

Executive Summary**11.3 Adoption of the Frankston Metropolitan Activity Centre Structure Plan (June 2023) and Authorisation request for Planning Scheme Amendment C160fran**

Enquiries: Tammy Beauchamp: Communities

Council Plan

Level 1:

4. Well Planned and Liveable City

Level 2:

4.1 Integrate land use planning and revitalise and protect the identity and character of the City

Purpose

To recommend that Council adopt the *Frankston Metropolitan Activity Centre Structure Plan (June 2023)* and request Authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C160fran which will implement the *Frankston Metropolitan Activity Centre Structure Plan (June 2023)* and associated changes into the Frankston Planning Scheme.

Recommendation (Director Communities)

That Council:

1. Notes that the *Draft Frankston Metropolitan Activity Centre (FMAC) Structure Plan* and eventual changes to the Frankston Planning Scheme to implement it, will guide future development and better shape the FMAC as a place to live, work and recreate. It will improve movement and place, increase housing choice, and reinvigorate the commercial and recreational attributes of it;
2. Notes the two rounds of robust community engagement that has been undertaken in preparation of the *Draft Frankston Metropolitan Activity Centre (FMAC) Structure Plan*;
3. Notes the Hearing of Submitters Meeting held on 15 March 2023 considered seventeen (17) written submissions and fifteen (15) persons spoke on the *Draft Frankston Metropolitan Activity Centre (FMAC) Structure Plan (October 2022)*;
4. Considers the five (5) additional written submissions relating to the *Draft Frankston Metropolitan Activity Centre (FMAC) Structure Plan (October 2022)*;
5. Notes that the feedback from the twenty-two (22) written submissions in total have been considered in the drafting of the *Frankston Metropolitan Activity Centre (FMAC) Structure Plan (June 2023)*;
6. Adopts the *Frankston Metropolitan Activity Centre (FMAC) Structure Plan (June 2023)*;
7. Under Section 8A of the *Planning and Environment Act 1987*, requests Authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C160fran to implement the *Frankston Metropolitan Activity Centre (FMAC) Structure Plan (June 2023)* and associated changes into the Frankston Planning Scheme;
8. Authorises the Director Communities to make changes to Planning Scheme Amendment C160fran to meet any conditions of authorisation from the Department of Transport and Planning (DTP), as well as make minor editorial changes, prior to submitting the amendment to the Minister for Planning for exhibition. The Director Communities is to inform Councillors of such changes;
9. Completes the preparation of a Development Contributions Plan (DCP) and requests Authorisation from the Minister for Planning to prepare and exhibit a Planning Scheme Amendment to implement a Development Contributions Plan

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Overlay (DCPO) into the Frankston Planning Scheme by December 2023; and

Thanks those who have made a formal submission to the *Draft Frankston Metropolitan Activity Centre (FMAC) Structure Plan (October 2022)* and informs them of the outcome of this decision.

Key Points / Issues

- From 1 April to 30 May 2022, community consultation was undertaken on the *Frankston Metropolitan Activity Centre Structure Plan – Emerging Ideas Paper* (April 2022) (the Emerging Ideas Paper) as Stage 1 in developing a Structure Plan for our City Centre.
- A total of seventeen (17) written submissions were received and a report was presented to Council at the 27 July 2022 Council Meeting outlining the community consultation process and the written submissions.
- At the 27 July 2022 Council Meeting, ten (10) of those submitters provided Council with verbal submissions.
- Both the written and verbal feedback received as part of the Emerging Ideas consultation process, informed, and were considered in the preparation of the *draft Frankston Metropolitan Activity Centre Structure Plan – October 2022* (the draft Structure Plan) which was presented to Council at the 22 August 2022 Council Briefing.
- Community consultation on the draft Structure Plan was undertaken from 31 October – 12 December 2022.
- A total of seventeen (17) written submissions were received and a report was presented to Council at the 15 March 2023 Council Meeting outlining the community consultation process and the written submissions.
- At the 15 March 2023 Council Meeting, seven (7) of those submitters provided Council with verbal submissions. An additional eight (8) people spoke who had not made a submission to the draft Structure Plan, bringing the total of number of speakers on the night to fifteen (15).
- During March and April four (4) additional written submissions were received to the draft Structure Plan and in May 2023, one (1) petition was received by Council, which counts as a single submission and has been included within this report. This will bring to total five (5) additional written submissions.
- The *Frankston Metropolitan Activity Centre Structure Plan (June 2023)* (found at Attachment D), builds on the *Frankston Metropolitan Activity Centre Structure Plan (May 2015)*, four (4) technical background reports, the *Frankston Metropolitan Activity Centre Structure Plan – Emerging Ideas Paper (April 2022)* the *draft Frankston Metropolitan Activity Centre Structure Plan (October 2022)* and associated consultation.
- All feedback received on the draft Structure Plan has been considered as part of the drafting of the final Structure Plan. A brief summary of the changes made in response to the submissions received is provided within the body of this report and a detailed summary can be found at Attachment A.
- The Structure Plan outlines a vision for the City Centre with a decreased and more refined overall boundary from the 2015 Structure Plan, taking into consideration State Government Planning Practice Notes, road and rail

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infrastructure, the implementation of the Activity Centre Zone (ACZ) and other strategic planning policy work currently being undertaken.

