

*Planning and Environment Act 1987*

**Panel Report**

**Whittlesea Planning Scheme Amendment C183**  
**English Street Precinct Structure Plan**

**28 October 2015**

*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Whittlesea Planning Scheme Amendment C183

English Street Precinct Structure Plan

28 October 2015

A handwritten signature in blue ink, appearing to read 'Brett Davis', with a stylized flourish at the end.

Brett Davis, Chair

A handwritten signature in blue ink, appearing to read 'Chris Harty', with a stylized flourish at the end.

Chris Harty, Member

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## List of Abbreviations

BCS	Biodiversity Conservation Strategy
C1Z	Commercial 1 Zone
CHMP	Cultural Heritage Management Plan
DCP	Development Contributions Plan
DCPO	Development Contributions Plan Overlay
DELWP	Department of Environment, Land, Water and Planning
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
ESDP	English Street Development Partners
ESO	Environmental Significance Overlay
EVC	Ecological Vegetation Class
FZ	Farming Zone
GGF	Growling Grass Frog
GRZ	General Residential Zone
IPO	Incorporated Plan Overlay
KMP	Kangaroo Management Plan
LPPF	Local Planning Policy Framework
LSIO	Land Subject to Inundation Overlay
MCMC	Merri Creek Management Committee
MNES	Matters of National Environmental Significance
MPA	Metropolitan Planning Authority (formerly Growth Areas Authority)
MSA	Melbourne Strategic Assessment
NDA	Net Developable Area
NRZ	Neighbourhood Residential Zone
PCRZ	Public Conservation and Resource Zone
PPRZ	Public Park and Recreation Zone
PSP	Precinct Structure Plan
RCZ	Rural Conservation Zone
RDZ2	Road Zone Category 2
RGZ	Residential Growth Zone
SLHC	Small Lot Housing Code
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
UGZ	Urban Growth Zone
VPP	Victoria Planning Provisions

## Overview

Amendment Summary	
<b>The Amendment</b>	Whittlesea Planning Scheme Amendment C183
<b>Common Name</b>	English Street Precinct Structure Plan
<b>Subject Site</b>	Approximately 143 hectares bound by Donnybrook Road to the north, Melbourne-Sydney rail corridor to the east and the Merri Creek to the south and west, Donnybrook
<b>The Proponent</b>	English Street Development Partners Pty Ltd
<b>Planning Authority</b>	Metropolitan Planning Authority
<b>Exhibition</b>	7 May to 9 June 2015
<b>Submissions</b>	5 Agencies/Authorities 1 proponent 2 councils 6 landholders/general public 1 developer See full list of submitters at Appendix 1

The Panel Process	
<b>The Panel</b>	Brett Davis (Chair) and Chris Harty
<b>Date of Appointment</b>	8 July 2015, under sections 153 and 155 of the <i>Planning and Environment Act 1987</i>
<b>Directions Hearing</b>	23 July 2015 at Planning Panels Victoria
<b>Panel Hearing</b>	31 August and 1 September 2015 at Planning Panels Victoria
<b>Site Inspections</b>	Unaccompanied 25 August 2015
<b>Date of this Report</b>	28 October 2015

## Executive Summary

Amendment C183 to the Whittlesea Planning Scheme seeks to implement the English Street Precinct Structure Plan, and the English Street Development Contributions Plan respectively. The Amendment was prepared by the Metropolitan Planning Authority (MPA) in consultation with the City of Whittlesea, Hume City Council, various agencies and landowners.

The Amendment was publicly exhibited between 7 May and 9 June 2015 and 15 submissions were received. The Panel comprising Brett Davis (Chair), and Chris Harty was appointed on 8 July 2015. The Hearings were held 31 August and 1 September 2015.

The main issues raised by submitters related to:

- Size of the commercial centre;
- Form and content of the Precinct Structure Plan;
- Inclusions in the Development Contributions Plan;
- Laffan Reserve and off-site treatments including management of Merri Creek and conservation of Growling Grass Frog habitat;
- Bridge design and funding;
- Various other site specific issues.

Although the MPA proposed a number of changes to the Amendment that resolved many of the issues raised in submissions, not all of the issues were able to be resolved and MPA requested that an independent Panel be appointed to make recommendations to the MPA and the Minister for Planning on the outstanding issues.

The MPA proposed a large number of revisions to the Amendment before, during and post the Hearings, resulting in many issues being resolved. Consequently, the scope and number of matters before the Panel were significantly reduced over the course of the Hearing. As a result, this also caused some frustration, as it could be viewed 'planning on the run' due to the continual changes to documents prior to and post-hearing. As a result, the Precinct Structure Plan and Development Contribution plans tabled with substantive mark-ups was not particularly helpful for the Panel in its deliberations, nor were they included in the appendices to this report. Having said this, the Panel generally supports the form and content of the Amendment, including the Precinct Structure Plan and Development Contributions Plan as exhibited and the revisions proposed by the MPA. The Panel has recommended a number of further changes and these are explained in the report.

A number of Panel preferred schedules can be found in the appendices to inform the discussion in this report. Essentially these are the main areas of interest and the Panel generally has adopted the changes proposed by the MPA. All zones and schedules submitted in post-hearing by the MPA have been accepted.

The Panel generally supports the adoption of Amendment C183, the English Street Precinct Structure Plan and the English Street Development Contributions Plan, subject to a number of changes.

Whittlesea Planning Scheme Amendment C183 be adopted as exhibited subject to the following:

1. Retain Environmental Significance Overlay Schedule 4 (ESO4) and delete Environmental Significance Overlay Schedule 3 (ESO3), subject to its contents being applied to the Amendment documentation as follows:
  - a) insert the ESO3 statement of environmental significance into the conservation values of Schedule 1 to the Rural Conservation Zone (RCZ1) as shown in Appendix H.
  - b) translate the ESO3 objectives relating to natural systems, waterway function, recreation use, landscape character and heritage directly into the relevant parts of the English Street Precinct Structure Plan.
2. Amend the second column of Sub-clause 1.0 – *Scheduled Area* of the Schedule as outlined in Appendix D to Clause 52.17 to read:
 

All native vegetation except for that shown as to be retained on Plan 6 in the incorporated English Street Precinct Structure Plan provided the removal, destruction or lopping is carried out in accordance with the ‘Final approval for urban development in three growth corridors under the Melbourne urban growth program strategic assessment, 5 September 2013’ pursuant to section 146B of the Environment Protection and Biodiversity Protection Act 1987 (Cth).

and

Any other native vegetation not shown on Plan 6 in the incorporated English Street Precinct Structure Plan.
3. Add the following words above Table 8 of Appendix 4.1 of the English Street Precinct Structure Plan:
 

The densities contained within Table 8 are indicative only. They should not be treated as prescriptive requirements. Actual dwelling densities will be determined at planning permit stage.
4. Amend Table 2 of the English Street Precinct Structure Plan to reference the Merrifield Town Centre.
5. Amend Figure 1 of the English Street Precinct Structure Plan to specify the Local Convenience Centre.
6. Amend the Explanatory Report as outlined in Appendix C.
7. Amend requirements and guidelines for Employment in the English Street Precinct Structure Plan at section 3.2.3 to strengthen the urban design outcomes.
8. Amend the English Street Development Contributions Plan as follows:
  - a) include funding of \$285,120 to the ‘Donnybrook Cheese Farm’ community centre.
  - b) include the bridge costing at \$4.367 million.



9. **Amend Plan 8 of the English Street Precinct Structure Plan and Plan 5 of the English Street Development Contributions Plan to reflect the mid-block intersection on English Street.**
10. **Adopt the English Street Development Contributions Plan dated 14/9/15 subject to inclusion of amended plans and tables.**
11. **Delete the proposal to rezone Laffan Reserve from the Public Park and Recreation Zone to Rural Conservation Zone.**

# 1 Introduction

## 1.1 Background

The Amendment applies to land included in the English Street Precinct Structure Plan (PSP) area and comprises approximately 143 hectares as shown in Figure 1 below. The PSP is bound by Donnybrook Road to the north, the Melbourne-Sydney rail corridor to the east and Merri Creek to the south and west.

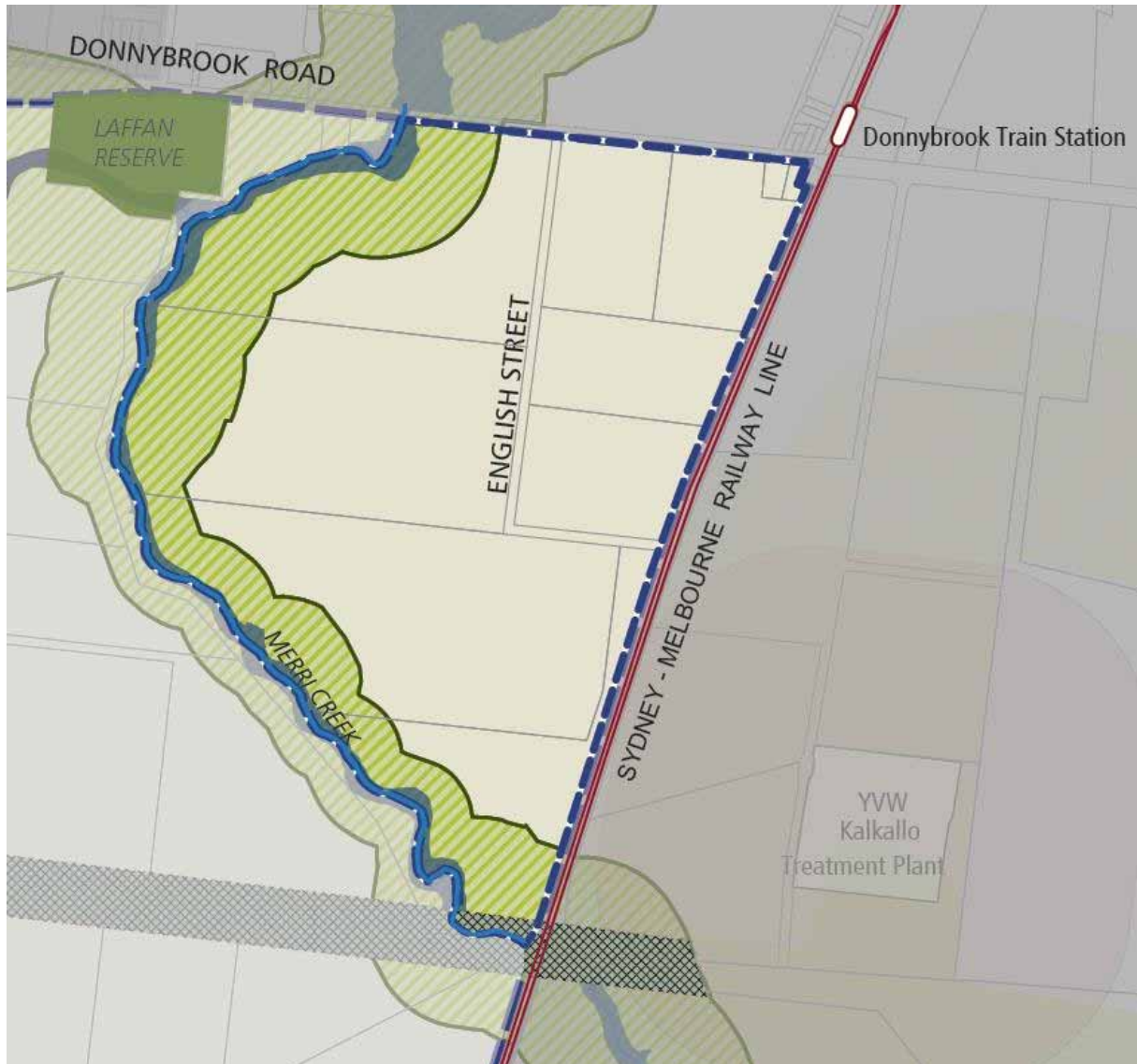


Figure 1 English Street PSP area  
Explanatory Report V03 1/9/15

As exhibited, Amendment C183 seeks to implement the English Street PSP through the following changes to the planning scheme:

- Inserts two new incorporated documents titled English Street Precinct Structure Plan and English Street Development Contributions Plan into the

Whittlesea Planning Scheme and rezones the land to Urban Growth Zone Schedule 4 (UGZ4) to facilitate the development of the land.

- Removes the Environmental Significance Overlay Schedule 3 & 4 (ESO3 & ESO4) from the Amendment area. The overlays are no longer required as the incorporated English Street PSP designates areas of environmental significance in the Merri Creek.
- Applies a Public Acquisition Overlay (PAO2) to land south of Donnybrook Road to allow for the widening and construction of the ultimate carriageway and intersections for Donnybrook Road.
- Incorporates two new documents into the planning scheme by listing them in the Schedule to Clause 81.01:
  - English Street Precinct Structure Plan, April 2015
  - English Street Development Contributions Plan, April 2015
- Inserts Schedule 4 to the Urban Growth Zone (UGZ4) to the Whittlesea Planning Scheme and applies UGZ4 to part of the Amendment area. The schedule sets out the land use and development controls for the precinct and requires land use and development within the Amendment area to be generally in accordance with the English Street PSP;
- Rezones land identified as Growling Grass Frog Conservation Area 34 in the *Biodiversity Conservation Strategy* along the Merri Creek from Farming Zone (FZ) to Rural Conservation Zone (RCZ);
- Inserts Schedule 10 to the Incorporated Plan Overlay (IPO10) to the Whittlesea Planning Scheme and applies IPO10 to land within the Rural Conservation Zone which is identified as Conservation Area 34 in the *Biodiversity Conservation Strategy* along the Merri Creek;
- Inserts Schedule 15 to the Development Contributions Plan Overlay (DCPO15) in the Whittlesea Planning Scheme and applies the DCPO15 to land within the Amendment area, to provide for development contributions for transport and community infrastructure;
- Amends the Land Subject to Inundation Overlay (LSIO) to reflect updated mapping provided by Melbourne Water;
- Removes the Rural Flood Overlay from the amendment area as this provision is no longer required and is adequately dealt with via the LSIO and PSP provisions;
- Amends the Schedule to Clause 52.01 to provide for public open space contributions for land in the English Street PSP area when land is subdivided; and
- Amends the Schedule to Clause 52.17 to identify vegetation that can be removed without the need for a planning permit.

## **1.2 The Panel process**

The Panel was appointed on 8 July 2015 under delegation from the Minister for Planning and comprised Mr Brett Davis (Chair) and Mr Chris Harty. A Directions Hearing was held 23 July 2015 at Planning Panels Victoria.

The Hearing was held at Planning Panels Victoria on 31 August and 1 September 2015.

The Panel undertook unaccompanied inspections of the areas affected by the Amendment and the surrounding areas prior to the Hearing.

The Panel heard the parties listed in Table 1.

**Table 1** Parties to the Panel Hearing

Submitter	Represented by
Metropolitan Planning Authority	Ms Joanne Lardner of Counsel assisted by MPA staff
City of Whittlesea	Mr Terry Montebello (Maddocks Lawyers)
Hume City Council	Mr Gareth Edgley
English Street Development Partners Pty Ltd	Mr Christopher Canavan QC and Emma Pepler of Counsel instructed by Norton Rose Fulbright who called the following expert witness: - Tom Rymer of Tardis (Archaeology)
Merri Creek Management Committee	Ms Luisa Macmillan

### 1.3 Procedural matters

#### (i) Directions

Prior to the Directions Hearing, correspondence dated 17 July 2015 was received on behalf of Hume City Council expressing concern over the potential loss of integrated assessment of issues that were considered common between Amendment C183 to the Whittlesea Planning Scheme (English Street PSP) and the adjoining Amendment C198 to the Hume Planning Scheme (Craigieburn North Employment PSP). These areas adjoin each other with the Merri Creek acting as the boundary between them as well as being the municipal boundary between the two Councils.

The original PSP boundary combined land located within both municipalities. However it was determined that each Council site had distinct land use issues and that two separate PSPs ought be prepared, one in each municipality. This was supported on the basis that it would improve administrative practicalities and the management of development contributions. Hume City Council considered that, to a large extent, both PSP areas are functionally integrated in respect of the following issues:

- Management of flora and fauna (Merri Creek).
- Road connectivity (road bridge crossing of Merri Creek).
- Active open space (reliance of English Street PSP precinct on Laffan Memorial Reserve located in the Craigieburn North Employment PSP precinct).
- Development contributions.

Both Amendments have run alongside each other until now whereby the respective Panel processes for each have become separated with the English Street PSP Panel Hearing in late August and the Craigieburn North Employment PSP Panel Hearing scheduled for mid-November. For Hume City Council this creates an issue where any findings by this Panel may

impact negatively or prevent the proper implementation of planning policy in Amendment C198.

Following discussions between the City of Whittlesea, Hume City Council and the MPA at the Directions Hearing it was agreed that a consent order be drafted to address a number of the issues raised by Hume City Council. The purpose of the consent order was to resolve issues relating specifically to the Merri Creek road bridge costings and any required notice to affected parties. This would comprise:

- Convening an engineering conclave to resolve road bridge details and costings; and
- Additional notification of landowners in Hume that would be affected by a proposed conservation area for the protection of Growling Grass Frog (*Litoria raniformis*) that straddled both sides of Merri Creek and provide an opportunity to make submissions and request to be heard by this Panel.

On 4 August 2015 the Panel issued directions to the MPA and Council to resolve issues relating to the Merri Creek and possible notification issues with the upcoming Amendment C198 in Hume.

In this context, the Panel relied on the MPA to identify the submissions and issues that had not been resolved and to refer those to the Panel. During the Hearing, many of these unresolved matters were resolved and the number and scope of outstanding issues were considerably reduced. Some submissions were also withdrawn on the basis that the MPA had agreed to revise the Amendment.

**(ii) Merri Creek Road bridge engineering conclave**

In accordance with the consent order and Panels Directions, a conclave was held on Monday 10 August 2015. The purpose of the conclave was to seek agreement on the costings of the Merri Creek road bridge DCP item BR 25-1-1.

Representatives from the City of Whittlesea, Hume City Council and English Street Development Partners (ESDP) were presented with a peer reviewed costing for the bridge. The agreed cost of the engineering conclave was \$4,367,000.

**(iii) Additional Hume landowner notification**

No responses were received from the additional notification of Hume landowners affected by the proposed conservation area on that side of the Merri Creek.

**(iv) Post-exhibition changes to the Amendment**

The MPA continued to negotiate changes and resolve issues with submitters and other stakeholders following the exhibition of the Amendment and in response to submissions. These changes were outlined in the MPA's written submissions to the Panel, while changes to PSPs and UGZ schedules were also tracked in a series of documents prepared by the MPA. At the conclusion of the Hearing the Panel directed that a complete 'suite' of all documents updated accordingly be tabled. On 15 September the MPA submitted copies of the tracked changes to the Amendment and PSP documentation with various dates.

These documents included:

- Word version of the Explanatory Report, named V03 and dated 01/09/15 (Appendix C)
- Native vegetation Schedule to Clause 52.17. This includes one administrative change after the conclusion of the Panel Hearing, tracked in yellow highlight at Appendix D.
- Word version of the Incorporated Plan Overlay Schedule 10 (Appendix E);
- Word version of the Urban Growth Zone Schedule 4 (Appendix F);
- Environmental Significance Overlay Schedule 10; (Appendix G) and;
- A word version of the Rural Conservation Zone (Schedule 1 to Clause 35.06) with tracked changes (Appendix H).

The following documents submitted post-hearing, due to the formatting, were not particularly useful to the Panel in its final deliberations and these have not been included as appendices. These included:

- Word version of the Precinct Structure Plan with tracked changes, and without the inclusion of plans or figures.
- A word version of the Development Contributions Plan with tracked changes, and without the inclusion of plans or tables.

The Panel has made general recommendations that the revisions outlined in the MPA's final documents be included unless otherwise recommended by the Panel.

## **1.4 The Panel's approach to issues and submissions**

Consistent with other PSP Panels, this Panel has not reviewed the Amendment from first principles; rather, it has reviewed the Amendment with a view to resolving outstanding issues between the MPA, Council and other submitters.

Importantly, this report is focussed on those matters that remained unresolved at the end of the Hearing and does not detail the submissions or issues that were resolved before or during the Hearing.

The Panel generally relies on the MPA's final set of proposed changes submitted to all parties on 15 September 2015 as the basis for its recommendations.

## **1.5 Issues dealt with in this report**

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

This report deals with the issues under the following headings:

- Planning Context
- Zones and Overlays Selection
- General Issues
- English Street Development Contributions Plan.

The Panel's recommendations are included at the end of each section or sub-section of the report. For ease of reading however, these have been consolidated in the executive summary.

In reaching its conclusions and recommendations, the Panel has read and considered the submissions and a range of other material referred to it. This includes written submissions, evidence and verbal presentations. A list of the documents tabled at the Hearings is attached as Appendix B to this report.

