Act 1987*.

### **Does the Amendment address relevant bushfire risk?**

The land is covered by a Bushfire Management Overlay (BMO) and is also subject to further considerations of the Officer PSP. The subject land went through a rigorous planning scheme amendment process when the Officer Precinct Structure Plan (OPSP) was approved by the Minister for Planning and incorporated into the Cardinia Planning Scheme. The Officer PSP contains planning and design guidelines regarding development requirements in relation to vegetation management and bushfire risk controls.

In addition to the Bushfire Management Overlay (BMO) controls, an application would require referral to the Country Fire Authority who is the referral authority. Furthermore, the minimum construction standards will apply which will also be governed by Building Surveyors.

It is worthy to note that an amendment is being considered by the Department of Environment, Land, Water and Planning (DELWP) in relation to changing the Bushfire Management Overlay (BMO). The amendment seeks to include additional areas into the BMO and include schedules to the overlay.

The introduction of schedules to the overlay, adds further strength and support in relation to the 'bushfire attack level' (BAL) ratings that can be applied to certain areas. The proposed BMO amendment will add further support to this amendment.

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

#### *Ministerial Direction – Form and Content of Planning Schemes*

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

#### *Ministerial Direction No.9*

The Amendment has regard to the 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 does not seek to alter the Officer PSP or introduce controls other than to ensure that the schedule to the Rural Conservation Zone is consistent with the Officer PSP. The Amendment seeks the appropriate development of land in accordance with the Officer PSP.

#### *Ministerial Direction No.11*

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

#### *Ministerial Direction No.15*

The Amendment has been assessed against the directions of the Ministerial Direction No. 15 The Planning Scheme Amendment Process. The Amendment will be processed in accordance with the directives as specified.

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

The following clauses of the State Planning Policy Framework are relevant to this amendment:

#### Clause 11 Settlement

Planning is 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 particular relevance is sub **Clause 11.02-1 Supply of Urban Land** which seeks to ensure that sufficient supply of land is available for residential uses and supporting infrastructure to support sustainable urban development is provided for. Planning for urban growth should consider as relevant:

- Neighbourhood character and landscape considerations.
- The limits of land capability and natural hazards and environmental quality.

Sub **Clause 11.02-2 Planning for growth areas** to locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create benefits for sustainability while protecting primary production, major sources of raw materials and valued environmental areas. Strategies include meet housing needs by providing diversity of housing type and distribution.

Sub **Clause 11.04-2 Housing Choice and affordability** to provide a diversity of housing in defined locations that cater for different households and are close to jobs and services. Strategies include understand and plan for expected housing needs.

#### Clause 12 Environmental and landscape values

To protect the health of ecological systems and biodiversity they support and conserve areas with identified environmental and landscape values.

Sub **Clause 12.01-1 Protection of biodiversity** aims to assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites. Planning ensures to avoid and minimise significant impacts on land use and development on Victoria's biodiversity.

Sub **Clause 12.01-2 Native vegetation management** aims to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

#### Clause 13 Environmental Risks

Planning should adopt a best practice environmental management and risk management approach, which aims to avoid or minimise environmental degradation and hazards.

Sub **Clause 13.05-1 Bushfire planning strategies and principles** objective is to assist to strengthen community resilience to bushfire. Relevant strategies include the following:

- Prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire.
- Where appropriate, apply the precautionary principle to planning and decision making when assessing the risk to life, property, community infrastructure from bushfire.
- Identify in planning schemes areas where bushfire hazards require that:

- Consideration needs to be given to the location, design and construction of new development and the implementation of bushfire measures.
- Development should not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.
- Consult with the relevant fire authority early in the strategic and settlement plan making process and implement appropriate bushfire protection measures.
- Ensure that planning to create or expand a settlement in an area at risk from bushfire:
  - Addresses the risk at both the local and broader context.
  - Reduces the risk to future residents, property and community infrastructure from bushfire to an acceptable level.
  - Ensures any biodiversity and environmental objectives specified in the planning scheme are compatible with planned bushfire protection measures.
  - Ensures the risk to existing residents, property and community infrastructure from bushfire will not increase as a result of future land use and development.
  - Ensures future residents can readily implement and manage bushfire protection measures within their own properties.