- This vision is underpinned by the four (4) overarching themes of Land Use, Built Form and Development, Public Realm and Movement and Transport.
- The themes inform six (6) Precincts which provide objectives, requirements and guidelines for specific areas within the City Centre, providing more guidance and clarity in terms of land use, built form and preferred heights.
- A Planning Scheme Amendment is required to implement the Structure Plan into the Frankston Planning Scheme to give the document statutory weight to inform decision making.
- Proposed Planning Scheme Amendment C160fran has been prepared which will:
 - Rezone the land within the Structure Plan boundary from Mixed Use Zone (MUZ), Commercial 1 Zone (C1Z) and Comprehensive Development Zone Schedule 2 (CDZ2) to the Activity Centre Zone with a new Schedule 1 to Clause 37.08 (ACZ1);
 - Rezone land on the Frankston foreshore in and around the mouth of the Kananook Creek from Comprehensive Development Zone Schedule 2 (CDZ2) to the Public Park and Recreation Zone (PPRZ);
 - Apply two Public Acquisition Overlays (PAO's), to facilitate the extension of the Kananook Creek Promenade and the widening of Bay Lane;
 - Make a number of changes to the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) to ensure consistency with the Structure Plan;
 - Make consequential changes to a number of clauses to provide clarity for users to distinguish between the new refined Structure Plan boundary and the adjacent areas that were included in the larger 2015 Structure Plan boundary. No change is proposed to the policy direction or provisions affecting the areas outside the new Structure Plan boundary. Amendments are proposed to:
 - Schedule 1 to Clause 32.07 Residential Growth Zone (RGZ1);
 - Schedule 1 to Clause 45.09 Parking Overlay (PO1);
 - The Schedule to Clause 53.01 Public Open Space Contribution and Subdivision; and
 - Schedules 12 and Schedule 13 to Clause 43.02 Design and Development Overlay (DDO12 and DDO13);
 - Delete redundant controls that the ACZ1 and PPRZ will supersede, including Schedule 2 to the Comprehensive Development Zone (CDZ2) and Schedule 5 to the Design and Development Overlay (DDO5).
 - Delete transitional provisions that are no longer needed now that Frankston has implemented the Planning Policy Framework and Municipal Planning Strategy.
 - Make consequential changes to Operational Provisions.

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The proposed full list of changes proposed to be made to the Frankston Planning Scheme by Planning Scheme Amendment C160fran are outlined below and can be found at Attachment C.

- In August 2022, Council Strategic Planning officers received written advice from DTP (the then, Department of Environment, Land, Water and Planning – DELWP) advising that Council are required (inter alia) to resolve infrastructure funding as part of the Structure Plan work.
- This has resulted in the commencement of the preparation of a DCP and a review of Schedule 1 to the Parking Overlay (PO1) which will culminate in a future Planning Scheme Amendment.

Financial Impact

There are financial costs associated with the Planning Scheme Amendment, however, these costs can be accommodated within existing budgets.

The Structure Plan identifies a number of actions/projects which is Council's responsibility to deliver. Such projects place additional strain on the existing Council budget and Council needs to explore a range of other mechanisms to assist in funding these projects, which include (but are not limited to):

- A Development Contributions Plan (DCP);
- Council's Long Term Infrastructure Plan (LTIP);
- An open space contribution of 8%;
- Victorian Government funding sources; and
- Australian Government funding sources.

Consultation

1. External Stakeholders

- **Frankston Metropolitan Activity Centre Structure Plan – Emerging Ideas Paper (April 2022)**

1. Engagement activities were promoted and hosted via Frankston City Council's Engage Frankston, online engagement portal and corporate social media channels. They consisted of:

Activity	Date	Number
Online survey	N/A	125 Surveys completed
Key directions activity	N/A	163 contributions from 11 contributors
Three (3) community place-based pop-ups	20 April (Library forecourt) 30 April (HOYTS forecourt) 6 May (HOYTS forecourt)	100 attendees

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Two (2) walking tours	30 April (departing from Hoyts Forecourt) 6 May (Departing from Hoyts Forecourt)	7 participants
Four (4) online and face-to-face workshops with key stakeholders and community groups	One 90 minute face-to-face stakeholder workshop with significant land owners. One 90 minute online workshop with developers, stakeholders and government agencies. One 90-minute online community workshop. One 90-minute Youth Council workshop	52 participants
<i>Informally, through Frankston City Council Facebook account</i>		

Engage Frankston website hits (see below):

4,070 views	2,358 visits	147 Contributions	131 Contributors	65 Followers
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There were 856 comments received from approximately 142,147 people who live in, work or study in, or visit the City of Frankston, and who participated in various engagement activities.

At the conclusion of this stage, seventeen (17) written submissions were received. A report was presented to Council at the 27 July 2022 Council Meeting outlining the community consultation process and the written submission and at this meeting, ten (10) of those submitters provided Council with verbal submissions.

Draft Frankston Metropolitan Activity Centre Structure Plan (October 2022)

Capire Consulting Group were engaged to facilitate stakeholder workshops and interviews in conjunction with Council's Communication and Strategic Planning teams.

