

Planning and Environment Act 1987

Final Panel Report

Melton Planning Scheme Amendment C162

Mt Atkinson and Tarneit Plains Precinct Structure Plan

Front page

9 December 2016

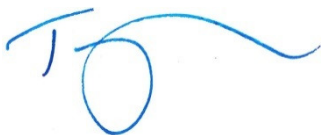
Planning and Environment Act 1987

Final Panel Report pursuant to section 25 of the Act

Melton Planning Scheme Amendment C162

Mt Atkinson and Tarneit Plains Precinct Structure Plan

9 December 2016



Trevor McCullough, Chair



Sarah Carlisle, Member



Michael Kirsch, Member

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List of Abbreviations

APA	APA VTS Australia (Operations) Pty Ltd
BCS	Biodiversity Conservation Strategy for Melbourne's Growth Corridors
BPEM	EPA Publication 788.3 <i>Best Practice Environmental Management Siting, Design, Operation and Rehabilitation of Landfills</i> August 2015
CA7	Conservation Area 7 identified in the BCS
CA8	Conservation Area 8 identified in the BCS
DCP	Development Contributions Plan
DCPO9	Development Contributions Plan Overlay Schedule 9
DELWP	Department of Environment, Land, Water and Planning
DSS	Drainage Services Scheme
DTPLI	Department of Transport, Planning and Local Infrastructure (former)
EPA	Environment Protection Authority
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999 (Cth)
GCP	Growth Corridor Plan
GRZ	General Residential Zone
ICP	Infrastructure Contributions Plan
ICPO	Infrastructure Contributions Plan Overlay
LPPF	Local Planning Policy Framework
OMR	Outer Metropolitan Ring Road
PAO	Public Acquisition Overlay
PSP	Precinct Structure Plan
PTV	Public Transport Victoria
RGZ	Residential Growth Zone
QBB	Quarry Blast Buffer
QSUB	Quarry Sensitive Use Buffer
SMS	Safety Management System
SPPF	State Planning Policy Framework
SUZ11	Special Use Zone Schedule 11
the Act	<i>the Planning and Environment Act 1987</i>
UDF	Urban Design Framework
UGB	Urban Growth Boundary
UGZ9	Urban Growth Zone Schedule 9
VPA	Victorian Planning Authority (formerly Metropolitan Planning Authority)
VPP	Victoria Planning Provisions
WGCP	West Growth Corridor Plan

Overview

Amendment Summary

The Amendment	Melton Planning Scheme Amendment C162
Common name	Mt Atkinson and Tarneit Plains Precinct Structure Plan
Subject site	The land generally bounded by the Western Freeway, Hopkins Road, Middle Road and the future Outer Metropolitan Ring Road, as shown in Figures 1 and 2
Planning Authority	Metropolitan Planning Authority (now the Victorian Planning Authority)
Exhibition	22 April to 30 May 2016
Submissions	Number of Submissions: 34 as listed in Appendix A, (including 388 duplicates of the one submission)

Panel Process

The Panel	Trevor McCullough (Chair), Sarah Carlisle and Michael Kirsch
Directions Hearings	15 July and 9 August 2016, Planning Panels Victoria
Panel Hearing	12 to 26 September 2016, Planning Panels Victoria
Site Inspections	Unaccompanied, 23 August 2016
Appearances	Refer to Appendix B
Date of this Report	9 December 2016

Executive Summary

(i) Summary

Background

Melton Planning Scheme Amendment C162 (the Amendment) implements the *Mt Atkinson and Tarneit Plains Precinct Structure Plan, April 2016* (the PSP).

The precinct covers approximately 1,500 hectares and is located approximately 34 kilometres west of Melbourne. The key land uses proposed within the precinct include industry to the south, residential in the central area and commerce and industry to the north and east, including a Specialised Town Centre. Key natural features include Mt Atkinson and two conservation areas identified under the Biodiversity Conservation Strategy for Melbourne's Growth Areas.

Planning for the precinct has been complicated by significant electricity and high pressure gas pipeline infrastructure within the precinct, the reservation for the Outer Metropolitan Ring Road along the western boundary, the Melbourne-Ballarat railway in the north of the precinct and the existing Boral Ravenhall Quarry and Melbourne Regional Landfill to the east of the precinct.

The Amendment was exhibited over April and May 2016, and attracted 34 submissions. Two Directions Hearings were held in July and August 2016, followed by a Panel Hearing in September 2016.

Submissions raised a wide range of issues, including the impacts of Boral Ravenhall Quarry and Melbourne Regional Landfill, the impacts of electricity and high pressure gas pipeline infrastructure within the precinct, development contributions, infrastructure design, the role of the Specialised Town Centre, conservation areas, drafting of the PSP and Urban Growth Zone Schedule 9 (UGZ9), and various drafting and site specific issues.

The Melbourne Regional Landfill (to the east of the PSP area) is the subject of a planning permit application and Works Approval application to extend the landfill to the west and north, potentially impacting on the PSP area. The Combined Hearing for these applications was held immediately after the Panel Hearing for Amendment C162 and the outcomes of those applications were not known when this report was completed.

The Panel released an interim report and recommendations on 7 November 2016 relating to four issues that overlapped with Melton Planning Scheme Amendments C146 and C147 (the Plumpton and Kororoit Precinct Structure Plans). The Interim Report was prepared so that the findings could be made known before the hearings for those Amendments.

Findings

The Panel supports Amendment C162 and is satisfied that the PSP and UGZ9 provide a sound framework and mechanism to manage land use and development within the precinct.

However, the Panel believes that the Amendment should not be finalised until a fully costed Infrastructure Contributions Plan has been prepared and adopted for the precinct.