#### *Development control strategies*

In areas identified in the planning scheme as being affected by the bushfire hazard, require a site-based assessment to be undertaken to identify appropriate bushfire protection measures for development that has the potential to put people, property or community infrastructure at risk from bushfire. Only permit new development where:

- The risk to human life, property and community infrastructure from bushfire can be reduced to an acceptable level.
- Bushfire protection measures, including the siting, design and construction of buildings.
- Vegetation management, water supply and access and egress can be readily implemented and managed within the property.
- The risk to existing residents, property and community infrastructure from bushfire is not increased.

#### Clause 15 – Built Environment and Heritage

The objective is to ensure that planning creates quality built environments that supports the social, cultural, economic and environmental wellbeing of our communities, cities and towns.

The objective of sub **Clause 15.01-1 Urban design** is to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

The relevant strategy is as follows:

- Ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.
- Require development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.

Sub **Clause 15.01-3 Neighbourhood and subdivision design** aims to ensure that the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. The relevant strategy aims to provide for a range of lot sizes to

suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

Sub **Clause 15.01-4 Design for safety** of which the objective is to improve community safety and encourage neighbourhood design that makes people feel safe.

#### Clause 16 Housing

Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.

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.

Sub **Clause 16.01-4 Housing diversity** to provide for a range of housing types to meet increasingly diverse needs.

In summarising how the Amendment supports and implements the State Planning Policy Framework (SPPF), the Amendment seeks to ensure that sufficient supply of land is available for residential uses and supporting infrastructure. The land is located within the urban growth zone and suitably meets the housing needs by providing diversity of housing, lot type and distribution across this area.

The environmental objectives are supported in that planning ensures to avoid and minimise significant impacts on land use and development by ensuring that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

The SPPF further supports the Amendment through adopting a best practice environmental management and risk management approach, which aims to avoid or minimise environmental degradation and hazards. Relevant strategies have been put in place to ensure that the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire is at the forefront. Other strategies such as applying the precautionary principle to planning and decision making when assessing the risk to life, property, community infrastructure from bushfire where appropriate.

Another key strategy that is relevant is in relation to ensuring that planning schemes identify and consider the needs to be given to the location, design and construction of new development and the implementation of bushfire measures and that development should not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.

Consideration is to be given in consulting with the relevant fire authority early in the strategic and settlement plan making process and implement appropriate bushfire protection measures. This process was undertaken throughout the course of the Officer PSP amendment C149, in which bushfire measures were full considered in the development and adoption of the Officer PSP.

The above ensures that any biodiversity and environmental objectives specified in the planning scheme are compatible with planned bushfire protection measures.

The amendment supports and responds to the State provisions by allowing the land to be developed in accordance with the Officer PSP, in addition to ensuring that the development of this land will provide for a choice in housing options. Furthermore, the environmental aspects of the area will be protected and conserved through the development of the land on larger lots.

#### **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 Shire.

Sub **Clause 21.01-3 Key issues** identifies the following relevant key issues:

- *The protection of life and property in terms of flooding and wildfire.*
- *The management of urban growth.*

Sub **Clause 21.01-4 Strategic vision** includes the Strategic Vision for the municipality, which is to foster the sustained wellbeing of the community and environment in the Cardinia Shire through:

- *Developing a strong economic base.*
- *Recognising and protecting the diverse and significant environmental values in the municipality.*
- *Providing opportunities to create and maintain a cohesive and robust community.*
- *Enhancing the experience of people who live, work and visit the municipality.*

#### Clause 21.02-3 Biodiversity

The most relevant key issues for this amendment is recognising that native vegetation provides habitat for key fauna species and provides for diverse flora species throughout the municipality.

The objective is to achieve a net gain in the quantity and quality of native vegetation in the municipality.

Relevant strategies:

- Protect areas of significant remnant vegetation (particularly endangered and vulnerable Ecological Vegetation Classes) as shown on the mapped Ecological Vegetation Classes provided by the Department of Sustainability and Environment.
- Ensure that siting of buildings and works avoids and minimises the removal or fragmentation of native vegetation especially in areas of biodiversity significance and where appropriate, building envelopes should be approved as part of subdivision plans to minimise the removal of vegetation.