Three thousand and forty-three (3,043) flyers promoting the community consultation program were delivered to property owners within and adjacent to the boundary of the Structure Plan. Engagement activities were also promoted and hosted via Frankston City Council's Engage Frankston, online engagement portal and corporate social media channels. The activities were as follows:

Activity	Date	Number
Online survey	N/A	98 Surveys completed
Three (3) community place-based pop-ups	5 November (PARC) 26 November (Festival of Lights)	340 attendees

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	30 November (HOYTS forecourt)	
One (1) walking tour	30 November (Departing from HOYTS forecourt)	9 participants
Five (5) online interviews with major landowners	30 to 45 minute interviews with the following: Chisholm TAFE Peninsula Health Monash University PARC Vicinity	11 attendees
Four (4) workshops with key stakeholder groups	One 90 minute online stakeholder workshop with Business and Traders. One 90 minute online stakeholder workshop with Developers and State Agencies. One 90 minute online stakeholder workshop with the Community. One 90 minute online stakeholder workshop with DAIC.	31 participants

One (1) presentation to the Frankston Business Collective Board;

Eighty five (85) flyers placed in show bags at a Frankston Business Collective networking event;

Two (2) informative videos;

Twenty five (25) footpath decals promoting the project placed throughout the City Centre; and

Two (2) articles in Frankston City News.

Engage Frankston website hits (see below):

6,950 views	2,771 visits	98 Contributions	94 Contributors	51 Followers
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A pop up and walking tour was scheduled for the Sunset Twilight Market on Sunday 16 November, however the Market was cancelled due to inclement weather. The pop up and walking tour was rescheduled to Wednesday 30 November, outside the Hoyts Cinema on Wells Street, Frankston.

Approximately 500 stakeholders actively participated in the various community engagement events.

At the conclusion of this stage, Council received seventeen (17) written submissions. A report was presented to Council at the 15 March 2023 Council Meeting and at this meeting, seven (7) of those submitters provided Council with verbal submissions. An additional eight (8) people spoke who had not made a

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submission to the draft Structure Plan, bringing the total of number of speakers on the night to fifteen (15).

Five (5) additional submissions have been received just prior to or after the 15 March 2023 Council Report and could not be considered within that report. Given this, these submissions have been included within this report.

Of the twenty two (22) submissions received:

- One (1) is in support;
- One (1) is neutral;
- Six (6) are in support with changes; and
- Fourteen (14) do not support (predominately based on proposed building heights and overshadowing).

At the time of writing this report the total website hits on the Engage Frankston website were as follows:

19,853 views	9,177 visits	245 Contributions	219 Contributors	166 Followers
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• Changes made as a result of submissions received

Submission No's.	Theme	Change
1, 3, 7, 8, 9, 10, 11, 12, 13, 16, 21, 22	Lower and mandatory height controls within Precinct 4.	No change. Analysis and testing of the preferred building heights has been undertaken in the <i>Kananook Creek Built Form Review – September 2022</i> (Tract Consultants). Height controls have been developed in accordance with the Victorian Government's <i>Planning Practice Note 60: Height and Setback Controls for Activity Centres</i> .
4.	Seeking an increase in the preferred maximum height for the buildings on the southern side of Station Street from 10 storeys (35.0m) to 14-16 storeys which will not offend any of the proposed planning principles.	Change partly supported. Additional testing has been undertaken and the preferred maximum height has been increased from 10 storeys (35.0m) to 12 storeys (41.0m) for the northern area within Sub Precinct 1B between Gallery Lane and Keys Street. While additional height to 14 and 16 storeys would not shadow Station Street Mall, the additional height would be visually overwhelming in this narrow space. The preferred 12 storeys (41.0m) provides an appropriate transition to the surrounding 10 storeys (35.0m).
17.	<ol style="list-style-type: none"> 1. Seeking the Evelyn Street site and surrounding lots bounded by Evelyn Street, Beach Street, Fletcher Road and Nepean Highway be included within Precinct 1 and not Precinct 5. 2. Inclusion of desired open air pedestrian links within the draft Structure Plan, 	<ol style="list-style-type: none"> 1. Change supported. Evelyn Street site and the surrounding lots have been included within Precinct 1. 2. Change partly supported. Proposed links to remain, with reference removed to 'open air', the east-west link is an important link that connects Ross Smith Avenue.

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	to be presented in a more generalised way as to not change the experience of the centre and limit future redevelopment works.	
18.	<ol style="list-style-type: none"> Preferred building height to be increased from 12 storeys (41.0m) to 16 storeys (54.0m). Street wall requirement to be amended to match the wall height of the Cinema building or be deleted Side and rear setback requirements be amended to 4.5m between podium height and 40.0m and 6.0m above 40.0m. Delete references to the pedestrian link. 	<ol style="list-style-type: none"> Change partly supported. Additional testing undertaken demonstrates that the height can be increased to 14 storeys (48.0m) on the north side of Playne Street and Young Street. Increasing building heights to 16 storeys results in building depths of only 9.4m. Change not supported. The proposed 3 storey height at the laneway edge is intended to provide a human scale experience and avoid a canyon effect which is consistent with the <i>Frankston City Laneway Action Plan 2021</i>. Change not supported. Increasing building separation as height increases is important to be able to provide equitable access to daylight to windows and habitable rooms, increase privacy in buildings, allow for view sharing and minimise the need for screening. The proposed separation requirements are consistent with recently gazetted Central Geelong ACZ. Change supported. The pedestrian link has been deleted as it significantly reduced the developability of the block, does not benefit the development and there are other existing laneway and street connections within close proximity that provide a pedestrian connection to the City Centre within a similar distance.
19.	Include all landholdings within Precinct 1B with an increase to the preferred building height to from 10 storeys (35.0m) to 12 storeys (41.0m) to reflect that all of the land is within single ownership.	Change supported. Additional testing for these sites demonstrated that an increase of height from 10 storeys (35.0m) to 12 storeys (41.0m) can be achieved. The building depth on level 12 would be 20.5m. All landholdings have been included within Precinct 1B.