In relation to the other key issues raised in submissions, the Panel has reached the following conclusions:

- The Amendment makes adequate provision for impacts associated with the Boral Ravenhall Quarry, subject to some changes to the PSP, UGZ9 and referral provisions.
- Depending on the outcomes of the planning permit and Works Approval applications for the Melbourne Regional Landfill, the landfill odour and amenity buffer should extend 1 kilometre from the edge of the nearest landfill cell and the landfill gas migration buffer should extend 500 metres from the edge of the nearest landfill cell. In addition, various changes should be made to the PSP, UGZ9 and referral provisions.
- The Amendment makes adequate provision for the potential impacts associated with the high pressure gas transmission lines, subject to some changes to the PSP, UGZ9 and referral provisions.
- The rail corridor noise standards in the UGZ9 should be reviewed to include lower (more stringent) limits.
- The exhibited Development Contributions Plan Overlay should be replaced with an Infrastructure Contributions Plan Overlay, consistent with the Ministerial Direction, Infrastructure Contribution Plan Guidelines and Planning Advisory Note that were released after the Hearing had closed.
- Some infrastructure standards should be changed, including some road and bike lane treatments.
- The use of the Residential Growth Zone as the applied residential zone in the UGZ9 should be more focussed.

In addition, the Panel has responded to a range of drafting and site specific issues raised in submissions, and has recommended further changes where appropriate.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Melton Planning Scheme Amendment C162 be adopted as exhibited subject to the following further recommendations:

Post-exhibition changes

- 1. Include the changes described in the Precinct Structure Plan Document Changes table (Version 0.1 – Prepared September 2016) prepared by the Victorian Planning Authority (Document 1), unless otherwise recommended.**
- 2. Adopt the final Victorian Planning Authority version of the Urban Growth Zone Schedule 9 as shown in Appendix D, unless otherwise recommended.**

Quarry buffers

- 3. Amend Clause 2.4 of the Urban Growth Zone Schedule 9, to include the following as uses which are prohibited in the Quarry Sensitive Use Buffer:**
 - **Accommodation**
 - **Child care centre**
 - **Education centre (other than Business college, Employment training centre or Tertiary institution)**

- Hotel
 - Motel
 - Pre school.
4. Amend Clause 2.8 of the Urban Growth Zone Schedule 9 to replace the second paragraph with the following:
- An urban design framework approved under this schedule must be generally in accordance with the precinct structure plan applying to the land. Prior to approving an urban design framework for the 'Mt Atkinson Specialised Town Centre', the responsible authority and the Growth Areas Authority must seek the views of the owner and operator of the Boral Ravenhall Quarry and the Secretary to the Department of Economic Development, Jobs, Transport and Resources in relation to how the urban design framework responds to the potential impacts of the quarry.*
5. Amend the Urban Growth Zone Schedule 9 to include the following:
- 2.10 Specific provision – Uses within the Quarry Sensitive Use Buffer**
- Any use that is not prohibited requires a permit if conducted within the Quarry Sensitive Use Buffer shown on Plan 2 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan.*
- 2.11 Specific provision – No buildings within Quarry Blast Buffer**
- The construction of a building (but not including a temporary building, a building associated with a minor utility installation or telecommunication facility, a structure, a fence and other appurtenances of a building) on land shown within the quarry blast buffer shown on Plan 2 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan is prohibited.*
- 2.12 Specific provision – Referral of applications – Ravenhall Quarry**
- An application to use land, or to construct a building, on land identified within the Quarry Sensitive Use Buffer shown on Plan 2 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to the Secretary of the Department administering the Mineral Resources (Sustainable Development) Act 1990.*
6. Amend the schedule to Clause 66.04 to specify that the Secretary of the Department administering the *Mineral Resources (Sustainable Development) Act 1990* is a recommending referral authority for applications within the Quarry Sensitive Use Buffer.
7. Amend the Ravenhall Quarry Sensitive Use Buffer Decision Guideline at Clause 7.0 of the Urban Growth Zone Schedule 9 so that it also applies to applications to construct a building.
8. Amend the 6th dot point in Requirement R37 in the Precinct Structure Plan to read:

- The location of building entrances must front away from Hopkins Road, unless an alternative design approach responds to the potential adverse amenity from the Deer Park Quarry.

Landfill odour and amenity buffer

9. Prior to adopting the Amendment, make the following changes in respect of the Landfill Odour and Amenity Buffer:

- a) Amend Plan 2 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan to show a 'Landfill Odour and Amenity Buffer' of 1 kilometre (measured from the edge of the nearest proposed landfill cell), north of the high voltage electricity transmission easement.
- b) Determine (in consultation with the Environment Protection Authority and Landfill Operations) whether any additional uses should be prohibited or permit required in the Landfill Odour and Amenity Buffer, beyond those prohibited or permit required in the Quarry Sensitive Use Buffer, and amend the Urban Growth Zone Schedule 9 accordingly.
- c) Insert the following Clause in the Urban Growth Zone Schedule 9:

2.13 Specific provision – Referral of applications – Melbourne Regional Landfill

The following applications must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to the Environment Protection Authority:

- ***An application to use land, or to construct a building, on land identified within the Landfill Odour and Amenity Buffer shown on Plan 2 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan***

- d) Include the following additional Decision Guidelines in Clause 7.0 of the Urban Growth Zone Schedule 9:

Melbourne Regional Landfill

Before deciding on an application to use or develop land within the Landfill Odour and Amenity Buffer shown on Plan 2 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan, in addition to the decision guidelines at Clause 37.07-14, the responsible authority must consider the amenity impacts (including noise, dust and odour) that the nearby Melbourne Regional Landfill facility may have on the proposed use or development.

- e) Amend the schedule to Clause 66.04 to specify that the Environment Protection Authority is a recommending referral authority for applications within the Landfill Odour and Amenity Buffer.