## 2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the policy context of the Amendment and considered how well the relevant Ministerial Directions have been complied with as well as other relevant planning strategies.

The Panel has considered zones and overlays as a separate chapter given the purpose of the Amendment converts what is rural land for urban growth purposes and a suite of new zones and overlays are proposed.

### 2.1 Policy framework

#### (i) State Planning Policy Framework

The MPA submitted that the following key elements of the SPPF were taken into account in the consideration of the Amendment and that they represent an integrated decision making process that balances the conflicting objectives of the relevant State planning policies as follows:

- Clauses 11.01 Activity centres, 11.02 Urban growth, 11.03 Open space – The Amendment incorporates a precinct structure plan and development contributions plan. These plans set out an orderly structure for development of the precinct including bringing zoned land supply to the market, providing land with good proximity to existing and planned amenities and services, and infrastructure.
- Clause 12.01 Biodiversity - Offsets for vegetation removal and habitat areas for nationally and state significant species will be provided in accordance with the Biodiversity Conservation Strategy. The Amendment reinforces existing protection of land for the ongoing conservation and enhancement of the Merri Creek corridor as a significant existing natural asset.
- Clause 16.01 Integrated housing - Housing in the precinct will be fully serviced. New residents will have access to existing services and employment opportunities in the community in adjacent developed neighbourhoods and through provision of new infrastructure in the precinct. The precinct structure plan sets out a range of housing densities that can be accommodated in the precinct.
- Clause 17.01 Commercial - The Amendment provides for a local convenience centre for the catchment within the PSP as well as designates land for commercial use, generating approximately 700 local jobs. The precinct is well located to the existing Kalkallo township providing access to key services, as well as being in close proximity to the future activity centre network of the Lockerbie PSP to the north and the Merrifield major town centre and currently developing Merrifield employment precinct to the west.
- Clause 18.01 Land use and transport planning, 18.02 Movement networks – The precinct is strongly integrated with the existing and planned arterial road



network and Principal Public Transport Network. The proposed road network provides a robust structure for traffic and transport movement within and through the precinct. Rail transport is currently provided by the existing Melbourne-Sydney rail corridor providing VLine services for the community.

- Clause 19.02 Community infrastructure, 19.03 Development infrastructure – A comprehensive development contributions plan has been prepared for the English Street PSP precinct and forms part of the Amendment. The Amendment provides the strategic basis for the DCP including roads, intersections, bicycle paths, contribution towards the upgrade of existing sports facilities and open space. Water, sewer and drainage services are readily connectable from adjacent development into the precinct.

## **2.2 Local Planning Policy**

The MPA submitted that the Amendment is supported by the Local Planning Policy Framework (LPPF), in particular Clause 21.05-1, as it provides for the residential development of land that draws on the natural features of the site and incorporates this into the future development. Further, the development of the land will be managed in a way that effectively integrates the landscape, and avoids inappropriate incursions into environmentally sensitive areas.

The Amendment is consistent with and has been prepared in accordance with the Local Planning Policy Framework.

### **Municipal Strategic Statement**

- Clause 21.03 Council Vision and Strategic Framework. The land use planning objectives are linked to wider corporate objectives of the City of Whittlesea. These are expressed in the Community Plan. The Community Plan lists key strategic directions of which strategic planning is a key one.

To achieve this direction the Community Plan outlines the following actions:

- Respect heritage, environment and rural assets and protect them for the future. The Amendment will protect and enhance the environment of the Merri Creek Growling Grass Frog habitat in line with the approved Biodiversity Conservation Strategy.
- Ensure ease of movement within, as well as to and from, the municipality. The Amendment sets aside land for future road networks, a bridge crossing, cycle and walking linkages that will connect the future community to existing townships as well as new communities to the north, east and south.
- Provide for a range of well-planned future communities, in appropriate locations. The PSP will provide for approximately 1,100 dwellings in close proximity to existing and planned jobs. Furthermore, the proximity of the existing Donnybrook railway station provides close and convenient connections to Melbourne via existing VLine services.
- Encourage sustainable and quality development that provides choices for diverse community. The precinct is close to the existing Donnybrook railway station and supported by an existing road network. The PSP seeks to deliver a road network that will support a future bus service as well as provide

opportunity for cycling and walking to key destinations, reducing reliance on vehicles.

- Protect and enhance the municipality's amenity and assets. Merri Creek and its associated environmental environs are protected through the expansion of the existing RCZ and application of the IPO10. The PSP also provides guidance on appropriate treatments and buffers adjacent to conservation areas to ensure they are retained and protected into the long run.
- Integrate physical, social, environmental, and economic issues into planning for the community. The PSP seeks to deliver a future community that will provide housing, jobs, opportunity for recreation as well as access to surrounding area. The PSP will deliver approximately 1,100 dwellings and approximately 700 local jobs for the future community. The PSP seeks to deliver a unique sense of place, leveraging off the environs of the Merri Creek and proposed wetlands and retarding basins proposed throughout the neighbourhood.

The following additional local planning policies also support the Amendment:

- 21.05 – Environmental Assets  
The proposed Amendment and PSP sets aside land for the retention and protection of land along Merri Creek, defined as Growling Grass Frog Conservation Area 34 in the Biodiversity Conservation Strategy for Melbourne's Growth Corridor, June 2012. The expansion of the existing Rural Conservation Zone and applied IPO10 will ensure the habitat and environs of the creek are retained. Proposed wetlands and retarding basins will ensure stormwater is managed, collected and cleaned in an appropriate manner fit for travelling back into Melbourne's natural waterways. The PSP delivers a 'conservation interface' to ensure development is considerate of the abutting natural environs.
- 21.09 – Housing  
The City of Whittlesea is expected to attract continued growth, the introduction of PSP will provide an additional 1,100 dwellings for the future community contributing to housing opportunities for existing and new residents. The PSP requires proposed developments to deliver a variety of housing types and densities across the precinct catering for all aspects of the community.
- 21.10 – Economic Development  
The proposed Amendment will deliver a portion of the PSP for commercial use, providing access for the community to 700 jobs. The delivery of a potential community facility and potential local convenience centre will provide a range of services and facilities for the proposed community.
- 21.11 – Transport  
The PSP sets aside land for a future road network that can deliver safe, effective and direct traffic movements throughout the precinct. Furthermore, the road network will have the capacity to provide future bus networks throughout the precinct as well as provides on-road and off-road cycle networks for sustainable transport modes. The precinct is in close proximity

to the existing Donnybrook Railway Station providing public transport to Melbourne for the future residents. The English Street DCP will collect funds to contribute towards the proposed overpass over the existing rail network, improving efficiency of both the rail network and the existing road network as well as a bridge connecting the PSP to the precinct to the south (Craigieburn North Employment Area) as well as deliver key intersections connecting the precinct to the north (Lockerbie PSP area).

The Panel considers that the rationale for the English Street PSP is well articulated through State and local policy and it concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework. There are no changes to State or local policy as a result of this Amendment.

## **2.3 Ministerial Directions and Practice Notes**

### **(i) Ministerial Directions**

The MPA submitted that the Amendment meets the relevant requirements of The following Ministerial Directions:

#### **Ministerial Direction No 1 – Potentially Contaminated Land**

Ministerial Direction No. 1 seeks to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination.

This Direction does not strictly apply to most of the land affected by the Amendment as it proposes to rezone land that has typically been used for various agricultural uses rather than industrial uses.

The MPA advised that a precautionary desktop environment site assessment was carried out for all of the land whether or not it meets the definition of 'potentially contaminated land'. The assessment identified areas subject to historical localised land uses that are potentially subject to contamination which were identified at either a 'medium' or 'low' risk, with a history of residential, farming, small scale agriculture uses as well as dirt racetracks. No areas were identified as a high contamination risk.

The Amendment (via the UGZ4) requires further investigation, assessment and remediation of all land within the precinct prior to use for sensitive land uses (e.g. housing, junior schools and child care) for those uses identified as a 'medium risk'. Accordingly, it is considered the Amendment appropriately addresses the Ministerial Direction.

#### **Ministerial Direction No 9 - Metropolitan Planning Strategy**

Ministerial Direction 9 seeks to ensure that planning scheme Amendment have regard to the Metropolitan Planning Strategy (Plan Melbourne).

The MPA advised that the Amendment has considered Ministerial Direction 9. The Amendment will facilitate the development of land within the urban growth boundary of Metropolitan Melbourne. The implementation of the PSP will facilitate the future development of the land in an efficient and sustainable manner, so that community services and physical infrastructure are available from early in the life of the new community. The

Amendment demonstrates satisfactory compliance with the Ministerial Direction through facilitating implementation of the following relevant initiatives from Plan Melbourne:

- *Initiative 2.1.1 Apply the reformed residential zones*  
The English Street PSP will apply the Residential Growth Zone (RGZ), which will allow for a range of densities and housing types. The Small Lot Housing Code (SLHC) set out in the UGZ4 Schedule will simplify the approval process for lots less than 300m<sup>2</sup>.
- *Initiative 2.1.4 Develop more diverse housing in growth areas*  
The PSP requires subdivision to provide a range of lot sizes capable of accommodating a wide range of housing types. The PSP itself will be the tool to encourage diversity in housing in areas of high amenity (i.e.: close to Donnybrook railway station and Merri Creek). The UGZ4 Schedule facilitates the use of the SLHC encouraging the delivery of smaller lots in prompt time frames.
- *Initiative 2.2.3 Deliver housing close to jobs and transport*  
The PSP will generate approximately 700 future local jobs and housing in close proximity to the Donnybrook railway station. The proposed road network will be capable of accommodating a bus network which will provide further transport options north and south of the precinct.
- *Initiative 3.3.1 Improve roads in growth areas and outer suburbs*  
A new transport network will be delivered through this Amendment, including the funding for the purchase of the future road reserve and construction of the first carriageway and upgrading of intersections. The application of the PAO2 to part of the precinct south of Donnybrook Road will ensure the future widening of Donnybrook Road will be facilitated when required. The English Street DCP will help fund part of these new roads.
- *Initiative 4.3.1 Implement design guidelines to promote walking and cycling neighbourhoods for healthy living*  
The Amendment requires new development to deliver a planned pedestrian and cycle network, therefore encouraging health and wellbeing in the future community. The PSP seeks to deliver a shared path along Merri Creek and provides for off-road shared paths as well as a pedestrian bridge linking to the Laffan Reserve sports fields in the adjacent Craigieburn North precinct.
- *Initiative 4.5.2 Provide new neighbourhood parks and open space*  
Merri Creek is located along the western and southern boundary of the PSP and Laffan Reserve (located in the adjacent Craigieburn North PSP) will be available to the future community of English Street PSP and the wider community. The PSP also identifies a mixture of passive open space areas throughout the precinct, ensuring a variety of recreational opportunities are available for the future community.
- *Initiative 5.2.1 Increase the protection and restoration of biodiversity areas*  
Growling Grass Frog Habitat (Category 1) will be protected through expanding the existing RCZ and applying an IPO10 to the land. The Growling Grass Frog (GGF) is a nationally threatened species that is protected and managed through the Commonwealth *Environment Protection and Biodiversity*

*Conservation Act 1999* (EPBC Act). The Biodiversity Conservation Strategy (BCS) for Melbourne's Growth Corridors, June 2013 identified Merri Creek and its surrounds as designated Conservation Area 34.

- *Initiative 5.2.2 Protect the values of our waterways*

An appropriate drainage scheme will be implemented for the precinct to divert stormwater to natural wetlands and retarding basins. Water Sensitive Urban Design (WSUD) measures within developments will ensure storm water itself is treated to a quality fit for return to the natural watercourse. The MPA and Melbourne Water are continuing to resolve the proposed drainage scheme for the PSP area with the developer and council.

The construction of wetlands and retarding basins for the GGF will assist in improving the water quality of the area and control water flows back into the Merri Creek.

The amendment will identify land along Merri Creek as an area for long term conservation. It will also prevent developable land being located in areas prone to flood.

### **Ministerial Direction No. 11 - Strategic Assessment Guidelines**

Ministerial Direction 11 seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces.

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment Guidelines)

### **Ministerial Direction No 12 – Urban Growth Areas**

Ministerial Direction 12 seeks to manage the provision of sustainable and coordinated urban development in growth areas.

The Amendment is consistent with the Ministerial Direction that provides for the incorporation of the PSP in the scheme.

Part 6 of the Direction requires that when preparing an amendment to introduce or change provisions in a schedule to the UGZ, a planning authority must consider the following:

- *How the amendment implements any Growth Area Framework Plan applying to the land*

The North Growth Corridor Plan applies to the land and identifies the English Street PSP area predominantly for 'Urban Land Use – to be determined'. At the time of preparing the growth corridor plans for Melbourne the surrounding site constraints of environmental values and potential public utility facilities resulted in further investigation work being required for the future land use. During the PSP process, it has been determined that the land would be appropriate for a mixed residential and employment area.

The North Growth Corridor Plan also designates land along Merri Creek along the southern and western edge of the PSP as containing 'Biodiversity Values'. This is consistent with the *Biodiversity Conservation Strategy for Melbourne's Growth Corridors, June 2012*.

The PSP and amendment are generally consistent with the North Growth Corridor Plan in setting aside land for environmental values and designating the remaining land as residential and commercial within the PSP area.

- *How does the amendment accord with the Precinct Structure Planning Guidelines (October 2009)?*

*Objective one: To establish a sense of place and community*

The precinct will have a strong sense of place based on the natural elements of the Merri Creek corridor to the southern and western boundaries of the PSP.

Given the relatively small population of the English Street PSP area the precinct will deliver a potential local convenience centre, community facility and local jobs creating a self-contained residential precinct.

Funding will be allocated via the DCP for the upgrade of the Laffan Reserve within the Craigieburn North Employment PSP. The surrounding network of local town centres and education facilities nominated in the incorporated Lockerbie PSP (north of the precinct) and Merrifield PSP (west of the PPS) have sufficient capacity to support the projected population within English Street.

*Objective two: To create greater housing choice, diversity and affordable places to live*

The Amendment applies the RGZ. The PSP will seek a delivery of range of housing options at a variety of densities within the precinct, with higher densities considered appropriate near the existing rail corridor and along the Merri Creek.

The SLHC removes the need of a planning permit for lots less than 300m<sup>2</sup>, subject to compliance with the SLHC. This is expected to encourage an increased provision of small lots and streamline the provision of new housing.

*Objective three: To create highly accessible and vibrant activity centres*

The PSP does not nominate any local town centres. As previously noted, the projected population of the precinct does not provide sufficient demand to support a local town centre. Surrounding centres nominated in the incorporated Lockerbie PSP and the Merrifield major town centre and within close proximity are close to the English Street Precinct and will support the needs of future residents. A potential Local Convenience Centre is proposed which will allow an appropriate interface to Donnybrook Road and in the precinct to provide local and essential services for the new community.

*Objective four: To provide for local employment and business activity*

The north-east portion of the PSP area is designated for future commercial use in the PSP. Significant employment areas are located west of the precinct in the Merrifield Employment area and the future Craigieburn North Employment Area. In addition to home based occupations, surrounding local

town centres and schools will be the employment generators in proximity to the precinct. The PSP anticipates creating approximately 700 jobs in the precinct.

*Objective five: To provide better transport choices*

The road and path network within the precinct has been planned to integrate with the existing and future transport network in the surrounding area. The Hume Highway and proposed Outer Metropolitan Ring Road provide excellent car access to metropolitan Melbourne and Regional Victoria. The existing Donnybrook railway station is within a short distance to the north.

The road network will deliver off-road shared paths to allow the community to cycle and walk to key destinations in the precinct and an opportunity to utilise sustainable transport modes.

Local bus services can be accommodated on the key north-south secondary arterial road as well as the east-west local road network.

*Objective six: To respond to climate change and increased environmental sustainability*

The precinct has been planned with the potential for future road networks to provide bus capable networks as well as on-road and off-road cycle networks, providing alternative and sustainable transport options for future employees.

The amendment sets aside significant amounts of land for the conservation of the GGF corridor along the Merri Creek in accordance with the BCS. The conservation area protects almost all of the scattered trees within the precinct.

*Objective seven: To deliver accessible, integrated adaptable community infrastructure*

The PSP and DCP provide for upgraded sports fields including a pavilion at the Laffan Reserve, which is to be accessed via a pedestrian bridge linking to the English Street precinct. The PSP will include a Local Convenience Centre which will establish important services and facilities for future residents and employees.

- *How the provisions give effect to the intended outcomes of the precinct structure plan*

Most provisions in the incorporated document and associated ordinance are designed to be implemented at the subdivision development stage. At this point requirements and guidelines are either designed into subdivision plans (e.g. spatial outcomes), implemented through permit conditions (e.g. development and biodiversity contributions), implemented through referral authority agreements (e.g. essential services) or required to be applied as restrictions on title (e.g. bushfire protection, small lot housing code).

This provides for a single permission after approval of the PSP which is central to providing certainty and clarity and timeliness in the planning process.



Additionally, flexible applied zones that follow the pattern of development rather than lead it allow flexibility when the PSP is followed through in the detail of subdivision and land use layouts.

The reformed RGZ will be applied to the precinct facilitating residential and associated land uses in a manner similar to existing growth area precincts. The PSP remains the guiding document for neighbourhood development. The Commercial 1 Zone (C1Z) will allow for the development of employment and residential activities and is complemented by floor space controls which limit retail activity to a scale appropriate to the provision of convenience retailing to serve the English Street residential and employment community. The C1Z, complemented by as-of-right floor space limits in the UGZ schedule, will allow for competitive development of growth areas centres.

- *How a translation of the provisions can be achieved, once development anticipated by the precinct structure plan is substantially complete.*

As discussed above, most outcomes will be delivered through subdivision permits prior to translation of the PSP to standard provisions. Subdivision permits will implement most of the non-standard provisions.

An assessment of how development has proceeded and where public land uses have been established closer to the time of translation will provide a better guide to where zone boundaries should be settled.

Other than the UGZ, standard provisions are used to implement the plan including open space contributions through Clause 52.01 and Development Contributions through Schedule 15 to Clause 45.06. These will stay in place until all relevant contributions are collected.

All elements of the PSP guidelines are used in the PSP to set out the relevant standards and controls for achieving the PSP guideline objectives.

#### **S46m(1) - Direction on Development Contributions Plan**

This direction seeks to direct planning authorities in relation to the preparation and content of a Development Contributions Plan. The English Street DCP has been prepared in accordance with the intent and provisions of this direction. The DCP sets out approximately \$34 million of local infrastructure works for the precinct.

The development contribution rates as per the net developable hectare at September 2014 are approximately \$244,000 for residential land and \$172,000 for commercial land.

#### **The Form and Content of Planning Schemes (s7(5))**

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



## **2.4 The Melbourne Strategic Assessment under the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)**

The Victorian and Commonwealth governments agreed to undertake a strategic assessment referred to as the Melbourne Strategic Assessment (MSA) under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in March 2009 for the expansion of Melbourne's urban growth boundary. A number of reports were prepared, public comment followed and in February 2010, the Commonwealth Minister for Environment endorsed the program document *Delivering Melbourne's Newest Sustainable Communities: Program report* (December 2009). Classes of actions can be approved under the endorsed strategic assessment program. To date, this has included the Regional Rail project, Melbourne's 28 precincts and Melbourne's Northern, North Western, Western and South Eastern Growth Corridors<sup>1</sup>. The English Street PSP is within the North Growth Corridor.

The MSA allows 41,000 hectares of developable land in the four growth corridors to be assessed under this strategic process, rather than requiring individual referrals, which may be required because of the potential impact to Matters of National Environmental Significance (MNES), particularly listed species and communities, under the EPBC Act.

The endorsed program under the EPBC Act includes actions associated with urban development in four growth corridors including the North Growth Corridor, of which the English Street PSP precinct is included. The endorsed program included a commitment by the Victorian Government to prepare a Biodiversity Conservation Strategy for the four corridors as well as regional strategies for the Growling Grass Frog (GGF), Golden Sun Moth (GSM) and the Southern Brown Bandicoot (SBB).

The Commonwealth Minister for Environment (who is the responsible Minister under the EPBC Act) has approved the following strategies:

- Biodiversity Conservation Strategy for Melbourne's Growth Corridors in August 2013.
- Sub-regional Species Strategy for the GSM in August 2013.
- Sub-regional Species Strategy for the GGF in August 2013.
- Sub-regional Species Strategy for the SBB in January 2014 and Supplement: Habitat Connectivity in August 2014.