• Other changes made to the Structure Plan

1.	Three (3) precincts renamed to: <ul style="list-style-type: none"> Precinct 4: Promenade; Precinct 5: Nepean Boulevard; and Precinct 6: Cranbourne Road.
2.	Delineation of 'sensitive interface' along Kananook Creek.
3.	Updates to the Action Plan.

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4.	Expanded document content in relation to greening, climate change, wind mitigation, transport and movement.
5.	Updates to data figures.
7.	Updates to a number of images (cover pages, renders, precedents, artist impressions etc.)
8.	A range of administrative changes to improve the usability and legibility of the document.

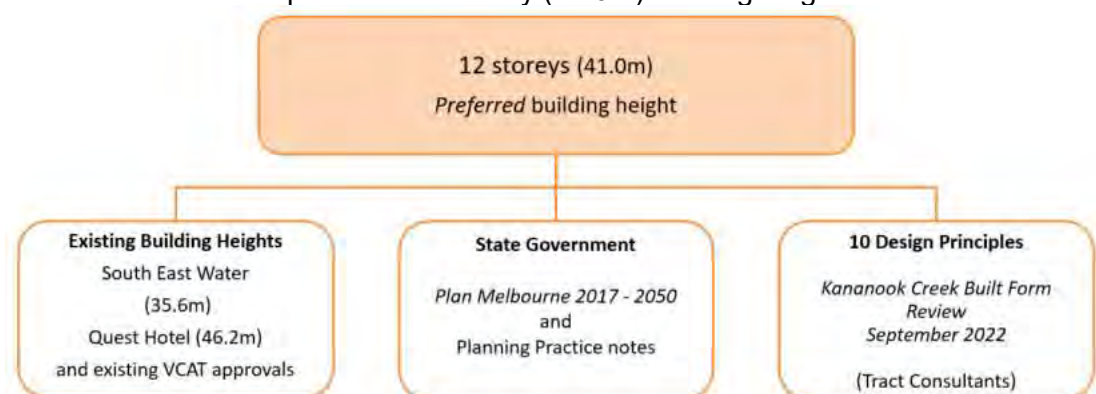
• Proposed building heights

It is acknowledged that the proposed building heights in the Structure Plan (particularly those within Precinct 4) have been controversial. As outlined earlier within this report, this is not unusual, as it signals a significant departure from the built form that currently exists.

Potential building height ranges were outlined in the Emerging Ideas Paper as a first step to testing these with the community and key stakeholders

For the draft and final Structure Plans, rigorous testing and analysis of built form outcomes for all of the areas within the Structure Plan boundary have been undertaken to ensure that the outcomes are well justified, the directions of the Structure Plan are realised and high quality public realm outcomes are achieved (particularly solar access). In addition, an attempt has been made to balance the needs of the community with development outcomes and the need to meet the State Government requirements of a MAC.

With a particular focus on Precinct 4, proposed building heights along the sensitive Kananook Creek interface were further tested through modelling undertaken in the background report *Kananook Creek Built Form Review September 2022*. This work considers a range of objectives from overshadowing, mitigation of impacts on views and amenity, high quality design etc. has informed the preferred 12 storey (41.0m) building height within Precinct



• Additional information sharing

The Community Relations department has prepared extensive communication material for the FMAC Structure Plan Communication Strategy which sought to optimise opportunities to promote the Structure Plan from March through to mid-June.

The objectives of the campaign were to:

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- Increase community satisfaction of the Structure Plan;
- Educate the community and stakeholders about the Structure Plan objectives;
- Communicate timelines and processes of the Structure Plan; and
- Build acceptance, trust, reputation and identity of the Structure Plan as an essential tool to managing growth and development in the future.

From March until June, the following information was shared:

- A Structure Plan booklet shared at key meetings;
- Articles in Frankston City News and E News;
- ABC and local radio interviews;
- Weekly campaign highlighting each of the six (6) precincts (LinkedIn and Facebook);
- We mean (small and big) business videos (LinkedIn, Facebook and Instagram);
- Stakeholder meeting;
- A number of social media posts on key elements of the Structure Plan; and
- Meetings with the Minister for Planning (Sonya Kilkenny), the Member for South Eastern Metropolitan Region (Ann-Marie Hermans) and the Shadow Cabinet.

- **Department of Transport and Planning (DTP)**

Throughout the development of the Structure Plan, strategic planning officers have met regularly with the planning officers of DTP (Planning) to discuss the direction, what need to be considered from a State Government perspective and the technical aspects of the work and the Planning Scheme Amendment.