Landfill gas buffer

The Panel makes the following recommendations if the Amendment is adopted before the planning permit application and the works approval application for the expansion of the Melbourne Regional Landfill are determined and the final landfill gas buffer issues are resolved:

10. Prior to adopting the Amendment, make the following changes:

- a) Amend Plan 2 and Plan 3 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan to show a 'Landfill Gas Further Investigation Area' of 500 metres (measured from the edge of the nearest proposed landfill cell).
- b) Include the following note on Plan 2 and Plan 3 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan:

Landfill Gas Further Investigation Area

Use and development within the Landfill Gas Further Investigation Area is subject to further investigation.

- c) Amend Map 1 in the Urban Growth Zone Schedule 9 to show the Landfill Gas Further Investigation Area.
- d) Insert the following Clause in the Urban Growth Zone Schedule 9:

2.14 Specific provision – Uses and development within the Landfill Gas Further Investigation Area

Use and development within the Landfill Gas Further Investigation Area is prohibited.

The Panel makes the following recommendations for further work once the planning permit application and the works approval application for the expansion of the Melbourne Regional Landfill are determined:

11. If the planning permit application and the works approval application for the expansion of the Melbourne Regional Landfill are determined in a form that requires a landfill gas buffer that extends into the Precinct Structure Plan area:

- a) Amend Plan 2 and Plan 3 in the Mt Atkinson and Tarneit Plains Precinct Structure Plan, and Map 1 in the Urban Growth Zone Schedule 9, to show the Landfill Gas Buffer.
- b) The Victorian Planning Authority should consult with the Environment Protection Authority to determine what planning controls should be applied within the landfill gas buffer, having regard to the following principles:
 - Consider whether the landfill gas buffer distance can be reduced to less than the EPA Publication 788.3 *Best Practice Environmental Management Siting, Design, Operation and Rehabilitation of Landfills* August 2015 recommended 500 metres.
 - Consider whether any additional uses should be prohibited or permit required in the landfill gas buffer.

- Consider what (if any) controls could be applied that would allow use and development in the landfill gas buffer in advance of cells 4, 5 and 6 of the landfill becoming operational.
- Consider whether a generic risk assessment could be undertaken to the satisfaction of the EPA that could inform all future development applications in the landfill gas buffer.
- c) Amend the new Clause 2.13 in the Urban Growth Zone Schedule 9 (Specific provision - Referral of applications - Melbourne Regional Landfill) to add the following additional dot point:
 - *An application to use or develop land within the Landfill Gas Buffer identified on Map 1 in Clause 1.0 of this Schedule, and shown on Plan 2 and Plan 3 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan.*
- d) Amend the schedule to Clause 66.04 to specify that the Environment Protection Authority is a determining referral authority for applications within the Landfill Gas Buffer.

12. The Victorian Planning Authority should consider whether to:

- a) make any adjustments to the Landfill Odour and Amenity Buffer as a result of the determination of the landfill expansion applications
- b) remove any redundant references to the Landfill Gas Further Investigation Area in the Mt Atkinson and Tarneit Plains Precinct Structure Plan and the Urban Growth Zone Schedule 9 as a result of the resolution of the landfill gas buffer issues.

Gas pipelines

13. Amend Clause 2.4 of the Urban Growth Zone Schedule 9, to include the following as uses which require a permit in the high pressure gas pipeline measurement length:
- Child care centre
 - Cinema based entertainment facility
 - Corrective institution
 - Dependent persons unit
 - Education Centre
 - Hospital
 - Place of assembly
 - Residential aged care facility
 - Retail premises
 - Retirement village
 - Service Station.
14. Amend Guideline G22 in the Precinct Structure Plan to add the following dot point:
- *Not be located in the high pressure gas transmission pipeline measurement length identified on Plan 12 (Utilities).*

15. Amend Clause 6.0 of the Urban Growth Zone Schedule 9 to require applications for use, subdivision or construction of a building for the following uses to be notified to APA VTS Australia (Operations) Pty Ltd:

- Child care centre
- Cinema based entertainment facility
- Corrective institution
- Dependent persons unit
- Education Centre
- Hospital
- Place of assembly
- Residential aged care facility
- Retail premises
- Retirement village
- Service Station.

16. Amend Clause 2.7 of the Urban Growth Zone Schedule 9 to read as follows:

2.7 Specific provision – gas pipeline construction management plan required whether or not a permit is required

Prior to the commencement of any works, including demolition, on land within, or within 50 metres of the boundary of, the high pressure gas pipeline easements shown on Plan 2 (Precinct Features) and Plan 12 (Utilities) in the Incorporated Mt Atkinson and Tarneit Plains Precinct Structure Plan, a construction management plan must be submitted to and approved by the responsible authority. The plan must:

- ***be endorsed by the pipeline owner and operator prior to being submitted to the responsible authority***
- ***prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the pipeline owner and operator.***

The gas pipeline construction management plan must be implemented to the satisfaction of the responsible authority.

The gas pipeline construction management plan may, with the prior approval of the pipeline owner and operator, be amended to the satisfaction of the responsible authority.

17. Include the following additional guidelines in section 3.7.2 (Utilities) of the Precinct Structure Plan (and renumber the remaining guidelines accordingly):

G79: Any road networks running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.

G80: Any drainage infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.

G81: Any utility infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90deg and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.'

18. Amend Appendix G of the Precinct Structure Plan to relocate the shared path within the high pressure gas transmission pipeline easement over the Deer Park to Sunbury 150 millimetre pipeline.
19. Show the high pressure gas pipelines and their measurement length on:
 - a) Map 1 in the Urban Growth Zone Schedule 9
 - b) Plan 2 (Precinct Features) in the Precinct Structure Plan.