## **2.5 Biodiversity Conservation Strategy**

The Biodiversity Conservation Strategy (BCS) is the overarching strategy for the protection of biodiversity in the growth corridors and finalises the planning for biodiversity under the MSA and together with the sub-regional species strategies has informed the North Growth Corridor Plan. The BCS identifies areas containing MNES listed under the EPBC Act and matters of state significance listed under the *Flora and Fauna Guarantee Act 1988* and/or DELWP's advisory lists for rare or threatened species. These areas are categorised as conservation areas to be protected within the growth corridors. Conservation Area 34

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<sup>1</sup> Commonwealth Department of the Environment  
<http://www.environment.gov.au/epbc/notices/assessments/melbourne.html>

relates to the threatened GGF, its habitat and protective buffer zone that occurs along the Merri Creek corridor, part of which falls within the English Street PSP precinct.

The BCS requires conservation areas within the growth corridors of Melbourne to be protected and managed in perpetuity. It also recognises that land not within a conservation area and suitable for urban development may be cleared of native vegetation in accordance with the Commonwealth approval of 5 September 2013, the requirements of the English Street PSP and amended schedule to Clause 52.17 proposed under Amendment C183.

## **2.6 Sub-regional species strategy for the Growling Grass Frog**

The purpose of the sub-regional species strategies is to inform the preparation of the BCS by identifying important populations and areas of habitat to be protected. These strategies influence the design of the precincts during the preparation of precinct structure plans.

The Sub-regional Species Strategy for the GGF identifies suitable habitat for the species in two categories:

- Habitat of highest conservation significance that will be protected and managed to ensure the conservation of important populations (Category 1 habitat).
- Habitat of lesser significance that can be cleared for urban development, subject to providing compensatory habitat (Category 2 habitat).

The Sub-regional Species Strategy for the GGF identified the Merri Creek as one of the six major streams that contained the most important sites for GGF conservation. The conservation area for the GGF includes a 200 metre buffer distance from a stream where clusters of populations have been recorded. The buffer distances can reduce in width to 100 metres where GGF habitat is present to enable movement between population clusters.

GGF corridors identified in the sub-regional species strategy have been identified in the BCS as conservation areas. These corridors comprise all the land in the area covered by the BCS requiring protection to achieve the MSA conservation outcomes for the GGF.

## **2.7 Conclusions**

Overall the Panel concludes that the Amendment is well founded, satisfies relevant Ministerial Directions and is strategically justified subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

## 3 Zones and overlays selection

### 3.1 Background

The Urban Growth Zone (UGZ) applies to land that has been identified for future urban development within the Urban Growth Boundary (UGB). It has been specifically designed to implement a PSP that is incorporated into the planning scheme and ensures that future development accords with the approved and incorporated PSP. The UGZ includes two parts: Part A applies to land when no PSP applies; and Part B applies to land included in a PSP.

The future urban structure for the precinct is illustrated in the schedule to the UGZ contained at Figure 2.

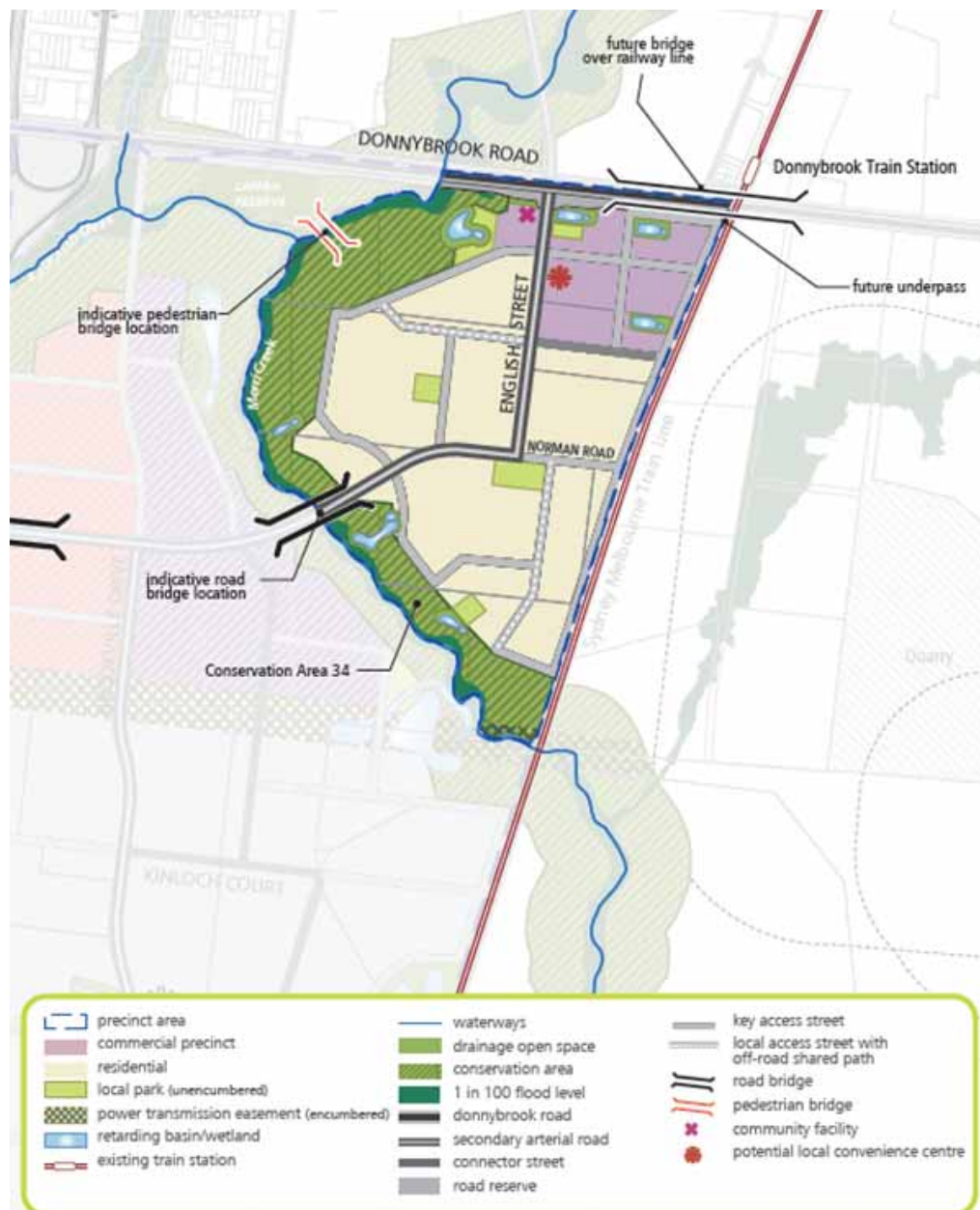


Figure 2 English Street PSP Future Urban Structure as shown at Clause 37.04

The majority of the land subject to Amendment C183 is currently within the FZ with the alignment of the Merri Creek included in the RCZ. These zonings were applied under Amendment VC68 in 2010 when the precinct was brought into the UGB. Under the Amendment it is proposed that the land be included within a PSP and as such Part B of the UGZ is also proposed to apply to that area of the land to be developed for urban purposes. The UGZ includes zone provisions which seek to provide certainty about the nature of future development, streamline the approval process and ensure that a planning permit for development accords with the incorporated PSP.

Schedule 4 to the UGZ (UGZ4) is proposed for the English Street PSP precinct area and includes requirements for land use, buildings and works, application/advertising requirements, decision guidelines and any other conditions/requirements.

The MPA submitted that the:

The land subject to this amendment is included within a PSP and as such Part B of the UGZ will be applicable once the amendment is completed. The UGZ includes zone provisions which seek to provide certainty about the nature of future development, streamline the approval process and ensure that permits for development accord with the incorporated PSP.

The English Street PSP identifies, in its vision, that the precinct will be a well presented, high quality, business and residential area that capitalises on its proximity to the Donnybrook railway station.

The Amendment proposes to rezone the majority of the precinct area from FZ to UGZ4 which allows for urban development whilst a section of the precinct along the Merri Creek corridor is proposed to have the existing RCZ extended and rezoned from FZ to align with Conservation Area 34 for GGF habitat and buffer protection identified under the BCS and Sub-Regional Species Strategy for GGF.

Schedule 4 to the UGZ includes the applied zone provisions of the C1Z, the RGZ and the Road Zone Category 2 (RDZ2) over the land included in the UGZ4. The use of these applied zones means that their provisions apply to the use, subdivision and development of land within the area affected by the UGZ4.

Supporting the rezoning, the following overlays are proposed to be applied:

- DCPO15 which is applied over the whole of the precinct to support the incorporated English Street DCP.
- IPO10 which is applied over part of the precinct coinciding with the extent of the RCZ to reinforce protection of Merri Creek and its habitat value for GGF and to facilitate recreation and urban infrastructure associated with the urban development in the precinct.
- Deletion of the ESO3 and ESO4 although the MPA now propose to retain the ESO4 over the RCZ area.
- Application of the LSIO and deletion of the RFO.
- Application of the PAO2 for the widening of Donnybrook Road across the precinct's frontage.

### 3.2 The issues

The issues regarding zones and overlays relate to their selection and extent of coverage and impact on land use and development. These issues are identified by the Panel and primarily relate to the choice of residential zone out of a range of residential zones available under the Victoria Planning Provisions (VPPs) and the selection of the RGZ, and the use of the C1Z for commercial land use given the presence of other commercial activity centres in the area.

The other issue is whether the expansion of the RCZ over land identified for conservation purposes is, in combination the IPO10, a holding pattern pending land being later vested with a public land manager and how this plays out, particularly in terms of impacts on land use and development.

### 3.3 Submissions

Mr Terry Montebello, for City of Whittlesea made submissions that provided the context of how the mixed use nature of the PSP was derived and the applied zones chosen under the UGZ4. The English Street PSP area was originally part of the neighbouring Craigieburn North Employment Area PSP precinct and destined for industrial use as a response to an earlier proposal for a sewerage treatment plant to service the northern growth corridor with the provision of Class A treated recycled water. However, when the proposed treatment plant was relocated further away from the English Street PSP precinct any buffer impacts the facility would have were also removed. The effect of this was a 'freeing up' of the range of land uses able to be considered.

As a result, the proximity to Donnybrook Road and the Donnybrook railway station meant that a mix of commercial and residential land uses within the English Street PSP precinct could take better advantage of its strategic context near employment uses, public transport and growing population. This, combined with the provision of housing diversity, meant that the application of the applied zones under the UGZ4 were a logical outcome.

The other zone that is of interest to the Panel is the RCZ. It is noted the RCZ already applies to parts of the Merri Creek and that Amendment C183 seeks to extend the application of the zone over the whole of the area identified under the BCS and Sub-regional Species Strategy for the GGF as Conservation Area 34.

Mr Montebello highlighted that a key tool with respect to GGF protection is the application of the IPO10 to the entire length of the Merri Creek corridor where the GGF has been found to exist or likely to exist, and which corresponds with the extent of Conservation Area 34 within the precinct. He noted that the IPO10 purposes are:

- To conserve parts of Merri Creek for functioning, sustainable populations of Growling Grass Frog.
- To facilitate development of recreation and infrastructure associated with adjoining urban land uses.

Mr Montebello went on to note:

The key provision within Schedule 10 to the IPO is the following provision:

A permit to subdivide land shown in the incorporated English Street Precinct Structure Plan as including a conservation area must ensure that, before the issue of a statement of compliance for the last stage of the subdivision, the owner of the land:

- Enters into an agreement with the Secretary to the Department of Environment, Land, Water and Planning under section 69 of the Conservation Forests and Lands Act 1987, which:
  - Must provide for the conservation and management of that part of the land shown as a conservation area in the English Street Precinct Structure Plan;

This same requirement is also included in Schedule 4 to the UGZ.

The effect of the above in both the IPO10 and UGZ4 is that when a landowner affected by the PSP seeks to subdivide land, the requirement for an agreement for protecting the land for conservation purposes is triggered. This is what is intended under the BCS.

However, with regards to the above, Mr Montebello concluded that Council supports the extent of the conservation area shown in the PSP.

In contrast, Mr Christopher Canavan QC on behalf of English Street Development Partners (ESDP) raised the issue of the application of the RCZ and IPO10 in particular and how it amounted to a land grab without fair and adequate compensation. ESDP were given additional time post-hearing to make written submissions on this issue but declined to do so and no further submissions were made on this matter.

From the MPA's perspective, their response generally was that the MSA/BCS and Sub-regional Species Strategy for GGF process has been approved by both Commonwealth and State Governments is locked in, and accordingly is not within the scope of the Panel to consider further changes.

### **3.4 Discussion**

#### **3.4.1 Urban zones**

The Panel notes that generally land within the UGB is zoned UGZ which acts as a form of preparatory zone in readiness for the affected area to be converted to urban land use and development purposes. The *Planning Practice Note 47 – Urban Growth Zone* reinforces this role by stating:

The Urban Growth Zone (UGZ) applies to land that has been identified for future urban development.

The UGZ has four purposes:

- to manage the transition of non-urban land into urban land.
- to encourage the development of well-planned and well-serviced new urban communities in accordance with an overall plan.
- to reduce the number of development approvals needed in areas where an agreed plan is in place.
- to safeguard non-urban land from use and development that could prejudice its future urban development.

It is clear to the Panel that the UGZ is the appropriate planning zone under the VPPs to apply to land earmarked for urban development within the UGB. It also is the zone specifically designed to work with PSPs which, as an incorporated document forming part of any planning scheme, guides the direction of future land use and development of an area.

For the land within the English Street PSP, the MPA has drafted UGZ4 under Amendment C183. The English Street PSP and the UGZ4 work together to implement the mix of land uses



identified under the PSP that comprises commercial and residential land use through identification of the C1Z and RGZ as the applied zones in the Schedule.

The identification of the applied zones under the UGZ4 are considered by the Panel as a logical outcome that capitalises on the proximity of the English Street PSP precinct to the Donnybrook Railway Station and nearby areas where employment lands are planned (e.g. Craigieburn North Employment Area located on the west side of Merri Creek).

The Panel considers the selection of the RGZ in the applied zones accords with the purpose of the PSP to enable new housing growth and diversity in a new urban area where neighbourhood character requiring respect or protection is not established. Accordingly, the use of either the General Residential Zone (GRZ) or Neighbourhood Residential Zone (NRZ) would not be appropriate because they either seek to enable moderate housing growth and diversity while respecting urban character or seek to restrict housing growth in areas identified for urban preservation. The English Street PSP in combination with the applied RGZ under the UGZ4 will create a new urban form with its own urban character and identity over time.

With respect to the C1Z, there was some concern from MAB Corporation over the extent of C1Z land within the PSP area and the function of any potential local convenience centre. However, the MPA has amended the proposal to include floor space controls to limit retail activity to a scale appropriate to the provision of convenience retailing to serve the English Street residential and employment community. The Panel considers this will not act as a threat to the surrounding retail/commercial land use hierarchy planned and developing in the Donnybrook area (such as future activity centre in the Lockerbie PSP to the north and Merrifield Employment precinct to the west).

### **3.4.2 Conservation areas**

The proposal to extend the RCZ and apply the IPO10 over the area identified in the PSP as a conservation area (shown in the PSP as Plan 6 – *Native Vegetation Retention & Removal* and Figure 4 – *Growling Grass Frog Conservation Area Concept Plan*) is driven by the government approval of Conservation Area 34 under the BCS and Sub-regional Species Strategy for the GGF.

Conservation Area 34 is an area identified under the Sub-regional Species Strategy for the GGF as *Growling Grass Frog conservation, floodplain and open space*. These areas will be protected and managed primarily for the GGF in accordance with the requirements of the Sub-regional Species Strategy for the GGF, but will also include areas managed for floodplain and stormwater infrastructure as well as areas of open space for passive recreation.

The BCS identifies that all conservation areas will be zoned appropriately for conservation. To satisfy the requirements of the BCS and Sub-regional Species Strategy for the GGF the existing RCZ is proposed to be extended and reinforced by application of the IPO10 which includes the requirement for protection of the land in perpetuity via the agreement under Section 69 of the *Conservation Forests and Lands Act 1987* (CF&L Act) or, where the landowner prefers, by transferring land to the Crown where an appropriate public land manager is available.

The Panel is satisfied the choice of planning tools in terms of zones and overlays is considered appropriate. Under the VPPs there are few choices available to a planning authority with respect to conservation oriented zones for privately owned land. The RCZ is the only 'off the shelf' based conservation oriented zone available and it is noted it is one of the suite of rural based zones. There are no similar zones available for urban settings. For public land, the zone options include the Public Conservation and Resource Zone (PCRZ). However, in this case the conservation issue relates to privately owned land that in future may become publicly owned. Hence, the options available in this instance are either the RCZ itself or the use of specially drafted schedules to the Special Use Zone (SUZ).

The key driver of the tool selection is the purpose of conservation of the threatened GGF along the Merri Creek. Identification of the GGF conservation area and its recognition in strategic work is complete and approved by both levels of government. In this case, affected landowners in the English Street PSP precinct are not facing the situation where the whole of their landholding is included within Conservation Area 34 and therefore do not have a complete loss of development opportunities.

The Panel notes that the ESDP did not take up the opportunity to make further submissions on the issue of future land development opportunities and land management restrictions associated with the conservation area along and adjacent to the Merri Creek. It also notes the lack of response from those landowners along the Merri Creek within the Craigieburn North Employment PSP precinct when they were additionally notified and given the chance to present to this Panel. It is unclear how the Panel should interpret the lack of response apart from noting that for the English Street PSP precinct development opportunities for urban growth still remain.

As Mr Montebello pointed out in response to the issue raised by Mr Canavan, that portions of current landholdings are affected by the designated conservation area in the PSP precinct. However, the balance of land not included will be able to be developed for urban purposes with certainty. In this sense, the Panel agrees with Mr Montebello and considers there is a balance being struck between urban growth and biodiversity conservation, but there is also other net community benefit accruing from provision of regional public open space and improved waterway protection and management.

### **3.5 Conclusions**

The Panel concludes that the selection of zones and overlays to implement the English Street PSP are appropriate. The PSP and DCP are themselves the key documents guiding the future urban growth planning and biodiversity protection of the English Street PSP precinct. Their incorporated stature provides the clearest vision regarding the future of this precinct. The application of the various zones and overlays and their content merely reflects how that future will materialise and in this sense the Panel is satisfied with Amendment C183.



## 4 General issues

### 4.1 Formal response to all submissions

The MPA provided a response to all outstanding submissions prior to the Hearing and supplemented this at the Hearing with a version of the table dated 31 August 2015. Unresolved issues will be discussed in this section as appropriate.

The MPA provided evidence of agreement or “sign off” from submitters as part of a bundle of communications supplied to the Panel.

### 4.2 Removal of ESO3

The Amendment originally proposed to remove both the ESO3 – *Merri Creek and Environs* and ESO4 – *Rural Conservation Area* from the English Street PSP precinct. The issue was whether this was appropriate to do so. During the Hearing, the MPA, in response to issues over the zoning of Laffan Reserve and the advice of DELWP for the reserve to remain PPRZ, submitted that it would be appropriate to retain the ESO4 with a small change to remove the current permit exemption for the removal of non-native vegetation.

Accordingly, this issue is now confined to the appropriateness of removing the ESO3 and whether incorporation of its key values and objectives into other provisions under Amendment C183 and the PSP are satisfactory.

#### 4.2.1 Submissions

Both the Merri Creek Management Committee (MCMC) and Friends of Merri Creek expressed concern over the removal of the ESO3. Their concern was reinforced by that of Hume City Council. These parties generally expressed concern that the environmental values identified in the statement of environmental significance and objectives as they relate to natural systems, waterway function, recreation use, landscape character and heritage should be retained in the provisions proposed under the Amendment.

In response, the MPA proposed a number of changes to the Amendment documentation to incorporate the ESO3 statement of environmental significance and the objectives. In some instances, the MPA considered existing objectives and guidelines in the PSP were adequate to convey the message whilst Mr Edgley from Hume City Council continued to express concern that objectives relating to open space were not adequately included.

#### 4.2.2 Discussion

ESO3 relates to the Merri Creek and Environs. It is applied to the Whittlesea side of the Creek and riparian buffer area within the English Street PSP precinct. The same area is also covered by the ESO4.

The Panel is satisfied with the MPA’s decision to retain the ESO4 and that Amendment C183 be amended to remove reference to its deletion from the English Street PSP precinct area.

The MPA have suggested changes to incorporate aspects of the ESO3 into the Amendment documentation. The statement of environmental significance is proposed to be included in the conservation values of Schedule 1 to the RCZ. The Panel is satisfied this is an appropriate

transition. The objectives of the ESO3 are either proposed to be incorporated into modified objectives of the PSP or are considered by the MPA to be already addressed in the PSP. The Panel is not confident that this has been sufficiently demonstrated. A very large spreadsheet was tabled (Document 8) which attempted to show by way of links where various parts of ESO3 and ESO4 have been either incorporated into Amendment provisions or to show that proposed Amendment provisions already address the issue or matter. This was very unclear and as a result, the Panel is unable to satisfy itself that the ESO3 objectives have satisfactorily been incorporated into the PSP or other Amendment documents.