There have also been a number of workshops with a range of Council officers and DTP (Transport) officers on Movement and Place to support the Structure Plan work and to help inform the delivery of a number of actions within the document.

In August 2022, Council Strategic Planning officers received written advice from DTP (the then DELWP) in relation to Council needing to resolve infrastructure funding as part of the Structure Plan work.

This has informed a separate piece of work in developing a DCP which will progress as a future Planning Scheme Amendment. Advocacy has also been undertaken by the Mayor, CEO and Director Communities with a number of executives within DTP and the Minister for Planning to encourage the safe passage of the Structure Plan and the Planning Scheme Amendment through the State Government.

2. Other Stakeholders

An internal Project Advisory Group (PAG) and a Project Working Group (PWG) have been established that comprise of Directors, Managers and senior officers across Council.

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The Charter of Human Rights and Responsibilities has been considered in the preparation of this report but is not relevant to the content of the report.

Legal

The Structure Plan has been developed in accordance with the relevant Planning Practice Notes and all consultation has been undertaken in accordance with the *Planning and Environment Act 1987* (the Act) to ensure that the work does not prejudice the Planning Scheme Amendment.

Preparation of Planning Scheme Amendment C160fran must follow the correct procedure pursuant to the *Planning and Environment Act 1987*.

Policy Impacts

Since the adoption of the 2015 Structure Plan, the State Government has updated its Metropolitan Planning Policy, *Plan Melbourne 2017-2050* (Plan Melbourne) which identifies the City Centre as one of the nine (9) Metropolitan Activity Centres (MAC).

The State Government has also prepared a number of Planning Practice Notes to guide the development of structure plans and their implementation through Planning Scheme Amendments. These practice notes underpin the preparation of the Structure Plan and Planning Scheme Amendment C160fran and are:

- *Planning Practice Note 56: Activity Centre Zone;*
- *Planning Practice Note 58: Structure Planning for Activity Centres;*
- *Planning Practice Note 59: The Role of Mandatory Provisions in Planning; Schemes; and*
- *Planning Practice Note 60: Height and Setback Controls for Activity Centres.*

All community consultation has been undertaken in accordance with the Act to ensure that the work completed does not prejudice Planning Scheme Amendment C160fran.

Officer's Declaration of Interests

Council officers involved in the preparation of this report have no Conflict of Interest in this matter.

Risk Mitigation

The Structure Plan and proposed Planning Scheme Amendment C160fran seek to implement planning controls in the City Centre. This provides certainty to the community, investors, developers and Council and reduces the risk of planning permit applications being challenged at the Victorian Civil and Administrative Tribunal (VCAT) and VCAT decisions being made with little or no consideration of Frankston's unique characteristics.

During the development of this Structure Plan, in August 2022, DTP (the then DELWP) provided written correspondence in relation to Council needing to resolve infrastructure funding as part of the Structure Plan work. It was indicated in this correspondence that deferring funding or proceeding with the Structure Plan without a resolved approach may (inter alia) delay the progression of the Planning Scheme Amendment.

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This has resulted in the commencement of the preparation of a DCP and a review of the PO which will form part of a future Planning Scheme Amendment to allow for the physical implementation of the vision in the Structure Plan.

Certain objectives of the Structure Plan and Planning Scheme Amendment are controversial, particularly in terms of proposed building heights. It is not unusual for proposed increases in building height to be a contentious matter, as it signals a significant departure from the built form that currently exists and seeks to change the existing character of an area.

Given this officers have commissioned rigorous testing and analysis of built form outcomes for all of the areas within the Structure Plan boundary to ensure that the outcomes are well justified, the directions of the Structure Plan are realised and high quality public realm outcomes are achieved (particularly solar access). In addition, an attempt has been made to balance the needs of the community with development outcomes and the need to meet the State Government requirements of a MAC.

The Structure Plan and Planning Scheme Amendment C160fran documentation have been prepared in accordance with The Act, the relevant Planning Practice Notes and Council officers have been meeting regularly and working closely with planning officers from DTP to minimise and mitigate any potential risks to achieving Authorisation for the Planning Scheme Amendment.

Conclusion

The *Frankston Metropolitan Activity Centre Structure Plan (June 2023)* builds on the *Frankston Metropolitan Activity Centre Structure Plan (May 2015)*, four (4) technical background reports, the *Frankston Metropolitan Activity Centre Structure Plan – Emerging Ideas Paper (April 2022)*, the *draft Frankston Metropolitan Activity Centre Structure Plan (October 2022)* and the associated community consultation.





It provides a detailed precinct-level approach to guide decision making on use and development within the City Centre and provides a clear framework for the future of the City Centre and forms the strategic justification for proposed Planning Scheme Amendment C160fran.

Proposed Planning Scheme Amendment C160fran has been prepared to ensure clear and effective implementation of the land use and development elements of the Structure Plan into the Frankston Planning Scheme, giving these statutory weight in future decision making.

Work has commenced on the preparation of a Development Contributions Plan and review of the Parking Overlay, to consider and contribute to the funding of infrastructure within the City Centre.

