



## Department of Environment, Land, Water and Planning

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East Melbourne, Victoria 8002  
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Ms Carol Jeffs  
Chief Executive Officer  
Cardinia Shire Council

Email address: [l.lablache@cardinia.vic.gov.au](mailto:l.lablache@cardinia.vic.gov.au)

Dear Ms Jeffs

### **PROPOSED CARDINIA PLANNING SCHEME AMENDMENT C238card**

I refer to your council's application for authorisation to prepare an amendment to the Cardinia Planning Scheme. The amendment seeks to rezone land in Glismann Road, Beaconsfield from Clause 35.03 Rural Living Zone Schedule 2 (RLZ2) to Clause 32.08 General Residential Schedule 1 (GRZ1) and apply Clause 43.04 Development Plan Overlay Schedule 19 (DPO19) and the Clause 45.06 Development Contributions Plan Overlay Schedule 5 (DCPO5) to the land to facilitate development.

I acknowledge the extensive work that council has undertaken as part of this authorisation request and would like to thank your council for its response to the concerns raised by the Department of Environment, Land, Water and Planning officers.

Under delegation from the Minister for Planning, in accordance with section 8A of the *Planning and Environment Act 1987*, I authorise your council as planning authority to prepare the amendment subject to the following conditions:

1. Rezone the land affected by the amendment to the Neighbourhood Residential Zone, not the General Residential Zone.
2. Ensure that the application of the residential zone is consistent with the relevant head provision and the *Ministerial Direction on the Form and Content of Planning Schemes*, including listing the relevant objectives in a schedule to the zone.
3. Amend the Development Plan Overlay Schedule 19 (DDO19) to:
  - a. Ensure it is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes*, Clause 43.04 (Development Plan Overlay) head provision and that there is no repetition in provisions.
  - b. Clearly draft what matters are requirements of permits and what are requirements of the development plan and ensure that key infrastructure matters affecting the whole precinct are considered at the development plan stage.
  - c. Remove the requirement which prevents a permit being issued for subdivision prior to the construction of the intersection of Glismann Road and Princes Highway from the Development Plan Overlay Schedule and instead include it as a requirement of the development plan.
  - d. Include a requirement for an environmental site assessment to be undertaken for land identified as having medium potential for contamination in *Glismann Road Development Plan Contaminated Land Study, Meinhardt, (March 2015)(updated October 2018)*.
  - e. Apply the one dwelling on a lot requirement and the provision of building envelopes requirement, only to areas that are topographically constrained (these are identified as 'standard density with envelopes' and 'low density residential' lots at Figure 4 of the draft Development Plan).

#### **Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



- f. Delete the requirement to give notice of the development plan as this goes beyond the power of the head provision.
- g. Delete the decision guidelines relating to the consideration of the development plan as this goes beyond the power of the provision.

DELWP officers have prepared a marked up version of the DPO19 that will be sent to council via email to assist them meeting the requirements of this condition.

4. Remove the deletion of the Environmental Significance Overlay Schedule 1 from the amendment.
5. Amend the Development Contributions Plan Overlay Schedule 5 (DCPO5) to be consistent with the head provision and the *Ministerial Direction on the Form and Content of Planning Schemes*.
6. Prepare a Planning Scheme Map for the application of the DCPO5 to the amendment area.
7. Prepare a schedule to Clause 72.04 that lists the *Glismann Road Development Contributions Plan, November 2019* as an incorporated document.
8. Seek advice from the Environmental Protection Authority, in accordance with *Ministerial Direction 19: the preparation and content of amendments that may significantly impact the environment, amenity and human health* and include a response to any advice received in the Explanatory Report.
9. Update the amendment documentation as required in response to these conditions.

In addition to these conditions, council is encouraged to consider the following:

- Whether the amendment is premature, given that the amendment is seeking to restrict subdivision of the area until after the construction of the Glismann Road, Beaconsfield Avenue and Old Princes Highway intersection is completed.
- The reformed residential zones provide councils with the ability to specify variations to Clause 54 and 55 (ResCode) in the schedule to the zone in order to achieve a preferred neighbourhood character. Alternatively, the Design and Development Overlay (DDO) could also be used to control preferred building design and fencing outcomes. DELWP considers that implementing building and design guidelines which vary the requirements of ResCode, via a section 173 agreement on the land title is an outdated approach that creates an additional layer of control separate to the planning scheme. Council is strongly encouraged to undertake additional neighbourhood character work to identify a preferred neighbourhood character and identify whether Rescode variations should be included within a schedule to the zone or whether a DDO could be applied, rather than requiring building and design guidelines to be prepared and implemented as a restriction on title, as requirements in the DPO19.
- Whether the DDO19 should include specific circumstances for when a permit may be granted. Allowing all permits to be granted for all types of buildings and works applications, including potentially multi dwelling developments, may incrementally undermine the preparation of the development plan.

Council is required to draft the amendment documentation into ATS Authoring prior to exhibition of the amendment.

The amendment must be submitted to the Minister for approval.

The authorisation to prepare the amendment is not an indication of whether or not the amendment will ultimately be supported.

Please note that [Ministerial Direction No. 15](#) sets times for completing steps in the planning scheme amendment process. This includes council:

- giving notice of the amendment within 40 business days of receiving authorisation; and
- before notice of the amendment is given, setting Directions Hearing and Panel Hearing dates with the agreement of Planning Panels Victoria. These dates should be included in the

Explanatory Report ([Practice Note 77: Pre-setting panel hearing dates](#) provides information about this step).

The Direction also sets out times for subsequent steps of the process following exhibition of the amendment.

The Minister may grant an exemption from requirements of this Direction. Each exemption request will be considered on its merits. Circumstances in which an exemption may be appropriate are outlined in [Advisory Note 48: Ministerial Direction No.15 – the planning scheme amendment process](#).

In accordance with sections 17(3) and (4) of the Act, the amendment must be submitted to the Minister **at least 10 business days** before council first gives notice of the amendment.

Please provide the requested documented to DELP for review **not less than 5 business** days prior to formally submitting the amendment for exhibition in Amendment Tracking System (ATS).

If you have any further queries in relation to this matter, please contact Hayley Presnell, Planner, State Planning Services on 9637 8865 or [hayley.presnell@delwp.vic.gov.au](mailto:hayley.presnell@delwp.vic.gov.au).

Yours sincerely,



**Peita Tapper**  
Manager, State Planning Services

23 April 2020