In response to the above, the applied zone is a Rural Conservation Zone with an Environmental Significance Overlay, Bushfire Management Overlay the Officer PSP and Officer Native Vegetation Precinct Structure Plan, which contains development, controls that address the strategies within the LPPF.

#### Clause 21.02-4 Wildfire management

This section further builds on the content of the Clause 13.05 Bushfire. The key issues as relevant to this amendment are as follows:

- Ensuring the appropriate design of subdivisions in areas of high wildfire risk.
- Designing and siting of accommodation, including individual dwellings on sites within areas of high wildfire risk. The key issues include the location, access to the site and access to water supply, type and form of vegetation in the area including required vegetation management.
- Balancing the protection of native vegetation with wildfire risk management.

The objective is to recognise that areas in the municipality are prone to wildfire and to minimise the potential risk to life, property and the environment.

Relevant strategies include:

#### *Subdivision*

- Ensure that the siting and design of subdivisions has fully considered the impact of existing slope, aspect and vegetation in terms of risks of wildfire, particularly with regard to the location of building envelopes.

*Siting and design*

- Ensure that the siting and design of houses and other accommodation in high risk wildfire areas minimises the potential risk of loss of life or property from wildfire, particularly in terms of the existing slope, aspect and vegetation.
- Ensure all development has appropriately designed access for emergency vehicles.
- Ensure development provides adequate access to water.
- Encourage the use of roads as a buffer between housing and bushland.

*The strategies in relation to wildfire management will be implemented through the planning scheme by:*

- Use of policy and exercise of discretion
- When deciding on applications for use and development of land including subdivision, considering, as appropriate:
- Reference documents listed in the State Planning Policy Framework at Clause 13.05 (Bushfire)
- When developing Precinct Structure Plans and Township Strategies, considering the issue of wildfire risk.

In response to the above, the Officer PSP further expands on the strength of the state and local planning policies by providing specific planning and design guidelines around the siting, design and assessment of planning applications within areas prone to bushfire.

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.

Objective 1 seeks to encourage diversity in housing to meet the needs of existing and future residents.

The relevant strategy to achieve this objective is as follows:

- Ensure that future housing growth is effectively managed to maintain and enhance the qualities of the municipality.
- Encourage a range of lot sizes and housing types in new developments that satisfy the needs and aspirations of the community.

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.

It is considered that the Amendment supports the relevant clauses and their objectives of the LPPF by including a new schedule to allow the subdivision of the land in accordance with the Officer PSP.



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

The amendment makes proper use of the Victorian Planning Provisions by applying a site specific control to the land in order to provide for a particular land use and development outcome that has been previously approved through Planning Scheme Amendment C149.

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

The Department of Environment, Land, Water & Planning and Victorian Planning Authority are supportive of the amendment.

Advice was sought from the Country Fire Authority as the Authority and as the referral authority for the Bushfire Management Overlay (BMO). To date the Country Fire Authority have not provided a response to Council as to whether the proposed amendment is supported.

Therefore, the views of the relevant agencies will be considered through the exhibition process.

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

The amendment is consistent with the *Transport Integration Act 2010*. The Amendment will not have a significant impact on the transport system.

## **Resource and administrative costs**

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

The new planning provisions will have negligible impact on the resource and administrative costs of the Responsible Authority.

## **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 Offices, 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 24<sup>th</sup> July 2017.

Electronic submissions are encouraged. Submissions must be sent to:

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

Growth Area Planning – Amendment C226

Cardinia Shire Council,

PO Box 7

PAKENHAM VIC 3810

## **Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: 23<sup>rd</sup> October 2017
- panel hearing: 4<sup>th</sup> December 2017