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ATTACHMENTS

- Attachment A:  Council response and summary of Submissions made to the draft Frankston Metropolitan Activity Centre Structure Plan (October 2022) *(Under Separate Cover)*
- Attachment B:  Redacted Submissions to the draft Frankston Metropolitan Activity Centre Structure Plan (October 2022) *(Under Separate Cover)*
- Attachment C:  Planning Scheme Amendment 160fran Documents *(Under Separate Cover)*
- Attachment D:  Frankston Metropolitan Activity Centre Structure Plan (June 2023) *(Under Separate Cover)*

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Officers' Assessment****Background****History of the FMAC Structure Plan****Tafe to Bay (September 2005)**

Eighteen (18) years ago, *Tafe to Bay (September 2005)* was the first Structure Plan prepared for Frankston's City Centre under the then Metropolitan Planning Strategy, *Melbourne 2030 (2002)* which identified the City Centre as a Principal Activity Centre (PAC). *Tafe to Bay* was implemented into the Frankston Planning Scheme on an interim basis through the application of DDO5 and DDO13 until further strategic work was undertaken. The history of the Planning Scheme Amendments is outlined below:

1. Amendment C49 (2007)

Interim controls (2 years - 31 October 2009)

22.05 Frankston CAD Policy & DDO5;

2. Amendment C61 20(4) (2009)

Extension of interim planning controls granted until 31 October 2012; and

3. Amendment C85 (2012)

Extension of interim planning controls refused in 2013.

The refusal of Amendment C85 by the Minister for Planning resulted in the commencement of the 2015 Structure Plan and removed the interim planning controls leaving the City Centre without contemporary and effective policy guidance.

Frankston Metropolitan Activity Centre Structure Plan (May 2015)

In 2015, Council with the then Metropolitan Planning Authority (MPA) prepared the *Frankston Metropolitan Activity Centre Structure Plan - May 2015* which was partially implemented into the Frankston Planning Scheme through Planning Scheme Amendment C124, introducing planning controls on the periphery of the FMAC (Precincts 4, 5, 6, 7, 8 and 9).

In 2016, Planning Scheme Amendment C123 was exhibited, proposing to implement the vision and objectives of the 2015 Structure Plan as it related to the City Centre (Precincts 1, 2, 3 and 11), predominantly through the implementation of the Activity Centre Zone (ACZ).

At the 3 April 2018 Ordinary Meeting, Council made a number of resolutions in relation to Amendment C123, the Panel and the *FMAC Illustrative Guidelines – Neighbourhood Character & Urban Design Outcomes for Precincts 1A and 1B (2017)*.

One of these resolutions was to make *mandatory a maximum building height of 20 metres to apply to that part of Precinct 1(b) between the Nepean Highway and Kananook Creek*.

Subsequently, the Amendment was lodged with the Minister for Planning for approval, however, the validity of the Amendment was challenged at the VCAT.

The outcome of the hearing was that the VCAT determined that Planning Scheme Amendment C123 had lapsed for the reasons outlined in the Tribunal order issued on 31 October 2019 (*Steller 250 Pty Ltd v Frankston City Council [P2368] VCAT 2018*), for failing to comply with various Sections of the Act.

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Officers' Assessment**

The lapsing of Amendment C123 has left the City Centre without tailored planning controls which results in a level of uncertainty for the community, investors, developers and Council.

Refreshed Structure Plan

In order to progress policy development for the City Centre, four (4) options were put forward to Council in order to implement planning controls into the Frankston Planning Scheme for the City Centre. Council resolved to undertake a review and refresh of the *Frankston Metropolitan Activity Centre Structure Plan (May 2015)* – Precincts 1, 2, 3 and 11.

Tract Consultants were engaged to undertake the development of the Emerging Ideas Paper, the draft and the final Structure Plan.

Frankston Metropolitan Activity Centre Structure Plan - Emerging Ideas Paper (April 2022)

The Emerging Ideas Paper outlined fifty (50) ideas on how the City Centre could be planned into the future.

Community consultation on the Emerging Ideas Paper was undertaken from 1 April to 30 May 2022. During this time (through a range of engagement activities) 856 comments were received and the process concluded with a total of seventeen (17) written submissions.

Of the seventeen (17) submissions received:

- Seven (7) were in support;
- Two (2) were in support with changes; and
- Eight (8) did not support (based on currently proposed building heights and a desire for more car parking).

A report was presented at the July 2022 Council Meeting outlining the community consultation process and the written submissions received. At that meeting, ten (10) of those submitters provided Council with verbal submissions.

The written and verbal feedback received as part of the Emerging Ideas consultation process informed, and was considered, in the preparation of the draft Structure Plan.

Draft Frankston Metropolitan Activity Centre Structure Plan (October 2022)

The draft Structure Plan was prepared by Tract Consultants, building on the 2015 Structure Plan and informed by consultation on the Emerging Ideas Paper and four (4) background technical reports:

1. *Planning and Urban Design Assessment*, Tract Consultants, September 2022;
2. *FMAC Structure Plan - Transport and Movement Assessment and Analysis*, Institute for Sensible Transport, June 2022;
3. *Kananook Creek Built Form Review*, Tract Consultants, September 2022; and
4. *Frankston MAC Structure Plan: Economic Assessment and Land Use Capacity*, SGS Economics and Planning, August 2022.