As a result, the Panel considers the MPA has the following two options:

- Undertake a more considered and deliberate conversion of the ESO3 objectives into the PSP objectives. The most effective way of doing this may be to insert additional objectives that relate to each of the matters covered in the ESO3.
- Given the retention of the ESO4 and the similar area to which the overlay schedules are applied within the PSP precinct area along Merri Creek, merge the content of ESO3 with ESO4.

The Panel considers merging the ESO3 and ESO4 may produce difficulties given the range of matters each addresses. It may be easier to simply add additional objectives into relevant sections of the PSP objectives that cover natural systems, waterway function, recreation use, landscape character and heritage because of their relevance to Merri Creek as apart from the emphasis in the PSP on GGF habitat and the purpose of Conservation Area 34 which relate to more than GGF protection but also floodplain management and passive open space.

#### **4.2.3 Conclusion and recommendation**

The Panel concludes that the retention of the ESO4 is appropriate. Removal of the ESO3 is satisfactory subject to its contents being appropriately converted into other aspects of the Amendment documentation.

In this regard, the Panel is satisfied with including the ESO3 statement of environmental significance into the conservation values of Schedule 1 to the RCZ. However, the Panel concludes that ESO3 objectives relating to natural systems, waterway function, recreation use, landscape character and heritage should be directly translated into objectives in relevant parts of the PSP itself.

The Panel recommends:

**Retain Environmental Significance Overlay Schedule 4 (ESO4) and delete Environmental Significance Overlay Schedule 3 (ESO3), subject to its contents being applied to the Amendment documentation as follows:**

- a) insert the ESO3 statement of environmental significance into the conservation values of Schedule 1 to the Rural Conservation Zone (RCZ1) as shown in Appendix H.**
- b) translate the ESO3 objectives relating to natural systems, waterway function, recreation use, landscape character and heritage directly into the relevant parts of the English Street Precinct Structure Plan.**

### 4.3 Merri Creek and Growling Grass Frog protection

The planning and management arrangements for the Merri Creek corridor and GGF protection has been described earlier in the report. The issues of concern regarding the Merri Creek corridor and GGF habitat protection relate to the timing of the Amendment ahead of the completion of other work associated with Aboriginal Cultural Heritage, the Melbourne Metropolitan Open Space Strategy, Melbourne's Water Future North Integrated Water Management Strategy for the North Growth Corridor and the GGF masterplan for the North Growth Corridor.

Other matters relate to the extent of the GGF conservation corridor and the level of protection of other areas of native vegetation. Associated with these concerns are the proposal for the loss of relevancy with the removal of protections afforded by the ESO 3 and ESO4.

#### 4.3.1 Submissions

Ms Luisa Macmillan from the MCMC submitted that they were concerned that the Amendment was being progressed before significant information that could shape the PSP is available. Such information (as mentioned above) included Aboriginal Cultural Heritage, regional open space planning, integrated water management and additional planning for the GGF.

The view of the MCMC was that the PSP should not proceed until such information is available to better inform the PSP to ensure that it is more robust and effective.

The MPAs response was that the PSP should not be further delayed.

They consider Aboriginal Cultural Heritage will still be protected under the auspices of the *Aboriginal Heritage Act 2006* and that work has commenced with respect to considering Aboriginal Cultural Heritage values through an initial walk over the land with representatives of the Wurundjeri Tribe Land and Compensation Cultural Heritage Council. Work on a Cultural Heritage Management Plan has also commenced with regards to the proposed bridge crossing over the Merri Creek being undertaken by the ESDP.

Similarly, the MPA's position with respect to open space and waterway planning and management was that the PSP would not be in conflict with such future work outcomes given their higher level strategic character and the likelihood of conflict being relatively low.

The MPA's position was reinforced by the submission from Mr Montebello, on behalf of the City of Whittlesea that open space provision in the overall PSP land budget accrued to around 47% and when taken into consideration with respect to the provision of active open space at Laffan Reserve, is more than adequate.

The MPA submitted that future work on the GGF will be supported by what the PSP is putting in place with respect to future land use structure planning and implementation of Conservation Area 34 under the BCS and Sub-regional Species Strategy for GGF.

Both the MCMC and Friends of Merri Creek submissions expressed concern over the extent of the GGF conservation corridor narrowing from 200 metres width to around 100 metres in parts of the corridor along Merri Creek within the PSP precinct. They considered the extent of the conservation area corridor should be increased and should also include additional

land to act as an open space buffer to the conservation area. In contrast, there were concerns expressed in the submissions, for example from the ESDP and Mr George Petrovski that the extent of conservation area for the GGF was too wide and not evidence based on records or recent survey work to identify the presence or otherwise of the species.

The MPA's response to the extent of conservation area was that the Commonwealth approval of the BCS and Sub-regional Species Strategy for GGF locks in the extent of Conservation Area 34. Accordingly, there is little scope to vary the extent of this conservation area corridor. Ms Joanne Lardner for the MPA provided a copy of an approval granted for an area adjustment of the conservation area corridor which better balanced and aligned the areas set aside for conservation and urban development in the PSP.

The Friends of Merri Creek were concerned that other areas of native vegetation located outside of the conservation area along the Merri Creek that should be protected would not be.

Regarding the proposal under the Amendment to remove the ESO3 and ESO4, the MCMC, Friends of Merri Creek and Hume City Council expressed concerns that the values of Merri Creek expressed in the statement of conservation significance and objectives under these overlay schedules that assist to recognise and protect the Merri Creek corridor would be lost or not taken up appropriately within the suite of provisions proposed under the Amendment or in the English Street PSP.

The MPA acknowledged that there would be benefit in retaining the ESO4 which covers the RCZ area and accepted the desirability of incorporating the statement of environmental significance and objectives from the ESO3 into the PSP.

Regarding design details, Ms Macmillan raised concerns over lighting and open space planting (planting densities) which may have adverse impacts or conflict with the purpose of protecting GGF. She referred to Design and Construction Standards for GGF habitat that have recently (August 2015) been drafted by DELWP and how a balance is required between conservation and informal open space.

#### **4.3.2 Discussion**

The role of the Panel is to assess what is before it against what is in policy now, and not what might be in policy in the future. This sums up much of what the Panel is required to consider. Preparation of the English Street PSP has taken into regard the outcomes of what is considered an extensive level of work and investigation into what is of value for conservation purposes for an area identified for urban growth. Merri Creek is a valuable natural asset. It is an aquatic and riparian environment that has significant conservation value for native vegetation, for aquatic ecosystems and, of course, for threatened species such as the GGF.

The combination of the PSP, as an incorporated document forming part of the Whittlesea Planning Scheme, the RCZ, UGZ4, IPO10 and now the retention of the ESO4 gives confidence to the Panel that Amendment C183 is appropriate and satisfactory subject to additional changes provided by the MPA to reflect its commitments in response to submissions.

The identification of Merri Creek for conservation purposes is accepted. The extent of the conservation area corridor for GGF along Merri Creek within the English Street PSP precinct

is accepted. This is because it is an area that has long been identified under conservation work such as the BCS and Sub-regional Species Strategy for GGF that has both Commonwealth and State Government approval.

The approval under the EPBC Act for urban development within the North Growth Corridor dated 5 September 2013 allows for minor changes to the boundaries of Conservation Area 34 (amongst others) only where there is a no net loss in area. One such approval has occurred which was a result of a smoothing out process of interface boundaries between the conservation area and land identified for urban development. Other than for this type of boundary change, there is limited scope for alteration of the extent of the identified conservation area. This is noted in Mr Canavan's submission:

However, for the purposes of this Panel, ESDP are prepared to accept that the extent of Conservation Area 34 is a matter which is really beyond the scope of the Panel's remit to consider, in effect having been set by the Commonwealth Government in its September 2013 Strategic Assessment decision.

The Panel noted that ESDP no longer sought to seek the Panel's reassessment on the extent of Conservation Area 34 and the withdrawal of Mr Patrick Casey presentation to the Panel on behalf of Mr Petrovski.

The Panel accepts the MPA's position that Conservation Area 34 and its identification has already been the subject of assessment and consultation as part of the BCS process and is "locked in."

Regarding open space planning, the Panel agrees with the submission of Mr Montebello that sufficient areas for public open space in both passive and active form have been identified. The PSP relies upon the Laffan Reserve located on the west side of the Merri Creek to provide the significant active open space area and that as a result, the English Street DCP includes financial contributions towards its upgrade in anticipation of the reserve accommodating open space needs of future English Street PSP precinct residents. The Panel considers this acceptable.

Open space provision within Conservation Area 34 has been anticipated and which is included within its designation under the BCS as:

**Growling Grass Frog conservation, floodplain and open space.** These areas will be protected and managed primarily for the Growling Grass Frog in accordance with the requirements of the Sub-regional Species Strategy for the Growling Grass Frog, but will also include areas managed for floodplain and stormwater infrastructure as well as areas of open space for passive recreation.

Issues around the design details of the conservation area with respect to protecting GGF and its habitat and open space and floodplain management should be addressed under any land management arrangements either by the relevant landholder or land manager.

The Panel notes that the submission from Melbourne Water did not raise similar concerns with respect to open space planning and integrated drainage and stormwater management and supported the Amendment including providing for best practice stormwater management.

The Panel also finds the retention of the ESO4 and the incorporation of the statement of conservation significance and objectives from the ESO3 that is proposed to be removed into the PSP acceptable.

Regarding native vegetation retention and removal, Plan 6 in the English Street PSP identifies patches of native vegetation and scattered trees located within Conservation Area 34 and outside (within the area proposed to be zoned UGZ4). Those patches of native vegetation and scattered trees located outside of Conservation Area 34 are proposed under the PSP to be permitted to be removed to accommodate urban development without the need for offsets. The removal of such native vegetation will trigger a compensation payment that will go towards the management of Conservation Area 34. These arrangements are provided under habitat compensation requirements established as a condition of approval of the BCS.

Habitat compensation requirements have been established under the auspices of a 'time-stamped' native vegetation database captured by DELWP of all native vegetation within the growth corridors including type, extent and condition. This information, along with information on threatened species habitat from the conservation strategies, has been used to calculate habitat compensation obligations and native vegetation offsets for urban development. The Commonwealth Government has approved the BCS and compliance with the habitat compensation arrangements and fees to compensate for the removal of native vegetation or Category 2 GGF habitat is a condition of that approval. For landowners undertaking urban development within Melbourne's growth corridors, the habitat compensation scheme provides for a flat fee payment as the method for obtaining offsets for the removal of native vegetation and loss of habitat for threatened species protected under the EPBC Act.

Areas of native vegetation within the UGZ4 area and shown in the PSP that can be removed is exempted from the need for a permit under the schedule to Clause 52.17 subject to the removal being carried out in accordance with the *'Final approval for urban development in three growth corridors under the Melbourne urban growth program strategic assessment, 5 September 2013'* under the EPBC Act.

A late change suggested by the MPA to the schedule to Clause 52.17 for permit exemption relates to including the addition of a reference to land in the UGZ4 for:

Any native vegetation not shown on Plan 6 in the incorporated English Street Precinct Structure Plan.

The MPA explained:

The change recognises that the native vegetation recorded in the precinct structure plan is the whole of the native vegetation to be regulated under the planning scheme in this precinct. The change obviates Council from the need to issue a permit for the removal of native vegetation that did not meet the criteria of a Scattered Tree or Ecological Vegetation Class; such vegetation is referred to by the DELWP as 'Degraded Treeless Vegetation'.

The above arrangements have been determined. It is not the role of the Panel to revisit these arrangements under this Amendment. Accordingly, the decision to allow patches of native vegetation and scattered trees located outside that part of Conservation Area 34 that is located within the English Street PSP precinct, is not able to be reviewed by the Panel.



Regarding the last minute change to the schedule to Clause 52.17, the Panel considers it acceptable on the basis that the MSA/BCS and native vegetation time stamping process has identified what native vegetation is valuable and should be retained against what is acceptable to lose. Apart from including the words “any other native vegetation” to clearly distinguish between that identified in Plan 6 of the PSP from what may occur within the UGZ4 area that is not identified in Plan 6, the change is considered acceptable.

The PSP and DCP are themselves the key documents guiding the future urban growth planning and biodiversity protection of the English Street PSP precinct. Their incorporated stature provides the clearest vision regarding the future of this precinct. The application of the various zones and overlays and their content merely reflects how that future will materialise and in this sense the Panel is satisfied with Amendment C183.

The provision of a conservation area along the Merri Creek as proposed under Amendment C183 is appropriate and satisfactory. Delaying the Amendment is not considered to provide any additional public benefits. Details over design and management of the Merri Creek as a conservation area and for floodplain and passive open space is a matter the Panel considers can be addressed under the land management agreement required under the UGZ4 and IPO10 as well as guided by the PSP itself.

The likelihood of inappropriate, insensitive or harmful land use and development to GGF and its habitat requirements are highly unlikely given the requirement for any land use or development permissible under the RCZ that will cover Merri Creek to be in accordance with the incorporated PSP.

#### **4.3.3 Conclusion and recommendation**

The Panel considers the provision of a conservation area along the Merri Creek as proposed under Amendment C183 is appropriate and satisfactory. Delaying the Amendment is not considered to provide any additional public benefits. Details over design and management of the Merri Creek as a conservation area and for floodplain and passive open space is a matter the Panel considers can be addressed under the land management agreement required under the UGZ4 and IPO10 as well as guided by the PSP itself.

The Panel considers the likelihood of inappropriate, insensitive or harmful land use and development to GGF and its habitat requirements are highly unlikely given the requirement for any land use or development permissible under the RCZ that will cover Merri Creek needs to be in accordance with the incorporated PSP.

The Panel concludes that it is appropriate to amend the Schedule to Clause 52.17 (Appendix D) relating to native vegetation removal exemptions to include the words “any other native vegetation” to clearly distinguish between that identified in Plan 6 of the PSP from what may occur within the UGZ4 area that is not identified in Plan 6.

The Panel recommends:

**Amend the second column of Sub-clause 1.0 – *Scheduled Area* of the Schedule as outlined in Appendix D to Clause 52.17 to read:**

**All native vegetation except for that shown as to be retained on Plan 6 in the incorporated English Street Precinct Structure Plan provided the removal,**

**destruction or lopping is carried out in accordance with the ‘Final approval for urban development in three growth corridors under the Melbourne urban growth program strategic assessment, 5 September 2013’ pursuant to section 146B of the Environment Protection and Biodiversity Protection Act 1987 (Cth).**

**and**

**Any other native vegetation not shown on Plan 6 in the incorporated English Street Precinct Structure Plan.**

#### **4.4 Medium density housing**

The issue is the inconsistency with respect to the land area designated for medium density housing that is shown on the plans in the English Street PSP with that listed in the property specific land budgets in both the PSP and DCP.

##### **4.4.1 Submissions**

Mr Canavan QC for ESDP submitted that there are errors between Plan 4, Figure 1 and Plan 12 in the PSP which designates a strip of land to the west of English Street within Property 25.2-6 as ‘potential medium density housing’. The Property Specific Land Budget in Appendix 4.1 of the PSP contains Table 8, while Appendix 1 of the DCP also contains the same Property Specific Land Budget table, which allocates 130 ‘medium density’ dwellings to this strip of land as well as another strip of land on the same property that runs east-west along its northern edge. This number of dwellings is calculated by assuming 25 dwellings per hectare for an area of 5 hectares.

He submitted that an analysis of the area of the plans reveals that the reference to 5 hectares is incorrect because the area of these strips of land amounts to a total of 2 hectares<sup>2</sup>. Accordingly, Mr Canavan submitted the area allocated for medium density housing in the Property Specific Land Budget for Property 25.2-6 should be 2 instead of 5 hectares which would amount to 50 dwellings at the density of 25 dwellings per hectare.

As a response to this anomaly, Mr Canavan submitted that ESDP consider it appropriate to amend the Property Specific Land Budget table to reflect the area that is mapped and reallocate the “shortfall” of housing to other residential areas identified in the PSP for conventional housing. He submitted that:

ESDP appreciates that this means a reduction in the number of dwellings estimated for medium density in this title. However ESDP is intending to provide a higher density for the rest of the Amendment Area than that estimated in the Budget for conventional densities in any event.

Mr Canavan considered it unlikely an area of 5 hectares for medium density on Property 25.2-6 would be achievable given the location this area is located further away from both Donnybrook road and the train station (around 800 metres and beyond). He submitted this would not make planning sense. He concluded that ESDP would like to ensure flexibility expressed in the PSP in relation to the provision of dwelling densities for when more

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<sup>2</sup> According to Mr Canavan, the calculations are that the area running north-south is around 0.8 hectares while the east-west area is around 1.2 hectares.



detailed planning assessments are undertaken and suggested the following wording be included in relation to the Property specific Land Budget:

The densities contained within Table 8 are indicative only. They should not be treated as prescriptive requirements. Actual dwelling densities will be determined at planning permit stage.

The MPA initial response to this anomaly was to amend the mapping to increase the area of land designated for 'potential medium density housing'. However, towards the end of the Hearing Ms Lardner tabled a revised Property Specific Land Budget table (Document 19) which made various Amendment to housing numbers including changing the land area for Property 25.2-6 allocated for medium density housing from 5 to 2 hectares and from 130 to 50 dwellings as well as the area available for conventional housing from 16.33 to 19.33 hectares and a slight increase across all properties of housing density from 15 to 15.40 dwellings per hectare.

#### **4.4.2 Discussion**

The Panel notes the level of agreement between what ESDP have suggested and what the MPA have suggested with respect to amending the Property Specific Land Budget in relation to conventional and medium density housing.

The Panel also notes the agreement of these suggested by City of Whittlesea.

On this basis, the Panel is satisfied the suggested changes are appropriate. The overall outcome with respect to the number of dwellings remains the same. The areas designated for 'potential medium density housing' remains located close to the convenience centre, commercial areas, community facility, Donnybrook Road and Donnybrook Train Station. On this basis the Panel considers the mix of housing density is logical and appropriate and does not produce an outcome whereby medium density housing is located too far from community and transport services.

The Panel is also mindful of the use of the RGZ as an applied zone under the UGZ4 which will ensure that variation in housing densities can be achieved. In this regard, the combination of the PSP land use designations, Property Specific Land Budget and applied zoning should assist in supporting the housing outcomes sought under the PSP and DCP.

The Panel considers the suggestion for a statement to ensure flexibility expressed in the PSP in relation to the provision of dwelling densities for when more detailed planning assessments are undertaken is appropriate.

#### **4.4.3 Conclusions and recommendation**

The Panel concludes that the suggested changes to the Property Specific Land Budget in both the PSP and DCP are appropriate and that any change to the mapping is unnecessary. The use of the RGZ as an applied zone under the UGZ4 (Appendix F) will provide flexibility, which when combined with the statement as suggested by ESDP to ensure flexibility is expressed in the PSP in relation to the provision of dwelling densities for when more detailed planning assessments are undertaken will provide for the housing outcomes sought under the PSP.

The Panel recommends:

**Add the following words above Table 8 of Appendix 4.1 of the English Street Precinct Structure Plan:**

**The densities contained within Table 8 are indicative only. They should not be treated as prescriptive requirements. Actual dwelling densities will be determined at planning permit stage.**

#### **4.5 Commercial area**

The issue related to a submission by MAB that the C1Z is not appropriate as it disregards the hierarchy of activity centres in the North Growth Corridor.

##### **4.5.1 Submissions**

MAB submitted that the C1Z granted too much freedom to landowners to use land for a variety of commercial purposes including retail. City of Whittlesea submitted whilst appreciating this concern that it was difficult to *“envisage the proposed area disrupting the anticipated network of the town centre hierarchy.”*

City of Whittlesea submitted that the question for the Panel was whether the composition of uses as set out in the concept plan provided clear direction on the range of uses envisaged.

City of Whittlesea and the MPA were generally supportive of the MAB submission and proposed Amendment to the UGZ Schedule and PSP. These changes include:

- Prohibition of “shop” within the applied C1Z except for the area identified as Local Convenience Centre. Local Convenience Centre will have an area of right floor space of 1,500m<sup>2</sup>.
- Update table 2 of the PSP to reference the Merrifield Town Centre; and
- Update figure 1 within the PSP to specify the Local Convenience Centre.

In discussions between MAB and MPA prior to the Hearing, changes to the Explanatory Report were tabled that reinforced the changes listed above.

Ian Pitt QC on behalf of MAB informed the Panel at beginning of the Hearing that discussions with the MPA now fully satisfied MAB and as such, subject to the changes tabled by the MPA MAB withdrew their submission. For the Explanatory Report, these changes can be found in Appendix C. For the UGZ, these can be found in Appendix F.

##### **4.5.2 Discussion**

The Panel notes the level of agreement between what MAB have suggested and what the MPA have suggested to amend the Explanatory Report and PSP in relation to the town centre and commercial area.