Submission No:	Organisation	Submission Summary	Council Response
1	Bosco Jonson on behalf of Keymore P/L	<p>The amendment fails to facilitate subdivision or development because it does not deal with impediments to development. Regardless of the minimum area development cannot occur unless;</p> <ul style="list-style-type: none"> <li>• Allotments are configured and located in an efficient manner,</li> <li>• The development contributions levied on the land is affordable,</li> <li>• The tree retention and fire prevention provisions allow for efficient subdivision and development.</li> </ul> <p>The amendment should incorporate changes to the Officer PSP and Development Contributions Plan as necessary to facilitate development of the land. The following should be addressed:</p> <ul style="list-style-type: none"> <li>• If Council has determined that the land is capable of sustaining a minimum lot size of 1000sqm, then the yield from affected properties should be reviewed on the basis of efficient servicing and environmental matters. Consequential changes to the PSP should be included in this Amendment.</li> <li>• The Amendment should take account of the bushfire management necessary for Conservation Zone living. Obviously this is provided in the Bushfire Management Overlay on the land and provisions in the Cardinia Planning Scheme. The unnecessary and contradictory provisions of the Officer PSP should be deleted.</li> <li>• The Development Contributions Plan must remove an obligation to pay a levy on a per hectare basis.</li> <li>• Native vegetation retention should be allowed on land other than a lot that contains a dwelling as required by the PSP.</li> </ul> <p>Amendment GC13 BMO The applicant requests that Council:</p> <ul style="list-style-type: none"> <li>• Amends Section 4.5.13 of the Officer PSP by deleting the current requirement of buildings not to be located within</li> </ul>	<p>The purpose of the Amendment is to correct an inconsistency between Officer Precinct Structure Plan (PSP) (2011) Incorporated Document, the Urban Growth Zone Schedule 3 (UGZ3) and the Rural Conservation Zone (RCZ).</p> <p>The Amendment does not require changes to the Officer Precinct Structure Plan (PSP) (2011) to facilitate this Amendment.</p> <p>The issues raised within the submission may be reviewed when Council decides to undertake a broader review of the Officer Precinct Structure Plan (PSP) (2011) and the schedule 3 of the Urban Growth Zone.</p>

		<p>30 metres of native vegetation retained in the relevant lot,</p> <ul style="list-style-type: none"> <li>Amends Figure 10a and figure 10b of the Officer PSP by deleting the current note and diagram respectively stating that buildings are to be setback at least 30m from native vegetation where it is retained within the same lot,</li> <li>Amends sub clause 3.2 of the Urban Growth Zone – Schedule 3 (UGZ3) by deleting the Residential Subdivision requirement for building envelopes to have a setback of 30m from any native vegetation in the relevant lot.</li> <li>Amends table 7 of the Officer PSP (Conservation Living Area) to remove reference to the development of up to 4 dwellings on Lot 2a PS517997 limitation. Based on the arguments presented we question the criteria behind this limitation as we believe the subject site is capable of potentially accommodating more than 4 dwellings/lots whilst enabling adequate fire risk management and the retention of significant native vegetation identified in the Officer NVPP as appropriate.</li> <li>We request that native vegetation to be retained is located in a lot that contains a dwelling be removed.</li> <li>Amends Officer Development Contributions Plan to acknowledge the reduced development/subdivision potential of the Officer PSP Conservation Living area by amending section 3.1.5 to replace ‘per hectare’ with ‘building envelope area’.</li> </ul>	
2	APA Group	<p>The Officer PSP creates a poor outcome with regard to pipeline safety and access for the transmission pipeline as states that the Gas Easement is to be:</p> <ul style="list-style-type: none"> <li>Used as a road;</li> <li>Included in public open space; or</li> <li>Incorporated into the design of subdivisions to be at the front of lots, forming a setback for the dwelling.</li> </ul> <p>The preference of the PSP “Planning and Design</p>	<p>APA Group were consulted as part of the C149 planning scheme amendment process for the Officer Precinct Structure Plan (PSP) (2011).</p> <p>The Amendment does not require changes to the Officer Precinct Structure Plan (PSP) (2011) to facilitate this Amendment.</p> <p>The issues raised within the submission may be reviewed when Council decides to undertake a broader review of the Officer Precinct</p>