Community Consultation on the draft Structure Plan was undertaken from 31 October 2022 to 12 December 2022. During this time (through a range of engagement activities) approximately 500 stakeholders were actively participated in the various community

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Officers' Assessment**

engagement events. The process concluded with a total of twenty two (22) written submissions.

Of the twenty two (22) submissions received:

- One (1) was in support;
- One (1) was neutral;
- Six (6) were in support with changes; and
- Fourteen (14) did not support (predominately based on currently proposed building heights and overshadowing).

Frankston Metropolitan Activity Centre Structure Plan (June 2023)

The final Structure Plan builds on the 2015 Structure Plan, the Emerging Ideas Paper, the four (4) technical background reports, the draft Structure Plan and the associated community consultation.

The Structure Plan outlines a vision for the City Centre with a decreased and more refined overall boundary from the 2015 Structure Plan, taking into consideration the relevant State Government Planning Practice Notes, road and rail infrastructure, the implementation of the ACZ and other strategic planning policy work currently being undertaken.

This vision is underpinned by the four (4) overarching themes of Land Use, Built Form and Development, Public Realm and Movement and Transport.

The themes inform six (6) Precincts which provide objectives, requirements and guidelines for specific areas within the City Centre, providing more guidance and clarity in terms of land use, built form and preferred heights.

It provides a detailed precinct-level approach to guide decision making on use and development within the City Centre. It also provides a clear framework and gives certainty to the community, investors, developers, Council about the future of the City Centre.

Proposed Planning Scheme Amendment C160fran

A Planning Scheme Amendment is needed to provide statutory weight to the Structure Plan within the Frankston Planning Scheme, which will guide future use and development permit applications in the City Centre.

Proposed Planning Scheme Amendment C160fran proposes to implement the land use and development directions of the Structure Plan into the Frankston Planning Scheme by applying a more suitable suite of zone and overlay controls to the Structure Plan area. This includes the rezoning of the land within the boundary of the Structure Plan to the Activity Centre Zone with a new Schedule 1 and the application of two new Public Acquisition Overlays to facilitate the acquisition of land to extend the Kananook Creek Promenade and to widen Bay Lane. This will ensure that there is a clear planning framework in place that reflects the vision and strategic intent set by the Structure Plan.

In addition, the amendment proposes to rezone land on the Frankston foreshore in and around the mouth of the Kananook Creek from CDZ2 to PPRZ, now that development of that area in accordance with the *Kananook Creek Comprehensive Development Plan, May 1999*, and *Kananook Foreshore Development Structure Plan, June 1998*, is complete. Development includes the Frankston Yacht Club, Frankston Lifesaving Club, Sofia's Restaurant, Visitors Centre, car parking areas, boardwalks, footpaths and landscaping redevelopments. The PPRZ is considered the most appropriate zone for

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the foreshore, being consistent with the zoning of similar foreshore areas around Port Phillip Bay that provide boating, yachting, cafes, restaurants and car parking facilities such as Mornington, Mordialloc, Half Moon Bay, Sandringham and St Kilda.

Specifically the Amendment proposes to:

- Rezone the land within the Structure Plan boundary from MUZ, C1Z and CDZ to the ACZ with a new Schedule 1 to Clause 37.08 (ACZ1);
- Rezone land on the Frankston in and around the mouth of the Kananook Creek from CDZ2 to PPRZ;
- Apply two PAOs, to facilitate the extension of the Kananook Creek Promenade and widening of Bay Lane;
- Make a number of changes to the MPS and PPF to ensure consistency with the Structure Plan, including amendments to:
 - Clause 02.03 Strategic Directions
 - Clause 02.04 Strategic Framework Plans
 - Clause 11.03-1L-02 Frankston Metropolitan Activity Centre
 - Clause 16.01-1L Housing Supply;
- Delete redundant controls that fall within the Structure Plan boundary that the ACZ1 and PPRZ will supersede, including CDZ2 and DDO5;
- Make consequential changes to a number of clauses to provide clarity for users to distinguish between the new refined Structure Plan boundary and the adjacent areas that were included in the larger 2015 Structure Plan boundary. No change is proposed to the policy direction or provisions affecting the areas outside the new Structure Plan boundary. Amendments are proposed to:
 - RGZ1, to change the name of the schedule;
 - PO1, to distinguish between the new extent of the FMAC and the adjacent residential areas (the extent that the PO applies to remains the same);
 - The Schedule to Clause 53.01 Public Open Space Contribution and Subdivision, to clarify wording (the extent that the 8% public open space contribution applies remains the same);
 - DDO12 and DDO13, to ensure they are reflective of the relevant background documents and consistent with the new content being introduced in this amendment; and
- Delete Clause 23 Operation of the Local Planning Policy Framework (Transitional), transitional provisions that are no longer needed now that Frankston has implemented the Planning Policy Framework and Municipal Planning Strategy; and
- Make consequential changes to Operational Provisions, including amendments to:
 - The Schedule to Clause 72.04 Incorporated Documents, to delete the Kananook Creek Comprehensive Development Plan (May 1999).
 - The Schedule to Clause 72.08 Background Documents, to update the reference to the Structure Plan and include other existing background documents that underpin other parts of the scheme.
 - The Schedule to Clause 74.01 Application of Zones, Overlays and Provisions, to include reference to the ACZ.