Rail noise

20. The Victorian Planning Authority should review the internal noise standards to apply in Clause 3.4 of the Urban Growth Zone Schedule 9, with a view to including lower (more stringent) limits.

Development contributions

21. Delay approval of Amendment C162 and finalisation of the Mt Atkinson and Tarneit Plains Precinct Structure Plan until a fully costed Infrastructure Contributions Plan has been prepared and adopted for the Precinct.
22. Make any consequential changes to the Precinct Structure Plan to reflect the final Infrastructure Contributions Plan once completed.
23. Substitute the proposed Development Contributions Plan Overlay with an Infrastructure Contributions Plan Overlay.
24. Review and update the contents of any Schedule to the Infrastructure Contributions Plan Overlay, including considering the deletion of the first dot point of Clause 4.0 of the former Development Contributions Overlay Schedule 9 as proposed by Council.
25. Consider a supplementary item in the Infrastructure Contributions Plan for the additional cost of road works over the gas transmission pipeline if the additional costs are substantial.
26. Include a pedestrian bridge over the rail line (land and construction) in the Infrastructure Contributions Plan, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.

Infrastructure

27. Move intersection IT05 to the location as proposed by Council and shown in Figure 9 of the this report.
28. Provide a traffic lane of 3.5 metres in Road Section 17 local access level 2 Town Centre Main Street (page 109 of the Precinct Structure Plan).
29. Review Road Section 17 in conjunction with Public Transport Victoria to address the following points:

- Whether a 3.5 metre traffic lane is preferable
 - Whether a semi mountable kerb is preferable, particularly on the median side
 - Whether ultra low floor buses are properly catered for
 - Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.
30. Modify Road Section 7 primary arterial 6 lane (page 99 of the exhibited Precinct Structure Plan) to separate the two way bicycle path and the pedestrian path as shown in Figure 10 of this report.
 31. Apply the alternative cross sections agreed for the Rockbank Precinct Structure Plan Local Access Street Levels 1 and 2 Central Drainage layouts (pages 115 and 117 of the exhibited Precinct Structure Plan).
 32. Replace the table in Appendix H of the Precinct Structure Plan (service placement guidelines) with the table from page 59 of the Paynes Road Precinct Structure Plan.
 33. Review the Precinct Structure Plan and Infrastructure Contributions Plan to ensure that proper allowance is made for land required for intersections, based on the best available functional layouts.

Urban Growth Zone Schedule and Precinct Structure Plan

34. Apply the Residential Growth Zone to the 'residential' areas in the Urban Growth Zone Schedule 9 that are within:
 - 400 metres of the Mt Atkinson Specialised Town Centre
 - 200 metres of the Mt Atkinson Road and Greigs Road Principal Public Transport Network routes
 - 100 metres of the co-located community hubs, sport reserves and local convenience centres.
35. Apply the General Residential Zone to the remaining 'residential' areas in the Urban Growth Zone Schedule 9.
36. Delete the last paragraph from section 3.2.1 of the Precinct Structure Plan.
37. Include the following additional Decision Guideline in Clause 7.0 (Decision Guidelines) of the Urban Growth Zone Schedule 9:
 - *The extent to which retailing to the north of the rail corridor might prejudice the development, expansion or operation of the retail core to the south of the rail corridor.*
38. Delete the reference to "Restricted retail premises where the applied zone is Commercial 2 Zone" in section 2.4 of the Urban Growth Zone Schedule 9.
39. Confirm the final shape of the relevant school sites with the Department of Education and Training and Catholic Education Melbourne prior to the finalisation of the Precinct Structure Plan.

40. Clarify the alignment of the proposed gas transmission line shown as bisecting the Mount Atkinson Reserve, and amend the Precinct Structure Plan as appropriate.
41. Amend Guideline G12 in the Precinct Structure Plan to add “*subject to limitations imposed by utilities or external land uses*” at the end of the Guideline.
42. Amend Guideline G14 in the Precinct Structure Plan to commence “*Land use and development within or in proximity to land in the Victorian Aboriginal Heritage Register...*”
43. Include the following additional Requirement in Section 3.8.2 of the Precinct Structure Plan:

Construction of the urban upgrade to the existing Hopkins Road level crossing must be undertaken as part of the initial stage of development of the Mt Atkinson Specialised Town Centre.
44. Review the Precinct Structure Plan to correct any inaccurate references to water and sewerage infrastructure.

(iii) Further recommendation

The Panel makes the following further recommendation:

The Victorian Planning Authority should further develop the PSP (Precinct Structure Plan) Planning Response to Applied Residential Zones Background Paper in consultation with growth area Councils.

1 Introduction

1.1 The Amendment

(i) Purpose of the Amendment

Amendment C162 to the Melton Planning Scheme (the Amendment) facilitates use and development of land in accordance with the *Mt Atkinson and Tarneit Plains Precinct Structure Plan*, April 2016 (PSP).

(ii) Amendment description

The VPA submitted that the Amendment implements the development of the land within the Precinct in accordance with the PSP by introducing Schedule 9 to the Urban Growth Zone (UGZ9) and rezoning the majority of land within the Precinct area to UGZ9. The UGZ9 will enable residential, industrial, and commercial use and development, along with open space and conservation areas, in areas identified in the future urban structure and in accordance with the vision of urban growth outlined in the PSP and the West Growth Corridor Plan.