		<p>Guidelines that should be met” is for the Gas Easement to be used as a road.</p> <p>This is not APA’s preferred urban outcome.</p> <p>It is APA’s preference that roads being constructed over pipeline easements be avoided wherever possible. The creation of roads over pipeline easements results in the following issues:</p> <ul style="list-style-type: none"> <li>· Loss of control over easement area which has been secured through a legally enforceable easement agreements.</li> <li>· Increased potential for external interference with the pipeline due other parties utilising the road reservation for infrastructure (water, sewer etc.) over or around the pipeline.</li> <li>· Increased difficulty accessing the pipeline due to the need for access approval from Council or other roads authorities.</li> <li>· Increased cost in accessing the pipeline due to the need to make good a road reserve.</li> <li>· Loss of ability to duplicate or loop the pipeline in the future.</li> </ul> <p>APA will consent, in principle (and subject to detailed assessment), to periodic road or services crossings over the easement on the basis that Council and other utility operators (as relevant) enter into an agreement with APA to maintain our existing easement rights in the area to be covered by road.</p> <p>The proponent must demonstrate that the number of crossings has been minimised. Crossings are to be as perpendicular as possible to the pipeline to minimise the area of impact.</p>	<p>Structure Plan (PSP) (2011) and the schedule 3 of the Urban Growth Zone.</p>
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		<p>APA also do not support locating the gas easement within the frontage of residential lots as it substantially fragments the pipeline tenure, would require warning signs at each title boundary, limits access opportunities to maintain the pipeline and would limit the type of vegetation that can be grown in the dwellings front yard.</p> <p>Schedule 3 to Clause 37.07 (UGZ3) also fails to recognise the transmission pipeline, the measurement length (ML) and in particular fails to require referral of the sensitive land uses within the ML to the pipeline operator. The ML area is the heat radiation zone associated with a full-bore pipeline rupture. APA is mandated to consider community safety in the ML due to the high consequences of pipeline rupture to life, property and the economy. APA seeks to limit sensitive uses from establishing within the ML so as to retain a high level of compliance with applicable safety standards. Australian standard AS2885 defines a sensitive use as one which may increase the consequences of failure due to its use by members of the community who may be unable to protect themselves from the consequences of a pipeline failure. To this end, APA’s preferred position is that all land uses listed below be located outside of the ML:</p> <table border="0"> <tr> <td><input type="checkbox"/> Aged Care Facilities.</td> <td><input type="checkbox"/> Place of assembly or worship.</td> </tr> <tr> <td><input type="checkbox"/> Retirement villages.</td> <td><input type="checkbox"/> Retail premises.</td> </tr> <tr> <td><input type="checkbox"/> Child care / family day care centres.</td> <td><input type="checkbox"/> Service station.</td> </tr> <tr> <td><input type="checkbox"/> Cinema based entertainment</td> <td><input type="checkbox"/> Higher density residential uses (more than 30 dwellings per</td> </tr> </table>	<input type="checkbox"/> Aged Care Facilities.	<input type="checkbox"/> Place of assembly or worship.	<input type="checkbox"/> Retirement villages.	<input type="checkbox"/> Retail premises.	<input type="checkbox"/> Child care / family day care centres.	<input type="checkbox"/> Service station.	<input type="checkbox"/> Cinema based entertainment	<input type="checkbox"/> Higher density residential uses (more than 30 dwellings per	
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		<p>facility. hectare)</p> <p><input type="checkbox"/> Schools or other educational establishments.</p> <p><input type="checkbox"/> Prisons / corrective institutions.</p> <p><input type="checkbox"/> Hospitals and medical centres.</p> <p><input type="checkbox"/> Other uses, as determined by the relevant decision maker, as substantially used by community members unable to protect themselves from the consequences of pipeline failure.</p> <p><b>APA's position with regard to Amendment C226</b></p> <p>APA's preferred position is that the Gas Transmission Easement be treated as a public open space reserve and that the PSP be updated to reflect this. This would help bring the Officer PSP into line with a number of recent PSP approvals which have identified the pipeline as linear open space.</p> <p>APA would also seek the UGZ3 be updated to reference the pipeline measurement length on Map 1, and include a permit trigger for sensitive land uses (as listed above) where not already triggered and to refer applications for sensitive land uses to the pipeline operator as a recommending referral authority. This outcome would be similar to that recently recommended by the Plumpton/Kororoit Planning Panel.</p> <p>We appreciate the opportunity to comment on this Amendment and would appreciate your consideration of</p>	
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		this late submission particularly given it was not directly referred to APA VTS. I look forward to your response to our submission.	
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