The Panel also notes the agreement of City of Whittlesea. On this basis, the Panel is satisfied the suggested changes are appropriate.

##### **4.5.3 Conclusions and recommendation**

Due to formatting, the PSP submitted to Panels post-hearing was not particularly useful in terms of what the Panel could or could not endorse. As such, it has not been included in the

appendices. For the PSP the Panel recommends adoption of the document entitled *'English Street Precinct Structure Plan – changes made between the commencement of exhibition for C183 and 14/9/15'* subject to recommendations in this report.

The Panel supports the changes proposed and recommends:

**Amend Table 2 of the English Street Precinct Structure Plan to reference the Merrifield Town Centre.**

**Amend Figure 1 of the English Street Precinct Structure Plan to specify the Local Convenience Centre.**

**Amend the Explanatory Report as outlined in Appendix C.**

## **4.6 PSP guidance for employment urban design**

The issue is whether the English Street PSP provides sufficient guidance on urban design outcomes for the proposed employment areas in the precinct.

### **4.6.1 Submissions**

Mr Montebello raised this issue and submitted that the planning framework for English Street does not provide a platform to guide adequate urban design outcomes for employment areas (commercially zoned areas) within the precinct. He submitted that the PSP needs to provide further more specific guidance for delivering positive urban design outcomes for the employment area. The Whittlesea Planning Scheme does not have policy detail to guide urban design of commercial areas. Planning policy for employment areas refers back to structure plans so Mr Montebello submitted that the PSP needs to contain detailed guidelines to guide new commercial/employment related development.

Ms Lardner expressed the view that the MPA are 'on song' with City of Whittlesea's submissions in this regard and submitted changes to that effect in the post-panel version of the PSP at section 3.2.3.

### **4.6.2 Discussion**

Given the agreement between City of Whittlesea and the MPA on this matter, the Panel considers it appropriate to incorporate the suggested changes to the objective, requirements and guidelines of the English Street PSP to include guidance on urban design matters relating to the commercial/employment areas of the precinct.

### **4.6.3 Conclusion and recommendation**

The Panel supports the changes proposed and recommends:

**Amend requirements and guidelines for Employment in the English Street Precinct Structure Plan at section 3.2.3 to strengthen the urban design outcomes.**

## 5 English Street Development Contributions Plan

### 5.1 The issues

The issue relates to whether or not the English Street DCP should be approved. Prior to the Hearing, issues were raised by a number of parties querying amounts and flexibility of the exhibited DCP. Issues relating to bridge costs, Laffan Reserve, intersection treatments are addressed here.

### 5.2 Background

City of Whittlesea submitted that the DCP proposes two charge areas. One aligned to the residential area which was approximately 80% of the net developable area (NDA) and the balance aligned to the commercial area. The headline charges, as outlined by Mr Montebello included:

- \$243,985 per demand unit for residential; and
- \$171,763 for employment.

It was noted by City of Whittlesea and MPA that the per hectare charge rate is lower than the average charge rates seen in other recent DCPs. As a comparison, the Lockerbie DCP rate was \$279,911.<sup>3</sup>

Hume raised the issue of size of the English Street community facility and submitted that either an extension of the planned centre occur or a contribution be set aside for the neighbouring Donnybrook PSP to meet the needs of the English Street population. Mr Edgley also requested that the Lockerbie DCP is amended before the gazettal of Whittlesea Amendment C183 occurred.

Mr Montebello submitted:

The DCP provides a reasonable level of funding noting that it is at the limit of the contributions proposed by the advisory committee. However the implementation of the DCP will inevitably require developers to incur costs over and above the DCP amounts by undertaking Works in Kind.

### 5.3 Community Facility and Laffan Reserve

The English Street PSP proposes a small community facility to be located approximately in the south-west corner of Donnybrook Road and English Street that would service the future population in the precinct. The issue regarding the proposed community facility is viability in providing the level of services for the size of precinct population created under the English Street PSP.

The English Street PSP precinct will not create a community sufficient to warrant its own active recreational area/facility. The Laffan Memorial Reserve is located nearby (on the west side of Merri Creek) within the City of Hume (and included within the Craigieburn North Employment PSP precinct). The English Street PSP proposes to utilise the Laffan Reserve for the benefit of the future English Street PSP precinct community and proposes to do this by

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<sup>3</sup> City of Whittlesea submission: page 9 para:39

providing financial contributions towards its upgrade and a pedestrian bridge connection over Merri Creek to the reserve. Issues have arisen over the zoning of the reserve, which currently is in the Public Park and Recreation Zone (PPRZ) and is proposed under Amendment C198 to the Hume Planning Scheme to be rezoned to RCZ. Discussions have been held between the MPA, Hume City Council and DELWP regarding applying the SUZ because this would provide more scope for redevelopment of the reserve than what is possible under the RCZ.

### **5.3.1 Submissions**

Mr Edgley submitted the community facility proposed under the English Street PSP risks being unviable due to the size of the community generated in the precinct. He submitted that the creation of a residential community at English Street would not be of sufficient size to enable the development of community services and facilities and creates a risk that with a community of 3,500 residents it would not be viable for the development to pay for the minimum levels of social infrastructure required.

There is limited spare capacity in the planned community facility in the southern neighbourhood activity centre of the Lockerbie PSP and the proposal in English Street is smaller than what is planned in precincts such as Donnybrook and Woodstock PSPs.

Mr Edgley submitted that the community centre should provide for early years services to make up any shortfall.

In response, the MPA suggested that the English Street DCP allocate funding (\$285,120) to the 'Donnybrook Cheese Farm' community centre in the Donnybrook PSP to meet the needs of the English Street PSP precinct population. Hume City Council and City of Whittlesea support this suggestion.

Regarding Laffan Reserve, Hume City Council expressed concern over the proposed rezoning from PPRZ to RCZ because the RCZ would limit the potential for redevelopment of the reserve. The MPA agreed with this comment and sought confirmation from DELWP via email dated 28 August 2015 which advised to retain Laffan Reserve under the PPRZ and to retain the ESO4.

### **5.3.2 Discussion**

The Panel agrees with the MPAs suggestion for the English Street DCP to be amended to require a financial contribution towards community facilities in the Donnybrook PSP precinct to cater for demand for community services from the English Street PSP precinct population. The Panel notes that both Councils support this change.

Similarly, the Panel supports the suggestion from DELWP that Laffan Reserve remain under the PPRZ. The Panel acknowledges that this is a matter for the Hume C198 Panel for the Craigieburn North Employment PSP to formally consider, but lends its support for this suggested change. The Panel considers retaining the reserve under the PPRZ, despite it being included within the designation of Conservation Area 34 for protection of GGF and its habitat, would not be inappropriate.

Under the BCS, Conservation Area 34 is identified to also include, in addition to GGF protection, reference to floodplain management and open space provision. This clearly

creates an intention for a mix of use to be considered. The Panel is also aware that the PPRZ includes amongst others, a purpose to protect and conserve areas of significance where appropriate. The Panel considers this provides scope for conservation to be undertaken whilst also providing for the continued use and development of the existing recreation reserve.

## **5.4 English Street and the Mid-Block Intersection Treatments**

The PSP identified the provision of a signalised intersection at the cross roads of English Street and Mid-Block Street, with the commercial / employment area to the north-east. City of Whittlesea submitted that the interim treatment be a signalised intersection, included within the DCP.

ESDP formally opposed the signalisation of this intersection in the interim, as its need would only occur upon development of the commercial precinct. ESDP proposed a three-way intersection as an interim treatment.

ESDP and City of Whittlesea subsequently agreed for the interim treatment to be a signalised intersection in the DCP, but with signalisation to be charged to the commercial area only. The MPA supports the agreement reached between ESDP and City of Whittlesea and noted that Plan 8 of the PSP and Plan 5 of the DCP will require adjustment.

Hume City Council submitted that the intersection appeared to be a 'retrograde' adjustment and queried its legitimacy. Mr Montebello submitted in Council's closing that this was an addition of an intersection and therefore not a retrograde solution.

## **5.5 Bridge Location and Design**

The location, design and costings of the proposed road bridge crossing of Merri Creek that would link the English Street PSP precinct with the Craigieburn North Employment PSP precinct was disputed amongst various parties. The issues revolved timing of the bridge and its design.

### **5.5.1 Evidence and submissions**

Hume submitted that the Amendment ought not to be completed until such a time as a Cultural Heritage Management Plan (CHMP) and geotechnical assessment had been produced. Hume also raised concerns relating to the design, location and width of the bridge. Mr Edgley submitted that by widening the bridge in the interim it would aid duplication in the future and avoid additional cost. Hume also raised concern whether or not there was a need to alter the bridge's location once detailed geotechnical and cultural heritage investigations took place.

Mr Montebello for City of Whittlesea quoted from the *Strategic Traffic Report – Craigieburn PSP 25 (March 2014)* that the interim traffic volume predicted for the bridge was less than 5,000 vehicles per day at year 2026 and the ultimate volumes of less than 18,000 vehicles per day. He noted that these standards were well below recommended guidelines and Council considered it:

Unnecessary to build provision for future duplication of the bridge as future traffic volumes on English Street is unlikely to trigger duplication to four lanes. As such, Council supports the design included in the DCP.

ESDP submitted that the matter of location and design has had a great deal of consideration, and that this level was commensurate with the usual degree of consideration of the planning process, or greater. In relation to geotechnical concerns raised by Hume, Mr Canavan submitted that the preliminary assessment did not reveal ground conditions which were out of the ordinary or likely to be difficult in any way. In addition to this, it was noted that an additional \$200,000 had been set aside as requested by Hume's representative Pitt and Sherry engineers in order to ensure any adverse ground conditions can be adequately dealt with. ESDP argued that there was not a significant cost saving to construct a 4 lane bridge now, nor did anticipated traffic volumes necessitate this in the near future.

The MPA submitted that the current location of the bridge is general in nature and there were a number of factors which supported its proposed location. Ms Lardner, on behalf of the MPA explained that:

The bridge is currently located in an area preferred and endorsed by the Wurundjeri Tribe, the Registered Aboriginal Party.

On the matter relating to the need for a CHMP, the MPA argued that a CHMP was not required at this point in the PSP process. It was submitted by MPA that the Targeted Cultural Values Assessment provided sufficient guidance to inform the development of the PSP insofar as the location of the road bridge is concerned.

Ms Pepler, for ESDP called Mr Tom Rymer of Archaeology at Tardis as its cultural heritage expert. Mr Rymer and his firm had prepared four approved CHMPs within 5 kilometres of this site in the last four years. Under cross examination Mr Rymer took the Panel through the process of investigation to date, the likely cultural and archaeological values along the Merri Creek escarpment. When asked whether the bridge was likely to proceed in its current location, Mr Rymer provided a confident response that he saw no reason for it to be moved.

MPA submitted that notwithstanding this, in the event that costs associated with the relocation of the bridge and any consequential redesign exceeded that allowed for in the DCP, then additional notification to affected parties would be provided.

With regard to cost, ESDP submitted that there is:

Sufficient certainty in relation to these issues. It would not be appropriate for Hume to raise issues in the later Amendment C198 Hearing, which have not been raised before this Panel.

ESDP reiterated that the costing of the bridge had been the subject of detailed consideration by a number of consultants as a result of the conclave and that the Panel should endorse the results of the successful process. They noted that if the bridge needed to be moved, it would likely be in the order of up to 30 metres north and it was not considered a significant distance with regard to cost.

## **5.5.2 Discussion**

The issues raised by Hume have been adequately addressed. The Panel was taken to various scenarios detailing that even if the bridge were to be relocated north and this would likely result in lesser costs as the length of the bridge crossing decreased. Mr Rymer provided solid evidence that the likelihood of the bridge moving was low. The MPA, City of Whittlesea



and ESDP supported the bridge and its design as proposed in the DCP, with the adjusted cost derived from the conclave held prior to the Hearing. The Panel sees no reason to recommend a delay of the Amendment's gazettal until the outcomes of the geotechnical and CHMP studies are known as there is sufficient contingency contained within the DCP.

## **5.6 Conclusions and recommendations**

On the matter of community facilities Panel concludes that amending the English Street DCP to include a financial contribution towards community facilities in the Donnybrook PSP precinct to cater for demand for community services from the English Street PSP precinct population is appropriate.

The Panel also concludes that retaining Laffan Reserve under the PPRZ is sensible, despite the reserve falling within Conservation Area 34 designated for protection of the GGF.

On the matter of the bridge, a significant amount of pre-design investigation has been undertaken. The Panel did not accept arguments from Hume that there were significant cost savings to be achieved by constructing the bridge to its ultimate capacity now. The Panel supports the bridge location as exhibited.

The overall cost of the infrastructure which is the subject of the DCP is \$27.5m. <sup>4</sup> As outlined throughout this chapter the various issues relating to the DCP have been discussed in a progressive and collaborative matter. Apart from the discussion regarding bridge costs there was no contention on the rates proposed in the DCP.

Given the agreement between City of Whittlesea, Hume City Council and the MPA on this matter, the Panel considers it appropriate to incorporate the suggested changes to the DCP. For the DCP, the Panel recommends adoption of the post-exhibition changes submitted 15 September 2015 subject to recommendations in this report.

For these reasons, subject to the specified changes, the Panel recommends:

**Amend the English Street Development Contributions Plan to include funding of \$285,120 to the 'Donnybrook Cheese Farm' community centre.**

**Amend the English Street Development Contributions Plan to include the bridge costing at \$4.367 million.**

**Amend Plan 8 of the English Street Precinct Structure Plan and Plan 5 of the English Street Development Contributions Plan to reflect the mid-block intersection on English Street.**

**Adopt the English Street Development Contributions Plan dated 14/9/15.**

**Delete the proposal to rezone Laffan Reserve from the Public Park and Recreation Zone to Rural Conservation Zone.**

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<sup>4</sup> City of Whittlesea submission page 9



## Appendix A Submitters to the Amendment

No.	Submitter
1	Environment Protection Authority
2	Hume City Council
3	VicRoads
4	Melbourne Water
5	Northgate Woods Pty Ltd
6	George Petrovski
7	Merri Creek Management Committee
8	MoreMac Property Group
9	MAB Corporation
10	Lavender Rain
11	Friends of Merri Creek
12	Country Fire Authority
13	City of Whittlesea
14	Yarra Valley Water
15	April Rathgen

## Appendix B Document list

No.	Date	Description	Presented by
1	31/8/15	MPA updated table of responses to submissions	Joanne Lardner for MPA
2	"	Document changes matrix showing agreed document changes	"
3	"	Letter dated 26/8/15 explaining changes related to the use of land for a shop in the commercial precinct of the English Street PSP	"
3a	"	Letter regarding further notification of residents adjoining Merri Creek in the Craigieburn North Employment PSP area	"
4	"	MPA Part B submission	"
5	"	Copy of email dated 28/8/15 DCP costing update = mid-block intersection and other projects	"
6	"	City of Whittlesea submission and suggested drafting changes	Terry Montebello for City of Whittlesea
7	"	Hume City Council submission	Gareth Edgley for Hume CC
8	"	A1 size spreadsheet showing ESO/Zone changes	Joanne Lardner for MPA
9	1/9/15	Full copy of DCP	"
10	"	DCP changes matrix	"
11	"	DCP costings spreadsheet	"
12	"	Amendment documents tracked changes	"
13	"	Copy of Section 69 provisions of the Conservation, Forests and Lands Act 1987 (CF&L Act)	"
14	"	Copy of Section 70 provisions of the CF&L Act	"
15	"	Copy of MPA opening presentation slides	"
16	"	Copy of map of conservation areas approved area changes	"
17	"	English Street Development Partners submission	Chris Canavan QC for English St Development Partners Pty Ltd
18	"	Copy of SMEC memo on geotechnical design of bridge crossing	"

No.	Date	Description	Presented by
19	“	Revised land budget for conventional and medium density housing	“
20	“	Updated agreed costings with City of Whittlesea on DCP projects	“
21	“	Updated table of mid-block intersection costings	“
22	“	Merri Creek Management Committee Inc submission	Luisa MacMillan for Merri Creek Management Committee Inc.
23	“	Copy of email from DELWP regarding Laffan Reserve zoning	Joanne Lardner for MPA

## Appendix C Panel Preferred Explanatory Report

The following pages show the Panel's preferred changes to post-exhibition documentation. Inclusions, shown in [blue underline](#).

### Notation legend

#### Colours

- MAB Corporation
- DELWP / MPA
- Friends of Merri Creek

### WHITTLESEA PLANNING SCHEME

#### AMENDMENT C183

#### EXPLANATORY REPORT

(based on v03 01/09/2015)

### Who is the planning authority?

This amendment has been prepared by the Growth Areas Authority (now known as the Metropolitan Planning Authority), who is the planning authority for this amendment.

The amendment has been made at the request of the Metropolitan Planning Authority (the MPA) and City of Whittlesea.

### Land affected by the amendment

The amendment applies to land included in the English Street PSP area and comprises approximately 143 hectares as shown in Map 1 below. The PSP is bound by Donnybrook Road to the north, the Melbourne-Sydney rail corridor to the east and Merri Creek to the south and west.

**Map 1- Land affected by the amendment**

### What the amendment does

The amendment inserts two new incorporated documents titled *English Street Precinct Structure Plan* and *English Street Development Contributions Plan* into the Whittlesea Planning Scheme and rezones the land to Urban Growth Zone Schedule 4 to facilitate the development of the land. [The amendment also removes the Environmental Significance Overlay Schedule 3 \(ESO3\)](#) from the amendment area and applies a Public Acquisition Overlay (PAO2) to facilitate the widening of Donnybrook Road.

Specifically the amendment:

- Incorporates two new documents into the planning scheme by listing them in the Schedule to Clause 81.01:
  - English Street Precinct Structure Plan, April 2015
  - English Street Development Contributions Plan, April 2015
- Inserts Schedule 4 to the Urban Growth Zone (UGZ4) to the Whittlesea Planning Scheme and applies UGZ4 to part of the amendment area. The schedule sets out the land use and development controls for the precinct and requires land use and development within the amendment area to be generally in accordance with the English Street PSP;
- Rezones land identified as Growling Grass Frog Conservation Area 34 in the *Biodiversity Conservation Strategy* along the Merri Creek from Farming Zone (FZ) to Rural Conservation Zone (RCZ1);
- [Inserts a new Schedule 1 to the Rural Conservation Zone:](#)

- Inserts Schedule 10 to the Incorporated Plan Overlay (IPO10) to the Whittlesea Planning Scheme and applies IPO10 to land [zoned RCZ1](#) which is identified as Conservation Area 34 in the Biodiversity Conservation Strategy along the Merri Creek;
- Inserts Schedule 15 to the Development Contributions Plan Overlay (DCPO15) in the Whittlesea Planning Scheme and applies the DCPO15 to land within the amendment area, to provide for development contributions for transport and community infrastructure;
- Applies Public Acquisition Overlay (PAO2) to land south of Donnybrook Road to allow for the widening and construction of the ultimate carriageway and intersections for Donnybrook Road;
- [Removes the Environmental Significance Overlay Schedule 3 \(ESO3\) from the amendment area.](#) The overlay is no longer required as the incorporated English Street PSP designates areas of environmental significance in the Merri Creek;
- [Amends the area affected by ESO4 to align with the RCZ1;](#)
- [Remove the exemption for non-native vegetation removal in Schedule 4 to the ESO;](#)
- Amends the Land Subject to Inundation Overlay (LSIO) to reflect updated mapping provided by Melbourne Water;
- Removes the Rural Flood Overlay (RFO) from the amendment area as this provision is no longer required and is adequately dealt with via the LSIO and PSP provisions;
- Amends the Schedule to Clause 52.01 to provide for public open space contributions for land in the English Street PSP area when land is subdivided; and
- Amends the Schedule to Clause 52.17 to identify vegetation that can be removed without the need for a planning permit.

## Strategic assessment of the amendment

### Why is the amendment required?

The amendment introduces planning provisions to implement the State Planning Policy Framework with regard to the growth of Melbourne by facilitating new urban development and associated infrastructure provision and conservation & open space outcomes.

The amendment incorporates the English Street Precinct Structure Plan (PSP) and the English Street Development Contributions Plan (DCP) into the Whittlesea Planning Scheme and introduces the statutory tools to allow for the urban development of the precinct in accordance with State Planning Policy Framework. The Precinct Structure Plan will yield approximately 1,100 lots and have a future population estimated at 3,000 people and provide for approximately 700 local jobs.

The North Growth Corridor Plan identifies land within the PSP area as 'urban – land use to be determined' and 'biodiversity values'. The amendment will implement these land use designations and ensure the area develops in an integrated way, the amendment provides an overall structure for the area providing certainty in the development decisions and clarity as to the cost and location of services.

The amendment complements, and in some cases replaces, existing provisions of the scheme. In particular the amendment streamlines and integrates processes for native vegetation management, infrastructure provision and housing diversity on smaller lots.