Specifically the Amendment will:

- Insert Schedule 9 to Clause 37.07 Urban Growth Zone (UGZ) into the Melton Planning Scheme and rezone the majority of the Precinct to UGZ9. The Schedule sets out the land use and development controls for the Precinct. The Schedule requires land use and development to be generally in accordance with the *Mt Atkinson and Tarneit Plains PSP*
- Insert Schedule 11 to Clause 37.01 Special Use Zone (SUZ) into the Melton Planning Scheme and rezone part of the Precinct to SUZ11 to provide for a range of uses and the development of land generally in the transmission line easement
- Apply Clause 35.06 Rural Conservation Zone (RCZ) to parts of land within the Precinct that are identified as having conservation values
- Insert Schedule 5 to the Incorporated Plan Overlay (IPO5) into the Melton Planning Scheme and apply it to land in the Precinct zoned RCZ to give effect to the *Mt Atkinson & Tarneit Plains PSP*
- Delete the Environmental Significance Overlay Schedule 2 and Schedule 5 (ESO2, ESO5) from land within the Precinct
- Delete the Public Acquisition Overlay Schedule 6 (PAO6) from land within the Precinct (formerly set aside for a rail spur line that is no longer required)
- Insert a new Schedule 6 to Clause 42.01 Environmental Significant Overlay (ESO6) and apply it to all land zoned RCZ, to remove the exemption from requiring a planning permit for the removal of non-native vegetation from land within the Precinct
- Apply Clause 45.03 Environmental Audit Overlay (EAO) to two properties that currently operate as service stations to identify the potential for further investigative land remediation requirements
- Insert Schedule 9 to the Development Contributions Plan Overlay (DCPO9) and apply the overlay to all land within the Precinct

- Amend the schedule to Clause 52.01 to include a public open space contribution for subdivision of land within the Precinct
- Amend the Schedule to Clause 52.17 to include the Precinct as a scheduled area for native vegetation purposes
- Amend the Schedule to Clause 66.04 to require:
 - a referral to the Victorian Planning Authority for an application for subdivision, and construction of a building or carrying out works in the town centre and commercial areas where the value of the building or works is in excess of \$500,000
 - a referral to the Secretary of the Department administering the *Mineral Resources (Sustainable Development) Act 1990* for an application for subdivision, and construction of a building or carrying out works within the 'Quarry Sensitive Use Buffer' shown in the PSP.
- Amend the schedule to Clause 66.06 to require notice to the gas transmission pipeline owner and operator for an application to use land for sensitive uses (listed in the UGZ9) within the 'gas pipeline measurement length' shown in the PSP
- Amend the Schedule to Clause 81.01 to include one new incorporated document titled *Mt Atkinson and Tarneit Plains Precinct Structure Plan, April 2016*.

1.2 Location and site context

(i) Location

The PSP covers an area of approximately 1,532 hectares, located about 34 kilometres west of the Melbourne Central Business District. The precinct is bounded by the Western Freeway to the north, Hopkins Road to the east, Middle Road to the south and the future Outer Metropolitan Ring Road to the west.

(ii) Surrounding land uses

To the east of the PSP area, east of Hopkins Road, is the existing Boral Ravenhall Quarry and Melbourne Regional Landfill. The active area of the quarry is to the south of Riding Boundary Road. Future quarrying will progress generally north across Riding Boundary Road and west toward Hopkins Road.

The Melbourne Regional Landfill is operated by Landfill Operations Pty Ltd, a subsidiary of the Cleanaway Group. The landfill has approximately 7 to 10 years of life left under its current approvals. Landfill Operations is currently seeking a planning permit and works approval to extend the landfill across the future quarrying area, which (if granted) would provide the landfill with approximately 50 years additional life, and would eventually bring landfill operations to within 100 metres of the western side of the quarry/landfill site.

To the north of the PSP area is the future Kororoit PSP area.

Land to the west of the PSP area, west of the future Outer Metropolitan Ring Road (OMR), contains part of the Western Grasslands Reserve. The area north of the Western Grasslands Reserve is predominantly rural in nature, and is identified in Plan Melbourne as a future urban area.

Land to the south of the PSP area is currently predominantly rural in nature. It is identified in Plan Melbourne as a future State significant industrial precinct. The site for the proposed Western Interstate Freight Terminal is to the immediate south east of the PSP area.