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- The Schedule to Clause 74.02 Further Strategic Work, to remove reference to completing a new FMAC Structure Plan.

The full list of changes proposed by Planning Scheme Amendment C160fran are outlined in Attachment C.

Approach to mandatory and discretionary building height and setback controls

Building height and setback controls in Activity Centres are guided by three (3) technical State Planning documents referred to as Planning Practice Notes, prepared by the DTP:

- Planning Practice Note 58: Structure Planning for Activity Centres provides guidance to Councils on the structure planning process
- Planning Practice Note 59: The role of mandatory provisions in Planning Schemes sets out criteria that can be used to decide whether mandatory provisions may be appropriate in Planning Schemes.
- Planning Practice Note 60: Height and setback controls for Activity Centres provides guidance on DTP's preferred approach to the application of height and building setback controls for Activity Centres. It also covers how to approach mandatory height and setback controls.

Frankston is designated as a MAC the highest order of the hierarchy of Activity Centres. DTP's preferred approach to height and setbacks in Activity Centres is preferred or discretionary controls, combined with clear design objectives and decision guidelines. It is their view that discretionary controls are more likely to facilitate appropriate built form outcomes (rather than mandatory controls) because they provide more flexibility to accommodate individual or unique circumstances.

Mandatory height and setback controls (controls that cannot be exceeded under any circumstance) should only be used when exceptional circumstances exist, such as when Council has undertaken comprehensive strategic work and is able to demonstrate that mandatory controls are appropriate in the context and are absolutely necessary to achieve the preferred built form outcomes. To justify mandatory controls, Council needs to be able to demonstrate that exceeding these development parameters would result in unacceptable built form outcomes.

The MAC does not meet the test for mandatory building height and setback controls and these would not be supported by the State Government through the Planning Scheme Amendment process. Therefore, discretionary building height and setback controls have been included within the ACZ1.

The exception within the Structure Plan is the application of mandatory street and ground level setbacks to properties adjacent to Kananook Creek, within Precinct 4 to achieve the vision for the Kananook Creek Boulevard and Promenade and within Precinct 5 to protect the landscape, topography and vegetation as the dominant visual elements in this area.

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Figure 01: Steps in the Planning Scheme Amendment Process

If Council resolve to request Authorisation from the Minister for Planning to prepare and exhibit proposed Planning Scheme Amendment C160fran, officers will prepare the relevant documents and submit these (**Stage 01** of the Planning Scheme Amendment process).

DCP and DTP response and Advocacy

In August 2022, DTP (the then DELWP) provided written correspondence in relation to Council needing to resolve infrastructure funding as part of the Structure Plan work. It was indicated in this correspondence that deferring funding or proceeding with the Structure Plan without a resolved approach may (inter alia) delay the progression of the Planning Scheme Amendment.

This has resulted in the commencement of the preparation of a DCP and a review of the PO, with specialist consultants engaged to undertake both these pieces of work. A number of internal workshops have been undertaken, including the establishment of both a PAG and PWG for the DCP project.

This work will culminate in a future Planning Scheme Amendment, with a request for Authorisation to prepare and exhibit to be made to the Minister for Planning by December 2023.

Significant Advocacy has also been undertaken to encourage the safe passage of the Structure Plan and the proposed Planning Scheme Amendment through the State Government. Meetings comprising of the Mayor, CEO and Director Communities have been held with the Minister for Planning (Sonya Kilkenny), executive officers at DTP, the Member for South Eastern Metropolitan Region (Ann-Marie Hermans) and the Shadow Cabinet.

Issues and Discussion

Plan Melbourne outlines that MACs are higher order centres that are intended to provide a diverse range of jobs, activities and housing for regional catchments that are well served by public transport. These centres play a major service delivery role, including government health, justice and education services, as well as retail and commercial opportunities.

The Frankston City Centre is one of the nine (9) MACs outlined in *Plan Melbourne*. The other centres are Box Hill, Broadmeadows, Dandenong, Epping, Footscray, Fountain Gate-Narre Warren, Ringwood and Sunshine.

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The 2015 Structure Plan was prepared prior to the preparation of *Plan Melbourne* and a number of Planning Practice Notes, however, it did provide a range of built form recommendations. These recommendations were never fully implemented into the Frankston Planning Scheme because of the lapsing of Amendment C123 (outlined earlier in this report). This has left the City Centre without contemporary and effective planning controls.

Council is currently experiencing a high level of developer interest with a number of development applications within the City Centre. Without clear planning controls or guidelines in place, it is difficult for Council to achieve the exemplary, high quality built form outcomes that are expected for development sites located within a MAC. This has an additional impact of a lack of certainty for the community, investors, developers and Council.

Options Available including Financial Implications

There are financial costs associated with proposed Planning Scheme Amendment C160fran, however, these costs can be accommodated within existing budgets.

The Structure Plan identifies a number of actions/projects which is Council's responsibility to deliver. Such projects place additional strain on the existing Council budget and Council needs to explore a range of other mechanisms to assist in funding these projects, which include (but are not limited to):

- A Development Contributions Plan (DCP);
- Council's Long Term Infrastructure Plan (LTIP);
- An open space contribution of 8%;
- Victorian Government funding sources; and
- Australian Government funding sources.