The amendment does not duplicate any management provisions for land use and development in other acts or regulations.

The amendment is also required to apply a development contributions plan over the English Street Precinct that levies development and community infrastructure contributions.

The amendment is required to provide a transparent method for new development to assist the local community in meeting the cost of new shared development and community infrastructure in the area. The amendment will provide additional clarity to the development investment community on the costs of urban development in the area.

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

The amendment will facilitate residential and commercial development by introducing planning provisions that apply fairly and transparently to all affected landowners. The amendment facilitates this development in a location where existing services and infrastructure can be easily expanded.

Proposed planning provisions will protect and conserve the natural, cultural and scientific assets contained within the Merri Creek corridor and its tributaries.

The amendment will facilitate the development of land within the Urban Growth Boundary of Metropolitan Melbourne and will provide for the efficient and sustainable servicing of the land.

The amendment implements the objectives of planning in Victoria under Section 4 of the *Planning and Environment Act 1987* through a Precinct Structure Plan, Development Contributions Plan and associated statutory tools that have been prepared to facilitate development that:

- *Provides for the fair, orderly, economic and sustainable use of land identified for urban purposes through a logical and practical urban structure;*

The amendment will facilitate the development of new homes, jobs and services for the residential existing and the future community. The amendment will facilitate a residential development in close proximity to the existing Donnybrook Railway Station providing housing near public transport. The amendment will also seek to provide for 700 local jobs within the PSP area.

Proposed planning provisions will protect and conserve the natural assets within the Merri Creek corridor including the Growling Grass Frog habitat.

The amendment applies consistent controls across the precinct for residential and commercial development and proportionally levies development for development and community infrastructure to ensure the fair and equitable provision of works, services and facilities are provided.

- *provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity*

Development in the area will contribute funds towards maintenance of threatened ecological processes in line with Victoria's obligations set out in the endorsed program report for Melbourne Growth Corridors under the *Environment Protection and Biodiversity Act 1999*. A Growling Grass Frog Conservation Area (Conservation Area 34) applies to the Merri Creek for the purposes of protecting and enhancing the Growing Grass Frog population in Victoria.

The PSP provides for appropriate buffers and cross sections to ensure the habitat can be maintained and protected for the future.

- *secures a pleasant, efficient and safe working, living and recreational environment for new and existing residents and visitors to Victoria:*



The amendment supports the upgrade to the existing and future arterial road network to accommodate the proposed development within the PSP. The PSP outlines an integrated road network that ensures connectivity throughout the neighbourhoods. The amendment provides a high level of amenity and access to sporting and passive recreation areas.

- *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*

A desktop cultural heritage assessment has not prepared for the precinct. The MPA has undertaken a Cultural Heritage Impact Assessment along Merri Creek to establish high valued aboriginal cultural areas and the preferred location for the future bridge crossing from the English Street PSP area and the Craigieburn North Employment Area PSP. This report has been made available to the public by way of a background report. The report has also been endorsed by the Registered Aboriginal Party (RAP), the Wurundjeri tribe. A further Cultural Heritage Management Plan (CHMP) will need to be prepared for the proposed bridge works across the Merri Creek as well as any other future planning permit applications for subdivision within the precinct, in accordance with the *Aboriginal Heritage Act 2006*.

- *Protects public utilities and other assets and enables the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.*

Land will be set aside for the proposed road network, including a local arterial road (English St) and infrastructure such as a bridge connecting the future community to the west (Craigieburn North Employment Area) as well as key intersections crossing Donnybrook Road, connecting the community to the north (Lockerbie Precinct).

The urban structure will take advantage of available capacity in existing public utilities and has been prepared in line with the Integrated Water Management Plan. All households will be connected to sewer, potable water, gas and telecommunications.

- *to facilitate development in accordance with the above objectives*

The primary goal of the amendment is to facilitate development in accordance with the objectives noted above. The amendment will provide a net community benefit in the context of the objectives listed at Section 4 of the Act which reflect the objectives set out in the Growth Areas Authority's Precinct Structure Planning Guidelines.

The amendment allows for further urban development in Melbourne that will improve the supply of housing in the short to medium term, provide for a robust neighbourhood structure and leave a legacy of funded local infrastructure projects.

- *Balances the present and future interests of all Victorians by planning a new urban area of high amenity, with good access to services and recreation facilities.*

The amendment achieves this objective by facilitating the development of a diverse range of housing in a high amenity environment with good access to services and employment for existing and future generations.

The PSP identifies land within the precinct for arterial road upgrades, sports facility upgrades (to Laffan Reserve) and the provision of utilities. The new community contributes to the cost of this new infrastructure in line with the new community's use of them. By doing so the benefits of the infrastructure can be up front alleviating the need for of costly public spending in the future to 'reclaim' privately developed land for public purposes.

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

### Environmental Effects

The Biodiversity Conservation Strategy, 2013 and the objectives of the English Street PSP will provide strategic protection and a clear framework for the management of native vegetation and Growling Grass Frog habitat through the combination of retention and enhancement works. The PSP contains Conservation Area 34 as per the Biodiversity Conservation Strategy which seeks to protect the habitat of the nationally listed Growling Grass Frog.

The Rural Flooding Overlay (RFO) is being removed from the amendment area and a revision made to the LSIO at the request of Melbourne Water due to revised 1 in 100 year flood data.

Land is set aside in the PSP area to cater for retardation of water in heavy storms to avoid flooding. Water will be treated to be a quality fit for return to the natural watercourses and appropriate for the habitat of the Growling Grass Frog.

The PSP area is currently within a designated Bushfire Prone Area, until the land is developed to a more urban environment the management of bushfire risk will be required.

Aurecon was commissioned by the MPA to undertake an assessment of any potential sources of contamination within the precinct. The purpose of the study was to assess the suitability of land for the development of industrial sensitive uses. All land within the PSP area was identified as either identified as 'medium' or 'low' risk.

A full list of the identified risks and affected properties can be found within the report.

Development proponents will be required to undertake their own risk assessments or environmental audits and any associated remediation.

Despite identifying potential sources of minor contamination, Aurecon concluded with appropriate assessment and remediation, contamination should not be a constraint to the future development of sensitive uses.

In addition to the above the amendment provides for an urban structure that will encourage positive environmental effects by:

- Providing options for alternative modes of transport via walking, cycling and nearby bus links, therefore reducing carbon emissions;
- Supporting a subdivision layout with appropriate solar orientation to reduce reliance on fossil fuels for heating, cooling and lighting; and
- Promoting the conservation, reuse and recycling of water through the use of Class A recycled water.

### Social and Economic Effects

There remains significant demand for new housing in this part of Melbourne. Provision for new residential land supply will improve affordability and choice for homebuyers and investors.

Provision of the a potential community facility and potential local convenience centre with associated commercial land will add to the variety of tenancies and locations available to new local businesses and expanding existing local businesses. The PSP will provide for 700 jobs creating increased opportunity local jobs for the new existing and new community.

The Local Convenience Centre has been designed and located to maximise pedestrian and cyclist access and the use of public transportation which will assist residents in maintaining a healthy lifestyle and provide them with a range of non private vehicle transport options.

Further, opportunities for recreation and the development of social groups will emerge as a result of the provision of a potential new community facility which will be located in proximity to Merri Creek and its natural environs.

Providing for new population growth in the northern growth corridor will add to the economic well-being of the community. Increases in demand for goods and services will translate into more local jobs and economic activity.

New public and private sector investment will be significantly boosted in the immediate and surrounding areas.

In addition to the above, the amendment is expected to have positive social and economic effects through urban development including:

- Providing future residents with a high amenity neighbourhood with recreation facilities such as the Laffan Reserve, playing fields, shared paths and dedicated bicycle lanes;
- Housing diversity that will cater for different household sizes and types;
- The generation of employment in the construction industry;
- Increased employment opportunities (approximately 700 jobs) for the future population of English Street PSP through the identified future employment areas in the neighbouring Craigieburn North PSP.

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

The precinct is a designated Bushfire Prone Area under Regulation 810 of the *Building Regulations 2006*. As such, all buildings must be constructed to a bushfire attack level of at least 12.5 in accordance with Regulation 811 of the *Building Regulations 2006*. The Department of Transport, Planning and Local Infrastructure advises that this addresses requirements in relation to bushfire protection.

The Country Fire Authority will be consulted during the preparation of precinct structure plan and amendment documents.

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

The amendment complies with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

The amendment also complies with the following relevant Ministerial Directions:

#### *Direction No. 1 Potentially Contaminated Land*

Ministerial Direction No. 1 does not strictly apply to most of the land affected by the amendment as the amendment is proposing to rezone land that has typically been used for various agricultural uses rather than industrial uses.

A precautionary desktop environment site assessment has been carried out for all of the land whether or not it meets the definition of 'potentially contaminated land'. The assessment identified areas subject to historical localised land uses that are potentially subject to contamination. A total of 10 properties are within the precinct area. All properties were identified at either a 'medium' or 'low' risk. The properties were identified to contain a history

of residential, farming, small scale agriculture uses as well as dirt racetracks. No properties were identified as a high contamination risk.

The amendment (via the UGZ schedule) requires further investigation, assessment and remediation of all land within the precinct prior to use for sensitive land uses (e.g. housing, junior schools and child care) for those uses identified as a 'medium risk'.

#### *Direction No 9 - Metropolitan Strategy*

Direction 9 has been considered in preparing this amendment and the amendment complies with this direction. The amendment will facilitate the development of land within the urban growth boundary of Metropolitan Melbourne. The implementation of the PSP will facilitate the future development of the land in an efficient and sustainable manner, so that community services and physical infrastructure are available from early in the life of the new community.

- *Initiative 2.1.1 Apply the reformed residential zones*

The English Street PSP will apply the Residential Growth Zone, which will allow for a range of densities and housing types. The Small Lot Housing Code set out in the UGZ4 Schedule will simplify the approval process for lots less than 300 sqm.

- *Initiative 2.1.4 Develop more diverse housing in growth areas*

The PSP requires subdivision to provide a range of lot sizes capable of accommodating a wide range of housing types. The PSP itself will be the tool to encourage diversity in housing in areas of high amenity (i.e.: close to Donnybrook railway station and Merri Creek). The UGZ4 Schedule facilitates the use of the Small Lot Housing Code encouraging the delivery of smaller lots in prompt time frames.

- *Initiative 2.2.3 Deliver housing close to jobs and transport*

The PSP will generate approximately 700 future local jobs and housing in close proximity to the Donnybrook railway station. The proposed road network will be capable of accommodating a bus network which will provide further transport options north and south of the precinct.

- *Initiative 3.3.1 Improve roads in growth areas and outer suburbs*

A new transport network will be delivered through this amendment, including the funding for the purchase of the future road reserve and construction of the first carriageway and upgrading of intersections. The application of the PAO2 to part of the precinct south of Donnybrook Road will ensure the future widening of Donnybrook Road will be facilitated when required. The English Street DCP will help fund part of these new roads.

- *Initiative 4.3.1 Implement design guidelines to promote walking and cycling neighbourhoods for healthy living*

The amendment requires new development to deliver a planned pedestrian and cycle network, therefore encouraging health and wellbeing in the future community. The PSP seeks to deliver a shared path along Merri Creek and provides for off-road shared paths as well as a pedestrian bridge linking to the Laffan Reserve sports fields in the adjacent Craigieburn North precinct.

- *Initiative 4.5.2 Provide new neighbourhood parks and open space*

Merri Creek is located along the western and southern boundary of the PSP and Laffan Reserve (located in the adjacent Craigieburn North PSP) will be available to the future community of English Street PSP and the wider community. The PSP also identifies a

mixture of passive open space areas throughout the precinct, ensuring a variety of recreational opportunities are available for the future community.

- *Initiative 5.2.1 Increase the protection and restoration of biodiversity areas*

Growling Grass Frog Habitat (Category 1) will be protected through expanding the existing Rural Conservation Zone (RCZ) and applying an Incorporated Plan Overlay Schedule 10 (IPO10) to the land. The Growling Grass Frog is a nationally threatened species that is protected and managed through the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*. The *Biodiversity Conservation Strategy for Melbourne's Growth Corridors, June 2013* identified Merri Creek and its surrounds as designated Conservation Area 34.

- *Initiative 5.2.2 Protect the values of our waterways*

An appropriate drainage scheme will be implemented for the precinct to divert stormwater to natural wetlands and retarding basins. Water Sensitive Urban Design (WSUD) measures within developments will ensure storm water itself is treated to a quality fit for return to the natural watercourse. The MPA and Melbourne Water are continuing to resolve the proposed drainage scheme for the PSP area with the developer and council.

The construction of wetlands and retarding basins for the Growling Grass Frog will assist in improving the water quality of the area and control water flows back into the Merri Creek.

The amendment will identify land along Merri Creek as an area for long term conservation. It will also prevent developable land being located in areas prone to flood.

#### *Direction No. 11 - Strategic Assessment of Amendments*

This direction seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment. This explanatory report addresses the requirements outlined in this direction.

#### *Direction No. 12 - Urban Growth Areas*

Part 6 of Ministerial Direction 12 requires that when preparing an amendment to introduce or change provisions in a schedule to the UGZ, a planning authority must evaluate and include in the explanatory report a discussion about:

- *How the amendment implements any Growth Area Framework Plan applying to the land*

The *North Growth Corridor Plan* applies to the land and identifies the English Street PSP area predominantly for 'Urban Land Use – to be determined'. At the time of preparing the growth corridor plans for Melbourne the surrounding site constraints of environmental values and potential public utility facilities resulted in further investigation work being required for the future land use. During the PSP process, it has been determined that the land would be appropriate for a mixed residential and employment area.

The North Growth Corridor Plan also designates land along Merri Creek along the southern and western edge of the PSP as containing 'Biodiversity Values'. This is consistent with the *Biodiversity Conservation Strategy for Melbourne's Growth Corridors, June 2012*.

The PSP and amendment are generally consistent with the North Growth Corridor Plan in setting aside land for environmental values and designating the remaining land as residential and commercial within the PSP area.

- *How does the amendment accord with the Precinct Structure Planning Guidelines (October 2009)?*

- Objective one: To establish a sense of place and community

The precinct will have a strong sense of place based on the natural elements of the Merri Creek corridor to the southern and western boundaries of the PSP.

Given the relatively small population of the English Street PSP area the precinct will deliver a potential local convenience centre, community facility and local jobs creating a self contained residential precinct.

Funding will be allocated via the DCP for the upgrade of the Laffan Reserve within the Craigieburn North PSP. The surrounding network of local town centres and education facilities nominated in the incorporated Lockerbie PSP (north of the precinct) and Merrifield PSP (west of the PPS) have sufficient capacity to support the projected population within English Street.

- Objective two: To create greater housing choice, diversity and affordable places to live

The amendment applies the Residential Growth Zone. The PSP will seek a delivery of range of housing options at a variety of densities within the precinct, with higher densities considered appropriate near the existing rail corridor and along the Merri Creek.

The Small Lot Housing Code (SLHC) removes the need of a planning permit for lots less than 300 square metres, subject to compliance with the SLHC. This is expected to encourage an increased provision of small lots and streamline the provision of new housing.

- Objective three: To create highly accessible and vibrant activity centres

The PSP does not nominate any local town centres. As previously noted, the projected population of the precinct does not provide sufficient demand to support a local town centre. [Surrounding centres nominated in the incorporated Lockerbie PSP and the Merrifield major town centre are close to the English Street Precinct and will support the needs of future residents. A potential Local Convenience Centre is proposed in the precinct to provide local and essential services for the new community.](#)

- Objective four: To provide for local employment and business activity

The north-east portion of the PSP area is designated for future commercial use in the PSP. Significant employment areas are located west of the precinct in the Merrifield Employment area and the future Craigieburn North Employment Area. In addition to home based occupations, surrounding local town centres and schools will be the employment generators in proximity to the precinct. The PSP anticipates creating approximately 700 jobs in the precinct.

- Objective five: To provide better transport choices

The road and path network within the precinct has been planned to integrate with the existing and future transport network in the surrounding area. The Hume Highway and proposed Outer Metropolitan Ring Road provide excellent car access to metropolitan Melbourne and Regional Victoria. The existing Donnybrook Railway Station is within a short distance to the north.

The road network will deliver off-road shared paths to allow the community to cycle and walk to key destinations in the precinct and an opportunity to utilise sustainable transport modes.



Local bus services can be accommodated on the key north-south secondary arterial road as well as the east-west local road network.

- Objective six: To respond to climate change and increased environmental sustainability

The precinct has been planned with the potential for future road networks to provide bus capable networks as well as on-road and off-road cycle networks, providing alternative and sustainable transport options for future employees.

The amendment sets aside significant amounts of land for the conservation of the Growling Grass Frog corridor along the Merri Creek in accordance with the Biodiversity Conservation Strategy. The conservation area protects almost all of the scattered trees within the precinct.

- Objective seven: To deliver accessible, integrated adaptable community infrastructure

The PSP and DCP provide for upgraded sports fields including a pavilion at the Laffan Reserve, which is to be accessed via a pedestrian bridge linking to the English Street precinct. The PSP will include a Local Convenience Centre which will establish important services and facilities for future residents and employees.

- *How the provisions give effect to the intended outcomes of the precinct structure plan*

Most provisions in the incorporated document and associated ordinance are designed to be implemented at the subdivision development stage. At this point requirements and guidelines are either designed into subdivision plans (e.g. spatial outcomes), implemented through permit conditions (e.g. development and biodiversity contributions), implemented through referral authority agreements (e.g. essential services) or required to be applied as restrictions on title (e.g. bushfire protection, small lot housing code).

This provides for a single permission after approval of the PSP which is central to providing certainty and clarity and timeliness in the planning process. Additionally, flexible applied zones that follow the pattern of development rather than lead it allow flexibility when the PSP is followed through in the detail of subdivision and land use layouts.

The reformed Residential Growth Zone will be applied to the precinct facilitating residential and associated land uses in a manner similar to existing growth area precincts. The PSP remains the guiding document for neighbourhood development. [The Commercial 1 Zone will allow for the development of employment and residential activities and is complemented by floor space controls which limit retail activity to a scale appropriate to the provision of convenience retailing to serve the English Street residential and employment community.](#)

- *How a translation of the provisions can be achieved, once development anticipated by the precinct structure plan is substantially complete.*

As discussed above, most outcomes will be delivered through subdivision permits prior to translation of the PSP to standard provisions. Subdivision permits will implement most of the non-standard provisions.

An assessment of how development has proceeded and where public land uses have been established closer to the time of translation will provide a better guide to where zone boundaries should be settled.

Other than the UGZ, standard provisions are used to implement the plan including open space contributions through Clause 52.01 and Development Contributions through Schedule 15 to Clause 45.06. These will stay in place until all relevant contributions are collected.



All elements of the PSP guidelines are used in the PSP to set out the relevant standards and controls for achieving the PSP guideline objectives.

#### S46m(1) - Direction on Development Contributions Plan

This direction seeks to direct planning authorities in relation to the preparation and content of a Development Contributions Plan. The English Street DCP has been prepared in accordance with the intent and provisions of this direction. The DCP sets out approximately \$34 million of local infrastructure works for the precinct.

The development contribution rates as per the net developable hectare at September 2014 are approximately \$244,000 for residential land and \$172,000 for commercial land.

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

The amendment represents an integrated decision making process that balances the conflicting objectives of the relevant State planning policies as follows:

- Clauses 11.01 Activity centres, 11.02 Urban growth, 11.03 Open space - The amendment incorporates a precinct structure plan. These plans set out an orderly structure for development of the precinct including bringing zoned land supply to the market, providing land with good proximity to existing and planned amenities and services, and infrastructure.
- Clause 12.01 Biodiversity - Offsets for vegetation removal and habitat areas for nationally and state significant species will be provided in accordance with the Biodiversity Conservation Strategy. The amendment reinforces existing protection of land for the ongoing conservation and enhancement of the Merri Creek corridor as a significant existing natural asset.
- Clause 16.01 Integrated housing - Housing in the precinct will be fully serviced. New residents will have access to existing services and employment opportunities in the community in adjacent developed neighbourhoods and through provision of new infrastructure in the precinct. The precinct structure plan sets out a range of housing densities that can be accommodated in the precinct.
- Clause 17.01 Commercial - The amendment provides for a local convenience centre for the catchment within the PSP as well as designates land for commercial use, generating approximately 700 local jobs. The precinct is well located to the existing Kalkallo township providing access to key services, as well being in close proximity to the future activity centre network of the Lockerbie PSP to the north [and the Merrifield major town centre and currently developing Merrifield employment precinct to the west.](#)
- Clause 18.01 Land use and transport planning, 18.02 Movement networks - The precinct is strongly integrated with the existing and planned arterial road network and Principal Public Transport Network. The proposed road network provides a robust structure for traffic and transport movement within and through the precinct. Rail transport is currently provided by the existing Melbourne-Sydney rail corridor providing VLine services for the community.
- Clause 19.02 Community infrastructure, 19.03 Development infrastructure - A comprehensive development contributions plan has been prepared for the English Street precinct and forms part of this amendment. This amendment provides the strategic basis for the DCP including roads, intersections, bicycle paths, contribution towards the upgrade of existing sports facilities and open space. Water, sewer and drainage services are readily connectable from adjacent development into the precinct.