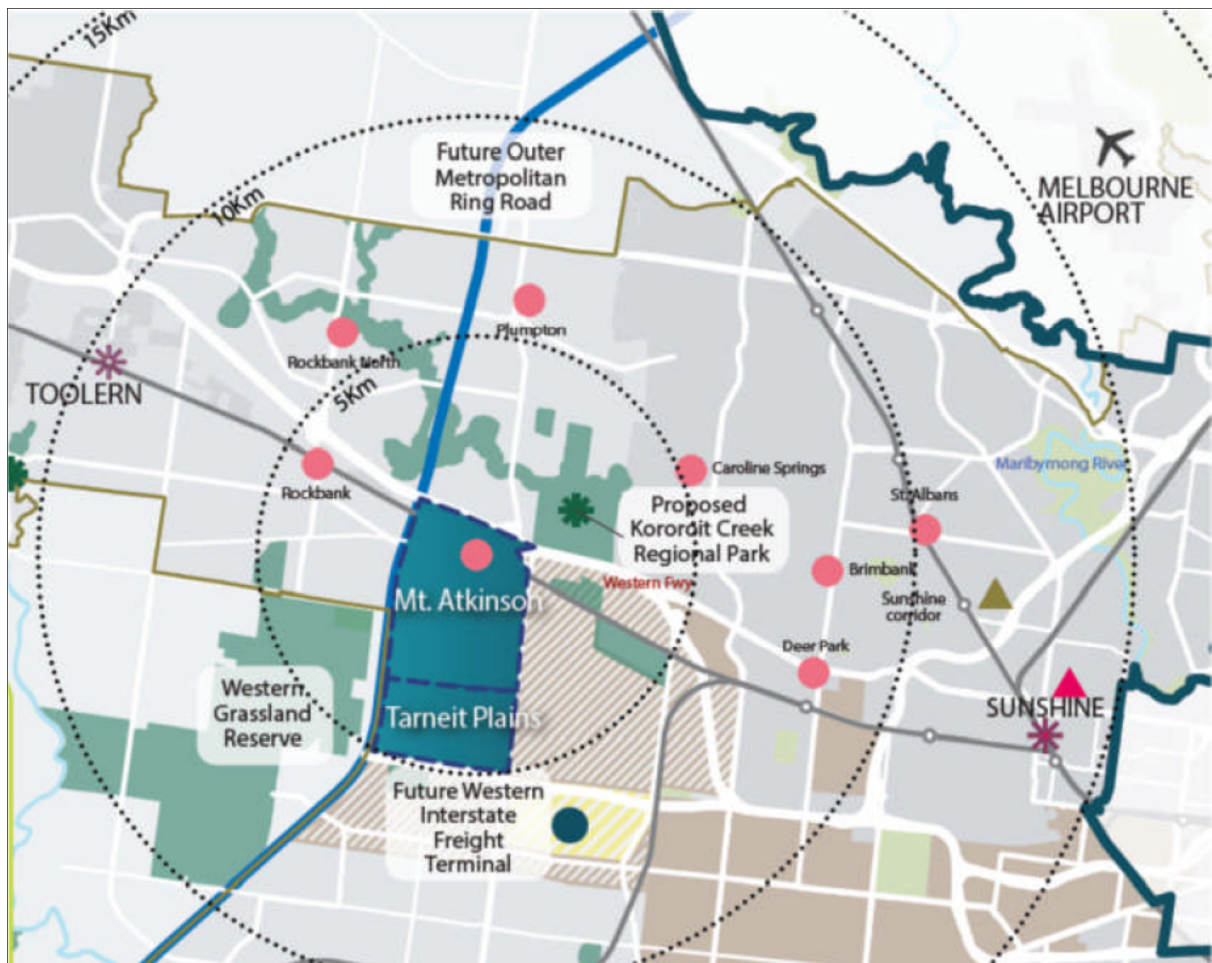


Figure 1 Regional context

1.3 Panel process

The Amendment was prepared by the VPA as Planning Authority in conjunction with Melton City Council and other government agencies.

The Amendment was placed on public exhibition between 22 April and 30 May 2016, with 34 submissions received. Included in these submissions was one supporting submission from 'Stop the Tip' that was duplicated 388 times.

The VPA Chief Executive referred selected submissions to the Panel on 29 June 2016. A Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 29 June and comprised Trevor McCullough (Chair) and Sarah Carlisle. The Panel was reconstituted to include Michael Kirsch on 21 July 2016.

Directions Hearings were held in relation to the Amendment on 15 July and 9 August 2016.

The Panel then met in the offices of Planning Panels Victoria on 12, 13, 14, 15, 19, 20, 21, 22, 23 and 26 September 2016 to hear submissions about the Amendment. Those in attendance at the Panel Hearing are listed in Appendix B.

1.4 Procedural issues

At the first Directions Hearing held on 15 July 2016, Ms Porter, appearing for Landfill Operations, made an application to defer the Hearing until after determination of the permit and works approval applications for the expansion of the Melbourne Regional Landfill.

The Panel determined that the PSP Hearing should proceed as planned. The Panel, however, noted the challenges associated with completing the PSP Hearing prior to the scheduled commencement of the Landfill Hearing, noting that many of the parties, and one Panel member would be participating in both. The Panel notes that some of its recommendations will necessarily be conditional on the outcome of the landfill approvals processes.

1.5 Interim Report

The Panel released an Interim Report on 7 November 2016 setting out the Panel's recommendations regarding several 'overlap' issues with Melton Planning Scheme Amendments C146 and C147 (the Plumpton and Kororoit Precinct Structure Plans). The Interim Report was prepared so that the findings could be made known before the hearings for those other matters are held.

The four 'overlap' issues covered in the Interim Report were:

- The Infrastructure Contributions Plan
- The most appropriate default applied residential zone in the Urban Growth Zone
- The high pressure gas transmission pipelines
- Road cross-section issues.

This Final Report addresses all issues raised in relation to the matters referred to the Panel and duplicates the discussion on the four 'overlap' issues for completeness. The sections on the 'overlap' issues are identical in both the Interim and Final Reports.

1.6 Summary of issues raised in submissions

The key issues raised in the submissions of the various parties are briefly summarised as follows:

(i) Issues relating to quarry and potential landfill operations

The key issues raised included:

- The appropriate response to buffer requirements for the quarry and the potential landfill expansion
- The extent of proposed buffers
- Whether buffers should be internal or external to the quarry/landfill site
- The management of use and development within the landfill and quarry buffers
- Notice and referral requirements within the landfill and quarry buffers.

(ii) Issues relating to other land use constraints

The key issues included:

- The management of use and development within the measurement length of the gas pipelines
- Notice and referral requirements within the measurement length of the gas pipelines
- The proposed railway noise amenity controls.

(iii) Infrastructure related issues

The key issues included:

- The appropriateness of the proposed interim arrangements for collecting development/infrastructure contributions
- Whether indicative costings for infrastructure items should be included in the PSP
- Lack of available traffic modelling for interim (2026) intersection layouts
- Design of the future interchange with the Western Freeway, particularly intersections IT-01 and IT-02
- Design of road cross sections, particularly whether bike lanes should be on-road on secondary arterial roads
- Ensuring access to properties is maintained ahead of local roads being provided.

(iv) Other issues raised by Council

Other unresolved issues raised by Council included:

- The appropriateness of nominating the Residential Growth Zone as the applied zone throughout all residential areas
- Design and management of Conservation Areas 7 and 8.

(v) Other unresolved issues raised by other submitters

Other unresolved issues raised by other submitters included:

- The location of school sites
- The identification and treatment of non-government schools in the PSP (in particular, whether they should be identified as 'Catholic' schools)
- The configuration of the non-government secondary school site
- Whether the PSP maintains sufficient flexibility to take account of land form and detailed site planning
- Location of open space reserves
- Whether Conservation Areas 7 and 8 should be set aside as conservation areas.

In addition, a number of submitters raised detailed site specific issues.

1.7 Issues dealt with in this Report

The Panel considered all written submissions made in response to the exhibition of the Amendment, as well as further submissions, evidence and other material presented to it during the Hearing, and observations from site visits.

In determining its response to submissions, the Panel has been mindful of the VPA's¹ advice that:

The position presented by the VPA in this submission where possible represents a whole of government submission. The VPA received submissions from a number of State government agencies and departments, and the following submission represents the agreed position of the following:

- *Department of Environment, Land, Water and Planning (Environment and Heritage areas)*

¹ VPA Part A submission

- *Melbourne Water*
- *Public Transport Victoria*
- *The Department of Economic Development, Jobs, Transport and Resources (Earth and Energy Resources area)*
- *VicTrack*
- *Country Fire Authority.*

In light of this advice, it has not been necessary that the Panel respond to matters raised in the initial written submissions from those agencies.

The documents tabled at the Hearing are listed in Appendix C. The Panel was also provided with the following background reports:

- Metropolitan Rail Corridor Potential Acoustic Impact Assessment, ARUP, March 2016
- Community Infrastructure and Open Space Needs Assessment, MPA, June 2016
- High Level Utility Servicing and Infrastructure Assessment, GHD, September 2014
- Scattered Tree Assessment for Parcel 8, Ecology and Heritage Partners, November 2014
- Commercial and Industrial Land Review, JLL, April 2015
- Land Capability Assessment, Jacobs, July 2015
- Conservation Area Concept Plan and Supporting Information – Conservation Areas 7 and 8, Ecology and Heritage Partners, April 2015
- Post Contact Heritage Assessment, Ecology and Heritage Partners, March 2015
- Mt Atkinson and Tarneit Plains Aboriginal Heritage Assessments, Ecology and Heritage Partners, October 2015
- Transport Modelling Assessment, Jacobs, July 2016.

The Panel has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the report. All submissions and material have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

This report deals with the issues under the following headings:

- The Precinct Structure Plan
- Planning policy context
- Quarry buffers
- Potential landfill buffers
- Easements and other land use constraints
- Infrastructure
- Other unresolved issues raised by Council
- Other unresolved issues raised in submissions.

1.8 Revisions to the Amendment

The VPA proposed various changes to the Amendment in response to submissions. The VPA documented these changes to the exhibited PSP in a table at the start of the Hearing (Document 1), and in its ‘final’ version of the exhibited UGZ9 provided after the Hearing (included at Appendix D of this report). Following the Hearing, the VPA also provided updates to the PSP ‘Housing’ Objectives, Requirements and Guidelines, and residential densities and yields.

The Panel, in considering the revised Amendment, has accepted these changes and has not revisited them except where expressly raised in submissions and addressed in this report.

The Panel's recommendations relate to the revised PSP (modified in accordance with the VPA's Document 1 and further revisions provided by the VPA after the Hearing) and the final UGZ9 (provided by the VPA after the Hearing) (Appendix D).

1.9 Recommendation

The Panel makes the following over-arching recommendations in relation to changes to the final form of the Amendment since exhibition:

- 1. Include the changes described in the Precinct Structure Plan Document Changes table (Version 0.1 – Prepared September 2016) prepared by the Victorian Planning Authority (Document 1), unless otherwise recommended.**
- 2. Adopt the final Victorian Planning Authority version of the Urban Growth Zone Schedule 9 as shown in Appendix D, unless otherwise recommended.**

2 The Precinct Structure Plan

This Chapter briefly describes the main elements of the PSP and provides context for some of the key issues raised by submitters.

2.1 Vision and objectives

The PSP presents a vision for Mt Atkinson and Tarneit Plains:

The PSP outlines and manages the transition of the Mt Atkinson and Tarneit Plains area from an historic agricultural settlement, to a thriving part of Metropolitan Melbourne. The PSP recognises and enhances the local heritage, landscape and environmental values of the area while delivering a variety of housing and employment opportunities, and community facilities in the heart of the West Growth Corridor.

...

With its excellent transport connections Mt Atkinson and Tarneit Plains will draw workers from a wide catchment from the west, north and south, and the convenience of a pedestrian and cyclist bridge to the Kororoit PSP area north of the Western Freeway will make local employment options particularly appealing. This workforce catchment will provide a significant opportunity for co-locating industry within the Precinct which will have a wide regional economic benefit for business and the community.

...

Jobs will be located close to where the new communities in Melton live, and an attractive interface between residential and employment areas will be provided. Tree-lined streets, fine-grained mixed use areas, well designed office buildings with an address to residential areas, and landscaped easements will enable a positive interaction between employment and residential uses.

...

The location of the Tarneit Plains Precinct within the state significant Western Industrial Node and adjacent to the future Western Interstate Freight Terminal makes it a vital employment hub within the West Growth Corridor. The location and capacity of the industrial land is anticipated to be attractive to a variety of businesses, manufacturing and advanced manufacturing, wholesale trade, transport, postal and warehouse activities.

The Future Urban Structure will ensure connectivity between the industrial land within the PSP area to the future Outer Metropolitan Ring (OMR) Road, Western Intermodal Freight Terminal and Western Freeway. The Precinct's frontage to Hopkins Road will provide immediate exposure allowing early development supported by the provision of reticulated services.