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

The amendment is supported by the Whittlesea Local Planning Policy Framework (LPPF), in particular Clause 21.06-1, as it provides for the residential development of land that draws on the natural features of the site and incorporates this into the future development. Further, the development of the land will be managed in a way that effectively integrates the landscape, and avoids inappropriate incursions into environmentally sensitive areas.

The amendment is consistent with and has been prepared in accordance with the Local Planning Policy Framework.

### Municipal Strategic Statement

- *Clause 21.03 Council Vision and Strategic Framework.* The land use planning objectives are linked to wider corporate objectives of the City of Whittlesea. These are expressed in the Community Plan. The Community Plan lists key strategic directions of which strategic planning is a key one.

To achieve this direction the Community Plan outlines the following actions:

- *Respect heritage, environment and rural assets and protect them for the future.*

The amendment will protect and enhance the environment of the Merri Creek Growling Grass Frog habitat in line with the approved Biodiversity Conservation Strategy.

- *Ensure ease of movement within, as well as to and from, the municipality.*

The amendment sets aside land for a future road networks, a bridge crossing, cycle and walking linkages that will connect the future community to existing townships as well as new communities to the north, east and south.

- *Provide for a range of well-planned future communities, in appropriate locations.*

The PSP will provide for approximately 1,100 dwellings in close proximity to existing and planned jobs. Furthermore, the proximity of the existing Donnybrook railway station provides close and convenient connections to Melbourne via existing VLine services.

- *Encourage sustainable and quality development that provides choices for diverse community.*

The precinct is close to the existing Donnybrook railway station and supported by an existing road network. The PSP seeks to deliver a road network that will support a future bus service as well as provide opportunity for cycling and walking to key destinations, reducing reliance on vehicles.

- *Protect and enhance the municipality's amenity and assets.*

Merri Creek and its associated environmental environs are protected through the expansion of the existing Rural Conservation Zone (RCZ) and application of the Incorporated Plan Overlay Schedule 10 (IPO10).

The PSP also provides guidance on appropriate treatments and buffers adjacent to conservation areas to ensure they are retained and protected into the long run

- *Integrate physical, social, environmental, and economic issues into planning for the community.*

The PSP seeks to deliver a future community that will provide housing, jobs, opportunity for recreation as well as access to surrounding area. The PSP will deliver approximately 1,100 dwellings and approximately 700 local jobs for the future community. The PSP

seeks to deliver a unique sense of place, leveraging off the environs of the Merri Creek and proposed wetlands and retarding basins proposed throughout the neighbourhood.

The Municipal Strategic Statement's emphasis on integrated strategic planning is consistent with the direction of the Community Plan.

#### Local Planning Policies

##### 21.05 – Environmental Assets

The proposed amendment and PSP sets aside land for the retention and protection of land along Merri Creek, defined as Growling Grass Frog Conservation Area 34 in the Biodiversity Conservation Strategy for Melbourne's Growth Corridor, June 2012. The expansion of the existing Rural Conservation Zone and applied Incorporated Plan Overlay Schedule 10 (IPO10) will ensure the habitat and environs of the creek are retained. Proposed wetlands and retarding basins will ensure stormwater is managed, collected and cleaned in an appropriate manner fit for travelling back into Melbourne's natural waterways. The PSP delivers a 'conservation interface' to ensure development is considerate of the abutting natural environs.

##### 21.09 – Housing

The City of Whittlesea is expected to attract continued growth, the introduction of PSP will provide an additional 1,100 dwellings for the future community contributing to housing opportunities for existing and new residents. The PSP requires proposed developments to deliver a variety of housing types and densities across the precinct catering for all aspects of the community.

##### 21.10 – Economic Development

The proposed amendment will deliver a portion of the PSP for commercial use, providing access for the community to 700 jobs. The delivery of a potential community facility and potential local convenience centre will provide a range of services and facilities for the proposed community.

##### 21.11 – Transport

The PSP sets aside land for a future road network that can deliver safe, effective and direct traffic movements throughout the precinct. Furthermore, the road network will have the capacity to provide future bus networks throughout the precinct as well as provides on-road and off-road cycle networks for sustainable transport modes. The precinct is in close proximity to the existing Donnybrook Railway Station providing public transport to Melbourne for the future residents. The English Street DCP will collect funds to contribute towards the proposed overpass over the existing rail network, improving efficiency of both the rail network and the existing road network as well as a bridge connecting the PSP to the precinct to the south (Craigieburn North Employment Area) as well as deliver key intersections connecting the precinct to the north (Lockerbie PSP area).

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

The amendment meets the form and content requirements of the Victorian Planning Provisions. Importantly, the application of the UGZ, RCZ & IPO are considered appropriate tools to guide future use and development of the site through the specification of conditions and requirements for permits.

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

The English Street PSP and DCP have been prepared in consultation with relevant agencies including Yarra Valley Water, Department of Environment, Land, Water and Planning

(DELWP), Department of Economic Development, Jobs, Transport and Resources (DEDJTR), Department of Education and Training (DET), Country Fire Authority (CFA), VicRoads, PTV and Melbourne Water.

City of Whittlesea has also been consulted and is supportive of the amendment. The MPA will continue to work with relevant state agencies during the consultation of the amendment and propose revisions to the amendment package to resolve submissions should any issues be raised.

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

The Metropolitan Planning Authority is an 'interface body' under the *Transport Integration Act 2010*. Under Section 25 of that Act:

- (1) An interface body must have regard to the transport system objectives when exercising powers and performing functions under any interface legislation which are likely to have a significant impact on the transport system.*
- (2) An interface body must have regard to the decision making principles in making decision under any interface legislation which are likely to have a significant impact on the transport system.*

The amendment is likely to have a minor impact on the transport system at a local level. It will require upgrades to nearby parts of the road network and will allow the creation of a new local road network.

The proposed additions and changes to the existing transport system in and adjacent to the precinct will meet the transport system objectives by:

- Providing for an interconnected road system that responds to the likely level of use generated by the precinct and hence facilitating investment in housing and local retail services in the area;
- enabling efficient access to existing and planned employment and services in and around the North Growth Corridor through connections to the arterial road network and planned extensions to bus services;
- ensuring the road network minimises impacts on the site's topography, native vegetation and water flow regimes;
- designing roads that are of a suitable scale and compatible with the expected travel demand and that provide a suitable scale and impact in relation to likely adjoining development;
- infrastructure provided for through the Development Contributions Plan will generally be provided as sufficient demand arises for the relevant infrastructure item and provides the opportunity for the efficient construction of items concurrent with subdivisional development;
- Integrating the construction of bus stop facilities with the development process to minimise construction costs and provide the opportunity to optimise the location of bus stops and design of roads in relation to bus routes and associated facilities; and
- Integrating relevant government bodies involved in the provision of transport infrastructure and services in the decision making process of the amendment.

## Resource and administrative costs

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

The amendment will have minimum impact on the resources and administrative costs of the responsible authority. The incorporation of the PSP and DCP in the Whittlesea Planning Scheme will facilitate the future orderly and proper planning of the area.

Further, the UGZ4 has been structured in such a way that the ultimate translation to conventional Victorian Planning Provisions zones can occur in a timely and efficient manner once the land has been developed.

The amendment will reduce the initial number of planning permits that would otherwise be required to facilitate development by:

- *Incorporating the requirements of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 under an endorsed program.*

## Appendix D Panel Preferred Clause 52.17

14/07/2011  
Proposed C183

### SCHEDULE TO CLAUSE 52.17

#### 1.0

#### Scheduled area

14/07/2011  
Proposed C183

Area	Description of native vegetation for which no permit is required to remove, destroy or lop
Area known as the extension of Edgars Road between Childs Road and Cooper Street in Epping, designated with a Public Acquisition Overlay (PAO2).	All native vegetation including trees, shrubs, herbs and grasses.
Area zoned Road 1 Zone or designated with a Public Acquisition Overlay (PAO2) being land forming the Hume Freeway between the Metropolitan Ring Road and Mount Ridley Road.	All native vegetation including trees, shrubs, herbs and grasses.
Area known as the Melbourne Wholesale Market Precinct, being land designated in Schedule 1 to the Priority Development Zone.	All native vegetation including trees, shrubs, herbs and grasses.
Area known as the extension of Findon Road between Plenty Road and Gorge Road in South Morang, designated with a Public Acquisition Overlay (PAO2).	All native vegetation including trees, shrubs, herbs and grasses.
<a href="#">Land shown as UGZ4 on the planning scheme maps.</a>	<a href="#">All native vegetation except for that shown as to be retained on Plan 6 in the incorporated English Street Precinct Structure Plan provided the removal, destruction or lopping is carried out in accordance with the 'Final approval for urban development in three growth corridors under the Melbourne urban growth program strategic assessment, 5 September 2013' pursuant to section 146B of the Environment Protection and Biodiversity Protection Act 1987 (Cth).</a> <a href="#">and</a> <a href="#">Any native vegetation not shown on Plan 6 in the incorporated English Street Precinct Structure Plan.</a>

#### 2.0

15/09/2008  
VC49

#### Scheduled weed

Area	Description of weed
None specified	

### 3.0 Utility installation code of practice

15/09/2008  
VC49

Name of code of practice
None specified



## Appendix E Panel Preferred IPO Schedule 10

### SCHEDULE 10 TO THE INCORPORATED PLAN OVERLAY

Shown on the planning scheme map as **IPO10**.

#### ENGLISH STREET PRECINCT STRUCTURE PLAN

##### **Purpose**

~~1.0 To conserve parts of Merri Creek for functioning, sustainable populations of Growling Grass Frog.~~

~~2.0 To facilitate development of recreation and infrastructure associated with adjoining urban land uses.~~

#### **31.0 General accordance with incorporated plans**

A permit granted must be generally in accordance with the incorporated plans as ~~they~~ it ~~apply~~ applies to the land unless otherwise agreed in writing by the Secretary to the Department of Environment, Land, Water and Planning.

#### **2.0 Conditions and requirements for permits**

##### **2.1 Requirements**

The requirements of the incorporated plans ~~s~~ must be included in a permit.

##### **2.2 Conditions ~~all permits~~**

##### **2.2.1 Protection of conservation areas and native vegetation during construction**

A permit granted to subdivide land where construction or works are required to carry out the subdivision, or a permit granted to construct a building or carry out works, where this precinct structure plan shows the land, or abutting land, including a conservation area or a patch of native vegetation or a scattered tree must ensure that:

- Before the start of construction or carrying out of works ~~in or around a conservation area, scattered native tree or patch of native vegetation~~ the developer of the land must erect a conservation area/vegetation protection fence that is:
  - highly visible
  - at least 2 metres in height
  - sturdy and strong enough to withstand knocks from construction vehicles
  - in place for the whole period of construction
  - located the following minimum distance from the element to be protected:

ELEMENT	MINIMUM DISTANCE FROM ELEMENT
Conservation area	2 metres
Scattered tree	twice the distance between the tree trunk and the edge of the tree canopy
Patch of native vegetation	2 metres

- Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:

- be located not less than 15 metres from a waterway;
- be located outside the vegetation protection fence;
- be constructed and designed to ensure that the conservation area, scattered tree or patches of native vegetation are protected from adverse impacts during construction;
- not be undertaken if it presents a risk to any vegetation within a conservation area; and
- be carried out under the supervision of a suitable qualified ecologist or arborist.

## **2.2.2 Land Management Co-operative Agreement**

A permit to subdivide land shown in the incorporated ~~Craigieburn North Employment Area~~ Precinct Structure Plan as including a conservation area must ensure that, before the issue of a statement of compliance for the last stage of the subdivision, the owner of the land:

- Enters into an agreement with the Secretary to the Department of Environment, Land, Water and Planning under section 69 of the *Conservation Forests and Lands Act 1987*, which:
  - Must provide for the conservation and management of that part of the land shown as a conservation area in the Craigieburn North Employment Area Precinct Structure Plan; and
  - May include any matter that such an agreement may contain under the *Conservation Forests and Lands Act 1987*.
- Makes application to the Registrar of Titles to register the agreement on the title to the land.
- Pays the reasonable costs of the Secretary to the Department of Environment, Land, Water and Planning in the preparation, execution and registration of the agreement.

The requirement for a Land Management Co-operative Agreement in this condition does not apply to land or any lot or part of a lot within a conservation area identified in the Precinct Structure Plan that:

- is identified in a Precinct Structure Plan as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or
- is identified in a Precinct Structure Plan as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or
- is within a Conservation Area identified in a Precinct Structure Plan for nature conservation and is vested, or will be vested, in the Secretary to the Department of Environment, Land, Water and Planning for conservation purposes; or
- is the subject of an agreement with the Secretary to the Department of Environment, Land, Water and Planning to transfer or gift that land to:
  - the Secretary to the Department of Environment, Land, Water and Planning;
  - the Minister administering the *Conservation, Forests and Lands Act 1987*; or
  - another statutory authority.

to the satisfaction of the Secretary to the Department of Environment, Land, Water and Planning.

## **2.2.3 Salvage and translocation**

The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Department of Environment Land Water and Planning, 2014) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment Land Water and Planning.

## **2.2.4 Kangaroo Management Plan**

Before the certification of the plan of subdivision, a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment Land Water and Planning. Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.

The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the Responsible Authority.

### **3.0 Decision guidelines**

Any endorsed program report applying to the land under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

## Appendix F Panel Preferred UGZ Schedule 4

The following pages show the Panel's preferred changes to post-exhibition documentation. Inclusions are shown in blue underline. Deletions are ~~red~~.

### Notation legend

#### Colours

- MAB Corporation
- DELWP / MPA

#### DD/MM/YYYY Proposed C183 **SCHEDULE 4 TO THE URBAN GROWTH ZONE**

Shown on the planning scheme map as **UGZ4**

#### **ENGLISH STREET PRECINCT STRUCTURE PLAN**

#### **1.0 The plan**

DD/MM/YYYY  
Proposed C183 Map 1 below shows the future urban structure proposed in the *English Street Precinct Structure Plan*. It is a reproduction of Plan 3 in the *English Street Precinct Structure Plan*.

**Map 1 to Schedule 4 to Clause 37.07** Update to reflect updated PSP Plan 3.

#### **2.0 Use and development**

#### **2.1 The land**

DD/MM/YYYY  
Proposed C183 The use and development provisions specified in this schedule apply to the land within the 'precinct area' on Map 1 of this schedule and shown as UGZ4 on the planning scheme maps.

*Note: If land shown on Map 1 is not zoned UGZ, the provisions of this zone do not apply.*

#### **2.2 Applied zone provisions**

DD/MM/YYYY  
Proposed C183 The provisions of the following zones in this scheme apply to the use and subdivision of the land, the construction of a building, construction or carrying out of works as set out in Table 1.

**Table 1: Applied zone provisions**

Land as shown on Map 1 of this schedule	Applied zone provisions
Commercial precinct <del>&amp; p</del> <u>Potential local convenience centre</u>	Clause 34.01 – Commercial 1 Zone
Secondary arterial road	Clause 36.04 – Road Zone – Category 2
All residential land	Clause 32.07 – Residential Growth Zone

## 2.3 Reference to a planning scheme zone is a reference to an applied zone

DD/MM/YYYY  
Proposed C183

A reference to a planning scheme zone in an applied zone must be read as if it were a reference to an applied zone under this schedule.

*Note: e.g. The Residential Growth Zone specifies 'Car wash' as a Section 2 Use with the condition, 'The site must adjoin, or have access to, a road in a Road Zone.' In this instance the condition should be read as, 'The site must adjoin, or have access to, a road in a Road Zone or an applied Road Zone in the Urban Growth Zone schedule applying to the land'.*

## 2.4 Specific provisions – Use of land

The following provisions apply to the use of the land.

**Table 2: Use**

Use	Requirement
<del>Shop where the applied zone is Commercial 1 Zone in the 'commercial precinct' (other than the 'potential local convenience centre')</del>	<del>A permit is required to use land for a shop if the combined leasable floor area of all shops exceeds: Prohibited.</del>
<del>1,500 square metres for land shown as Commercial Precinct in the incorporated English Street Precinct Structure Plan.</del>	
<u>Shop in the 'potential local convenience centre'</u>	<u>A permit is required to use land for a shop if the combined leasable floor area of all shops exceeds 1,500 square metres.</u>

## 2.5 Specific provision – Use and development of future passive public open space and community facilities

DD/MM/YYYY  
Proposed C183

A permit is not required to use or develop land shown in the *English Street Precinct Structure Plan* as open space (local park) or community facilities provided the use or development is carried out generally in accordance with the *English Street Precinct Structure Plan* and with the prior written consent of the responsible authority.

## 2.6 Specific provision – Dwellings on a lot less than 300 square metres

DD/MM/YYYY  
Proposed C183

A permit is not required to construct or extend one dwelling on a lot with an area less than 300 square metres where a site is identified as a lot to be assessed against the Small Lot Housing Code via a restriction on title, and it complies with the Small Lot Housing Code incorporated pursuant to Clause 81 of the Whittlesea Planning Scheme.

## 3.0 Application requirements

DD/MM/YYYY  
Proposed C183

If in the opinion of the responsible authority an application requirement listed at 3.1 or 3.2 is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement.

## 3.1 Subdivision – Residential development

DD/MM/YYYY  
Proposed C183

In addition to the requirements of Clause 56.01-2, a subdivision design response for a residential subdivision must include:

- A land budget table in the same format and methodology as those within the precinct structure plan applying to the land, setting out the amount of land allocated to the proposed uses and expected population and dwelling yields;

- A written statement that sets out how the subdivision implements the incorporated English Street Precinct Structure Plan;
- Subdivision and Housing Design Guidelines, prepared to the satisfaction of the responsible authority, which demonstrates how the proposal responds to and achieves the objectives and planning and design requirements and guidelines in accordance with the incorporated English Street Precinct Structure Plan;
- A table setting out the amount of land allocated to the proposed uses and expected population, dwelling and employment yields;
- A mobility plan that demonstrates how the local street and movement network integrates with adjacent urban development or is capable of integrating with future development on adjacent land parcels;
- Potential bus route and bus stop locations prepared in consultation with Public Transport Victoria;
- A Stormwater Management Strategy that assesses the existing surface and subsurface drainage conditions on the site, addresses the provision, staging and timing of stormwater drainage works, including temporary outfall provisions, to the satisfaction of City of Whittlesea, Melbourne Water and the Department of Environment, Land, Water and Planning where appropriate.

### 3.2 Public Infrastructure Plan

DD/MM/YYYY  
Proposed C183 An application must be accompanied by a Public Infrastructure Plan which addresses the following:

- What land may be affected or required for the provision of infrastructure works;
- The provision, staging and timing of stormwater drainage works;
- The provision, staging and timing of road works internal and external to the land consistent with any relevant traffic report or assessment;
- The landscaping of any land;
- What, if any, infrastructure set out in the English Street Development Contributions Plan is sought to be provided as "works in lieu" subject to the consent of the collecting agency;
- The provision of public open space and land for any community facilities; and
- Any other matter relevant to the provision of public infrastructure required by the responsible authority.

### 3.3 Traffic Impact Assessment

DD/MM/YYYY  
Proposed C183 An application that proposes to create or change access to a primary or secondary arterial road must be accompanied by a Traffic Impact Assessment Report (TIAR). The TIAR, including functional layout plans and a feasibility / concept road safety audit, must be to the satisfaction of VicRoads or City of Whittlesea, as required.

### 3.4 Use or develop land for a sensitive purpose – Environmental Site Assessment – 750, 780, 800, 804, 810, Donnybrook Road Craigieburn and 45 & 65 English Street Donnybrook

DD/MM/YYYY  
Proposed C183 An application to use or develop land for a sensitive use, or to construct a building or construct and carry out works associated with a sensitive use on the land must be accompanied by a Phase 2 Environmental Site Assessment report prepared by a suitably qualified environmental professional to the satisfaction of the responsible authority.

The report must contain:

- detailed assessment of the matters outlined as potential contaminants on the land documented in ‘(Precinct Structure Plan Area 25 Growth Areas Authority, Desktop Environmental, Hydrological and Geotechnical Study. Revision 2 dated 13 September 2012)’ by Aurecon
- Clear advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all, or part, of the land is recommended having regard to the *General Practice Note on Potentially Contaminated Land*, June 2005 (DSE); and
- Recommended remediation actions for any contaminated land.

### 3.5 Development applications on land containing or abutting the Merri Creek, its tributaries and environs

DD/MM/YYYY  
Proposed C183

An application on land containing or abutting the Merri Creek Corridor, its tributaries and environs must be accompanied by:

A plan that shows:

- Natural features including trees and other significant vegetation, habitat for protected species, drainage lines, water courses, wetlands, ridgelines, hill tops and features of geomorphic significance; and
- Recreation facilities to be provided within public open space; and
- Storm water facilities that are compliant with the relevant approved drainage strategy; and
- The retention and removal of vegetation and any re-vegetation.

### 3.6 Rail noise assessment

DD/MM/YYYY  
Proposed C183

An application that proposes, or will allow, residential buildings within 80 metres of the existing Melbourne-Sydney rail track must be accompanied by an assessment of noise and vibration impacts on the development from the rail operations at the time of the application. The acoustic assessment must be prepared by a suitably qualified engineer or other suitably qualified person to the satisfaction of the responsible authority. The acoustic assessment must:

- Provide an assessment of noise levels on the land taking into account the likely noise levels associated with the ongoing operation of VLine and Australian Rail and Track Corporation (ARTC) operations; and
- Include recommendations for noise attenuation measures designed to achieve appropriate noise limits in bedrooms.

### 3.7 Kangaroo management

DD/MM/YYYY  
Proposed C183

Any application for subdivision must be accompanied by a Kangaroo Management Plan to the satisfaction of the responsible authority which includes:

- Strategies to avoid land locking kangaroos, including staging of subdivision; and
- Management requirements to respond to the containment of kangaroos in an area with no reasonable likelihood of their continued safe existence; or
- Management and monitoring actions to sustainably manage a population of kangaroos within a suitable location.

Where a Kangaroo Management Plan has been approved in respect to the land to which the application applies, the application must be accompanied by:

- A copy of the approved Kangaroo Management Plan; and
- A ‘design/management response’ statement outlining how the application is consistent with and gives effect to any requirements of the approved Kangaroo Management Plan.



### 3.8 [Economic assessment – local convenience centre](#)

DD/MM/YYYY  
Proposed C183

[Any application to use land for a shop must be accompanied by a report, prepared by a suitably qualified professional, describing the economic impact of the proposal including with regard to existing and planned town centres in the area.](#)

## 4.0 **Conditions and requirements for permits**

DD/MM/YYYY  
Proposed C183

### 4.1 **Open Space, community facilities and road widening - Condition**

DD/MM/YYYY  
Proposed C183

Any permit for subdivision or buildings and works where land is required for open space, community facilities or road widening must contain the following conditions:

- Land required for public open space as a local park, as set out in the English Street Precinct Structure Plan or Development Contributions Plan, must be transferred to or vested in the responsible authority at no cost to that authority.
- Land required for community facilities, as set out in the English Street Precinct Structure Plan or Development Contributions Plan, must be transferred to or vested in the responsible authority at no cost to that authority.
- Land required for road widening including right of way flaring for the ultimate design of any intersection within an existing or proposed arterial road must be transferred to or vested in council at no cost to the acquiring agency unless funded by the English Street Development Contributions Plan.
- Land required for a community facility, road or public open space must be shown on a Plan of Certification as a reserve in favour of City of Whittlesea or the relevant authority.

### 4.2 **Biodiversity and Threatened Species - Conditions**

DD/MM/YYYY  
Proposed C183

#### Note: [Operation of Commonwealth Environmental Laws](#)

[On 5 September 2013 an approval under the Environment Protection and Biodiversity Conservation Act 1999 \(EPBC Act\) was issued by the Commonwealth Minister for Environment, Heritage and Water. The approval applies to all actions associated with urban development in growth corridors in the expanded Melbourne 2010 Urban Growth Boundary as described in page 4 in the Biodiversity Conservation Strategy for Melbourne's Growth Corridors \(Department of Environment and Primary Industries, 2013\). The Commonwealth approval has effect until 31 December 2060. The approval is subject to conditions specified at Annexure 1 of the approval.](#)

[Provided the conditions of the EPBC Act approval are satisfied individual assessment and approval under the EPBC Act is not required.](#)

Any permit for subdivision must contain the following conditions:

#### 4.2.1 **Kangaroo Management Plan**

DD/MM/YYYY  
Proposed C183

Before the certification of the plan of subdivision, a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment, Land, Water and Planning. Once approved the plan will be endorsed by the responsible authority and form part of the permit.

The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the responsible authority.

#### 4.2.2 **Salvage and Translocation**

DD/MM/YYYY  
Proposed C183

The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Department of Environment and Primary Industries, 2014) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment, Land, Water and Planning.

#### 4.2.3 Protection of conservation areas and native vegetation during construction

DD/MM/YYYY  
Proposed C183

A permit granted to subdivide land where construction or works are required to carry out the subdivision, or a permit granted to construct a building or carry out works, where this precinct structure plan shows the land, or abutting land, including a conservation area or a patch of native vegetation or a scattered tree must ensure that:

- Before the start of construction or carrying out of works ~~in or around a conservation area, scattered native tree or patch of native vegetation~~ the developer of the land must erect a conservation area/vegetation protection fence that is:
  - highly visible
  - at least 2 metres in height
  - sturdy and strong enough to withstand knocks from construction vehicles
  - in place for the whole period of construction
  - located the following minimum distance from the element to be protected:

ELEMENT	MINIMUM DISTANCE FROM ELEMENT
Conservation area	2 metres
Scattered tree	twice the distance between the tree trunk and the edge of the tree canopy
Patch of native vegetation	2 metres

- Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:
  - be located not less than 15 metres from a waterway;
  - be located outside the vegetation protection fence;
  - be constructed and designed to ensure that the conservation area, scattered tree or patches of native vegetation are protected from adverse impacts during construction;
  - not be undertaken if it presents a risk to any vegetation within a conservation area; and
  - be carried out under the supervision of a suitable qualified ecologist or arborist.

#### 4.2.4 Land Management Co-operative Agreement

DD/MM/YYYY  
Proposed C183

A permit to subdivide land shown in the incorporated English Street Precinct Structure Plan as including a conservation area must ensure that, before the issue of a statement of compliance for the last stage of the subdivision, the owner of the land:

- Enters into an agreement with the Secretary to the Department of Environment, Land, Water and Planning under section 69 of the *Conservation, Forests and Lands Act 1987*, which:
  - Must provide for the conservation and management of that part of the land shown as a conservation area in the English Street Precinct Structure Plan; and
  - May include any matter that such an agreement may contain under the *Conservation, Forests and Lands Act 1987*.
- Makes application to the Registrar of Titles to register the agreement on the title to the land.
- Pays the reasonable costs of the Secretary to the Department of Environment, Land, Water and Planning in the preparation, execution and registration of the agreement.

The requirement for a Land Management Co-operative Agreement in this condition does not apply to land or any lot or part of a lot within a conservation area identified in the Precinct Structure Plan that:

- is identified in a Precinct Structure Plan as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or
- is identified in a Precinct Structure Plan as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or

- is within a Conservation Area identified in a Precinct Structure Plan for nature conservation and is vested, or will be vested, in the Secretary to the Department of Environment, Land, Water and Planning for conservation purposes; or
- is the subject of an agreement with the Secretary to the Department of Environment, Land, Water and Planning to transfer or gift that land to:
  - the Secretary to the Department of Environment, Land, Water and Planning;
  - the Minister administering the *Conservation, Forests and Lands Act, 1987*; or
  - another statutory authority.

to the satisfaction of the Secretary to the Department of Environment, Land, Water and Planning.

#### 4.3

DD/MM/YYYY  
Proposed C183

##### **Public Transport – Condition**

Any permit for subdivision must contain the following condition:

Unless otherwise agreed by Public Transport Victoria, prior to the issue of Statement of Compliance for any subdivision stage, bus stop hard stands with direct and safe pedestrian access to a pedestrian path must be constructed:

- In accordance with the Public Transport Guidelines for Land Use and Development and be compliant with the *Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002*.
- At locations approved by Public Transport Victoria, at no cost to Public Transport Victoria, and to the satisfaction of Public Transport Victoria.

#### 4.4

DD/MM/YYYY  
Proposed C183

##### **Road Network – Condition**

Any permit for subdivision or building and works must contain the following condition:

Prior to the certification of a plan of subdivision, the plan of subdivision must show the land affected by the widening of the road reserve which is required to provide road widening and/or right of way flaring for the ultimate design of any adjacent intersection.

#### 4.5

DD/MM/YYYY  
Proposed C183

##### **Public Infrastructure Plan – Condition**

Any permit for subdivision must contain the following condition:

Prior to the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the *Planning and Environment Act 1987* which provides for:

- The implementation of the Public Infrastructure Plan approved under this permit.
- The purchase and/or reimbursement by the responsible authority for any provision of public open space in excess of the amount specified in the schedule to Clause 52.01.
- The timing of any payments to be made to the owner having regard to the availability of funds in the open space account.

#### 4.6

DD/MM/YYYY  
Proposed C183

##### **Use or development of land for a sensitive use – Condition**

Any permit for a sensitive use or development must contain the following condition:

Prior to the certification of a Plan of Subdivision, or a stage of subdivision, under the *Subdivision Act 1988*, further testing in accordance with the recommendations of the Phase 2 Environmental Site Assessment (see application requirement 3.4) must be carried out to the satisfaction of the responsible authority.

Upon completion of the testing the landowner must submit the results and comply with any additional requirements to the satisfaction of the responsible authority, having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005 (DSE)*. The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

#### 4.7 Subdivision permits that allow for the creation of a lot/s of less than 300 square metres - Condition

DD/MM/YYYY  
Proposed C183

Any permit for subdivision that allows the creation of a lot less than 300 square metres must contain the following conditions:

- Prior to the certification of the plan of subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the Responsible Authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the Small Lot Housing Code incorporated pursuant to Clause 81 of the Whittlesea Planning Scheme; and
- The plan of subdivision submitted for certification must identify whether type A or type B of the Small Lot Housing Code applies to each lot to the satisfaction of the Responsible Authority.

#### 5.0 Advertising signs

DD/MM/YYYY  
Proposed C183

The advertising sign category for this land is the category specified in the zone applied to the land at Clause 2.2 of this schedule.

#### 5.1 Land and home sales signs

DD/MM/YYYY  
Proposed C183

Despite the provisions of Clause 52.05, signs promoting the sale of land or homes on the land (or on adjoining land in the same ownership) may be displayed without a permit provided:

- The advertisement area for each sign does not exceed 10 square metres;
- Only one sign is displayed per road frontage. Where the property has a road frontage of more than 150 metres multiple signs may be erected provided there is a minimum of 150 metres distance between each sign, with a total of not more than 4 signs per frontage;
- The sign is not animated, scrolling, electronic or internally illuminated sign;
- The sign is not displayed longer than 21 days after the sale (not settlement) of the last lot; and
- The sign is setback a minimum of 750mm from the property boundary.

A permit may be granted to display a sign promoting the sale of land or homes on the land (or on adjoining land in the same ownership) with an area greater than 10 square metres

#### 6.0 Decision guidelines

DD/MM/YYYY  
Proposed C183

Before deciding on an application to use land for a shop in the local convenience centre, in addition to the decision guidelines at Clause 37.07-14, the responsible authority must consider, as appropriate:

- The local catchment demand for the additional floor area; and
- Whether the application would result in the local convenience centre growing beyond the role of a local convenience centre; and
- The effect, if any, on existing and future major town centres in Melbourne's North Growth Corridor.

## Appendix G Panel Preferred ESO Schedule 4

### SCHEDULE 4 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO4**.

#### RURAL CONSERVATION AREA

##### 1.0 Statement of environmental significance

06/08/2010  
VC68  
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The development of Melbourne has caused significant impacts to the environment. Melbourne's footprint has resulted in the removal of most native vegetation, and retained habitat areas only support flora and fauna that can survive in a highly fragmented and urbanised landscape. The overall biodiversity of Melbourne is a fraction of what it was prior to European settlement.

As part of the delivery of Melbourne's Newest Sustainable Communities Program, the Victorian Government established a process to identify, permanently protect and manage biodiversity assets that are important within the greater Melbourne region.

This process has determined the location of significant biodiversity assets and identified areas where these can be retained and where urban development is not appropriate and to which this overlay has been applied.

The areas covered by this overlay include some existing conservation reserves, areas of significant remnant native vegetation and a number of areas that provide habitat for threatened flora and fauna.

The areas include but are not limited to:

- Important grasslands.
- Grassy eucalypt woodlands.
- Waterways and riparian areas.
- Other important habitat for threatened flora and fauna.

It is important that these areas are retained and managed to ensure that their biodiversity values and any habitat links are protected and enhanced.

##### 2.0 Environmental objective to be achieved

06/08/2010  
VC68

- To protect and improve the viability of habitats, ecological communities, flora and fauna and genetic diversity.
- To enhance the environmental and landscape values of the area.
- To ensure that any use, development or management of land within and adjacent to areas of biological significance are compatible with their long-term maintenance and conservation and will not have detrimental impacts on biodiversity values.
- To encourage ecological restoration, regeneration and revegetation with indigenous species within the site.
- To maintain and enhance habitat connectivity for listed threatened species.
- To prevent a decline in the extent and quality of native vegetation and native fauna habitat.
- To ensure that the siting and design of any buildings and works maintains the environmental integrity of the land.
- To maintain and enhance the integrity of sites of environmental significance.
- To provide for the long term preservation of the flora and fauna and associated habitat of environmentally significant areas.

### 3.0 Permit requirement

06/08/2010  
VC68

A permit is not required to:

- Construct a building or construct or carry out works or to remove, destroy or lop vegetation (including dead vegetation) in accordance with an agreement under Section 69 of the *Conservation, Forests and Lands Act 1987*.
- Construct or carry out works or to remove, destroy or lop vegetation (including dead vegetation) by or on behalf of a public authority or public land manager involving revegetation, or preparatory works associated with revegetation.
- Extend or alter an existing dwelling provided that the gross floor area of that extension or alteration does not exceed 50 square metres and the extension or alteration is more than 5 metres from any existing native vegetation.
- Remove, destroy or lop any vegetation, including dead vegetation:
  - ~~▪ Where the vegetation is non-native.~~
  - Where the vegetation is a plant proclaimed as a weed under the *Catchment and Land Protection Act 1994*.
  - In order to enable the use and maintenance of a building constructed or approved by a planning permit granted under this planning scheme or by a building permit granted under the Building Act 1993, before 6 August 2010. This exemption does not apply to vegetation located more than 10 metres from a building.
  - Where the vegetation has been planted or grown for aesthetic or amenity purposes, including agroforestry (the simultaneous and substantial production of forest and other agricultural products from the same land unit), shelter belts, woodlots, street trees, gardens or the like. This exemption does not apply if public funding was provided to assist in planting or managing the vegetation for conservation purposes and the terms of the funding did not anticipate removal or harvesting of the vegetation.
  - For the purpose of maintenance, where no more than one third of the foliage is removed from any individual plant. This exemption does not apply to the pruning or lopping of the trunk of a tree or shrub or to native vegetation within a road or railway reservation.
  - To mow or slash grass in a lawn, garden or other planted area for maintenance only.
  - To maintain an existing fence where the removal of vegetation is within a combined maximum width of 4 metres either side of the fence.

### 4.0 Application requirements

06/08/2010  
VC68

An application must be accompanied by:

- A description of any proposed disturbance of surface soil or rocks associated with the proposal.
- The total extent of vegetation on the property and the extent of native vegetation proposed to be cleared.
- A description of the steps that have been taken to avoid and minimise the removal of native vegetation including the practicality of alternative options which do not require removal of the native vegetation.

An application must also be accompanied by, as appropriate:

- A flora and fauna assessment of the land prepared by a suitably qualified and experienced person to the satisfaction of the responsible authority. The assessment must include:
  - A flora and fauna survey.
  - A habitat hectare assessment.
  - Identification of the vegetation and habitat significance of the property.

- A description of the effect of the proposed development in relation to other areas of native vegetation or native fauna habitat, including any proposed reserves, strategic reserves, conservation reserves, streams and waterways.
- A land and environmental management plan prepared by a suitably qualified person identifying, as appropriate:
  - Any proposals for revegetation, including proposed species, and ground stabilisation.
  - How any vegetation removal will be offset (an offset plan), in accordance with Victoria's Native Vegetation Management: A Framework For Action (Department of Natural Resources and Environment 2002).
  - Weed management, including species to be targeted and proposed management techniques.
  - Pest animal management, including species to be targeted and proposed management techniques.

If in the opinion of the responsible authority a flora and fauna assessment of the land or a land and environmental management plan is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement.

## **5.0 Referral of applications**

06/08/2010  
VC68

In accordance with Section 55 of the Act, an application must be referred to the relevant referral authority specified in the schedule to Clause 66.04.

## **6.0 Decision guidelines**

06/08/2010  
VC68

Before deciding on an application, the responsible authority must consider, as appropriate:

- The conservation significance of any vegetation to be removed and its habitat value for native fauna.
- The reason for removing any vegetation and the practicality of any alternative options.
- Measures to protect and enhance native vegetation and native fauna habitat including the retention of land form, surface soils and rocks.
- Measures to maintain contiguous areas of native vegetation or native fauna habitat.
- Measures to encourage ecological restoration, regeneration and revegetation with indigenous species.
- Any park management plan, including the potential impact of management activities, such as burning, on any proposed development.
- The impact of the development on any proposed or existing conservation reserves, streams and waterways, including the potential impacts of nutrient and water run-off, increased weed and pest invasion or recreational impacts.
- The impact on the integrity of the site from the proposed development, disturbance and removal of rock, indiscriminate weed control, habitat fragmentation and isolation and disturbance and destruction of habitat of threatened species.
- The proposed management practices for the land including:
  - The linking and enlarging of areas of significant flora and fauna habitats.
  - Effective and targeted weed control.
  - Programs to control or eliminate introduced predatory and pest animal species, in particular foxes, rabbits and hares.
  - Rehabilitation of degraded areas through fencing, revegetation with appropriate native species and ongoing management.
  - Collection of seed and other plant propagules for rehabilitation projects on and off site.



- The results of any flora and fauna survey and assessment of the land.
- Any Native Vegetation Precinct Plan, Conservation Management Plan, Precinct Structure Plan or other management plan approved for the area by the Minister for Planning or Minister for Environment and Climate Change.

## 7.0

### Reference

06/08/2010  
VC68

- Delivering Melbourne's Newest Sustainable Communities: Strategic Impact Assessment Report for the *Environment Protection and Biodiversity Conservation Act 1999* (Department of Sustainability and Environment 2009)
- Delivering Melbourne's Newest Sustainable Communities: Report for Public Consultation, Urban Growth Boundary Review (Department of Planning and Community Development 2009)
- Delivering Melbourne's Newest Sustainable Communities: Background Technical Report 2a: Biodiversity Assessment of Melbourne's Western Investigation Area (Biosis Research 2009)

## Appendix H Panel Preferred RCZ Schedule 1

--/2015  
C183

### SCHEDULE 1 TO THE RURAL CONSERVATION ZONE

Shown on the planning scheme map as **RCZ1**

#### Conservation Values

The Merri Creek and its immediate surrounds host habitat and suitable potential habitat for the threatened Growling Grass Frog, a matter of national environmental significance. The creek has a unique role to play in the survival of the Growling Grass Frog and the vegetation and aquatic communities it inhabits that in other places have almost been totally destroyed. The creek environs also provide as safe environment for the movement of non-threatened birds and other wildlife.

Merri Creek is a major tributary of the Yarra River with a catchment of 396 square kilometres and a waterway length of some 60 kilometres. Revegetation works and parkland development including path and construction works have created a linear park of outstanding quality and landscape character – one which plays an important role in the park system of the metropolitan area.

The creek and its environs are a recreational open space linking the inner suburbs of Melbourne to rural areas in its upper reaches and connecting to the metropolitan wide open space and trail network. The recreation function provides valuable exposure to conservation environments.

Land in this zone includes: existing conservation reserves; areas of significant remnant native vegetation in the form of grasslands, woodlands, waterways and riparian environments; areas to be developed for conservation and a number of areas that provide habitat for threatened flora and fauna.

	Land	Area/Dimensions/Number
Minimum subdivision area (hectares).	<a href="#">None specified</a>	
Maximum floor area for which no permit is required to alter or extend an existing dwelling (square metres).	<a href="#">All land</a>	<a href="#">50</a>
Maximum floor area for which no permit is required to construct an out-building associated with a dwelling (square metres).	<a href="#">All land</a>	<a href="#">50</a>
Maximum floor area for which no permit is required to alter or extend an existing building used for agriculture (square metres).	<a href="#">All land</a>	<a href="#">50</a>
Permit requirement for earthworks	Land	
Earthworks which change the rate of flow or the discharge point of water across a property boundary.	<a href="#">None specified</a>	
Earthworks which increase the discharge of saline groundwater.	<a href="#">None specified</a>	