The vision also discusses:

- the role of the Mt Atkinson Specialised Town Centre and the Hopkins Road Business Precinct

- the surrounding transport network (including a potential future train station in the Mt Atkinson Specialised Town Centre, feeder bus routes, major arterial roads and freeways)
- the proposed open space network, including the significance of the Mt Atkinson volcanic cone, and its role in the proposed urban structure
- the environmental, economic and social benefits to be realised from transport and access links, co-location of industries with the future residential community, transport infrastructure, retail, open space and educational opportunities.

The objectives of the PSP are set out in Section 2.3 of the PSP. They include (among others) to:

- deliver 6,700 new homes at a range of densities promoting housing choice, to accommodate around 19,000 new residents
- deliver over 18,000 new jobs in industrial and commercial precincts that contribute to the State significant Western Industrial Node
- protect the area's post-contact heritage, including the Mt Atkinson Homestead, the Greigs Road former goldfields route and highly significant dry stone walls
- identify, retain and celebrate the area's Aboriginal cultural significance
- ensure appropriate planning controls are established for uses within the Quarry Sensitive Use Buffer, to ensure the ongoing viability of the quarry and landfill
- ensure sensitive land uses are minimised around the high pressure gas transmission pipelines adjacent to Hopkins Road and Middle Road
- provide for government and non-government schools, to meet the strategically justified need for state and private education in the area
- contribute to the long term conservation of significant flora and fauna.

2.2 Urban structure

Figure 2 (Plan 3 from the PSP) shows the overall urban structure proposed.

2.3 Plan description

The VPA provided a description of the PSP in its Part A submission² under the following headings:

- Land use
- Town Centres
- Housing
- Employment
- Transport network
- Community infrastructure
- Open space
- Integrated water management
- Heritage
- Aboriginal cultural heritage.

The detailed description is not repeated here.

² VPA Part A submission section 7.2

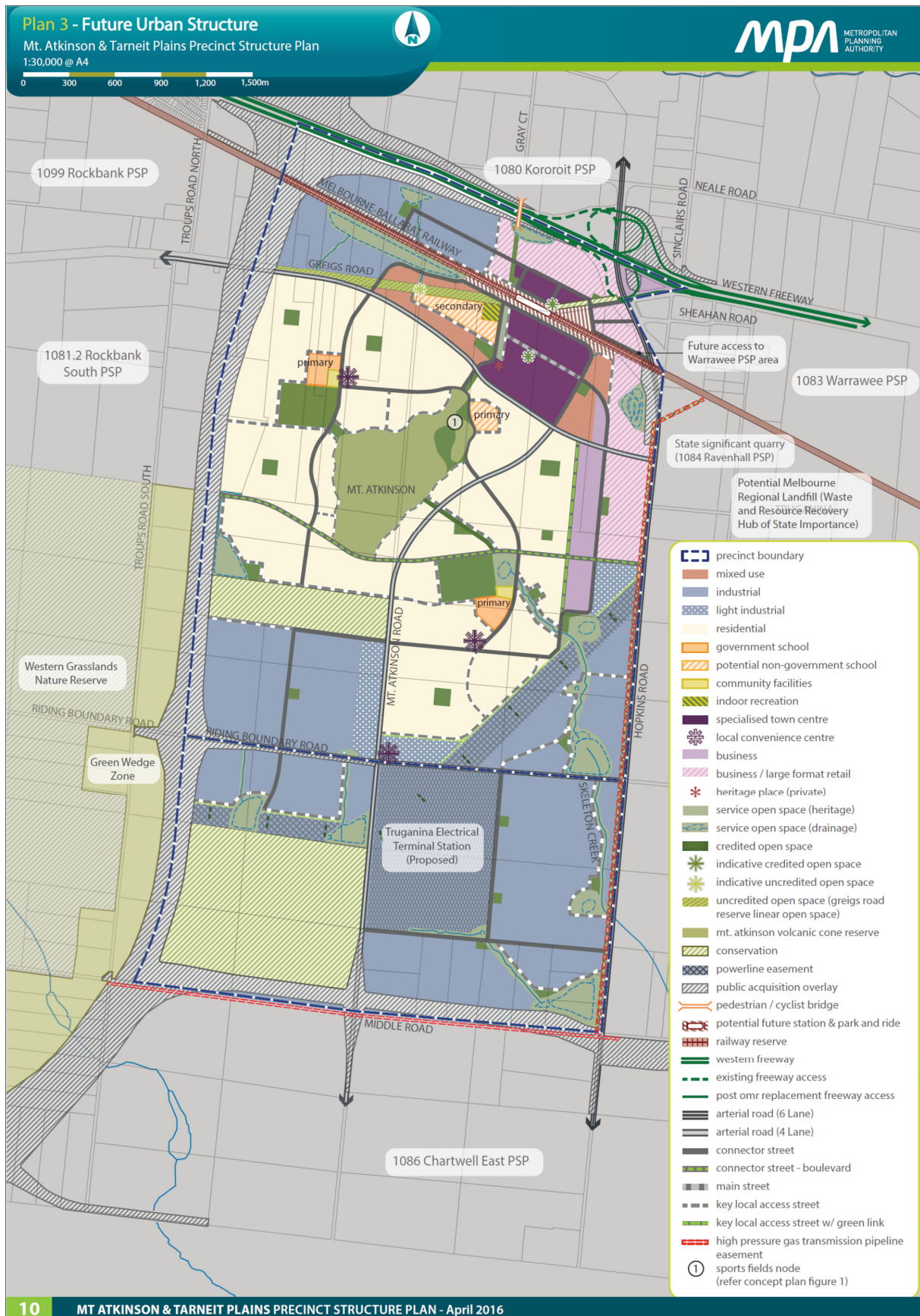


Figure 2 Future Urban Structure (exhibited version)

2.4 Precinct features

A number of key features have influenced the arrangement of land uses and the content of the proposed planning scheme controls. These are shown in proposed in Plan 2 (Precinct Features) in the PSP, which is reproduced as Figure 3.

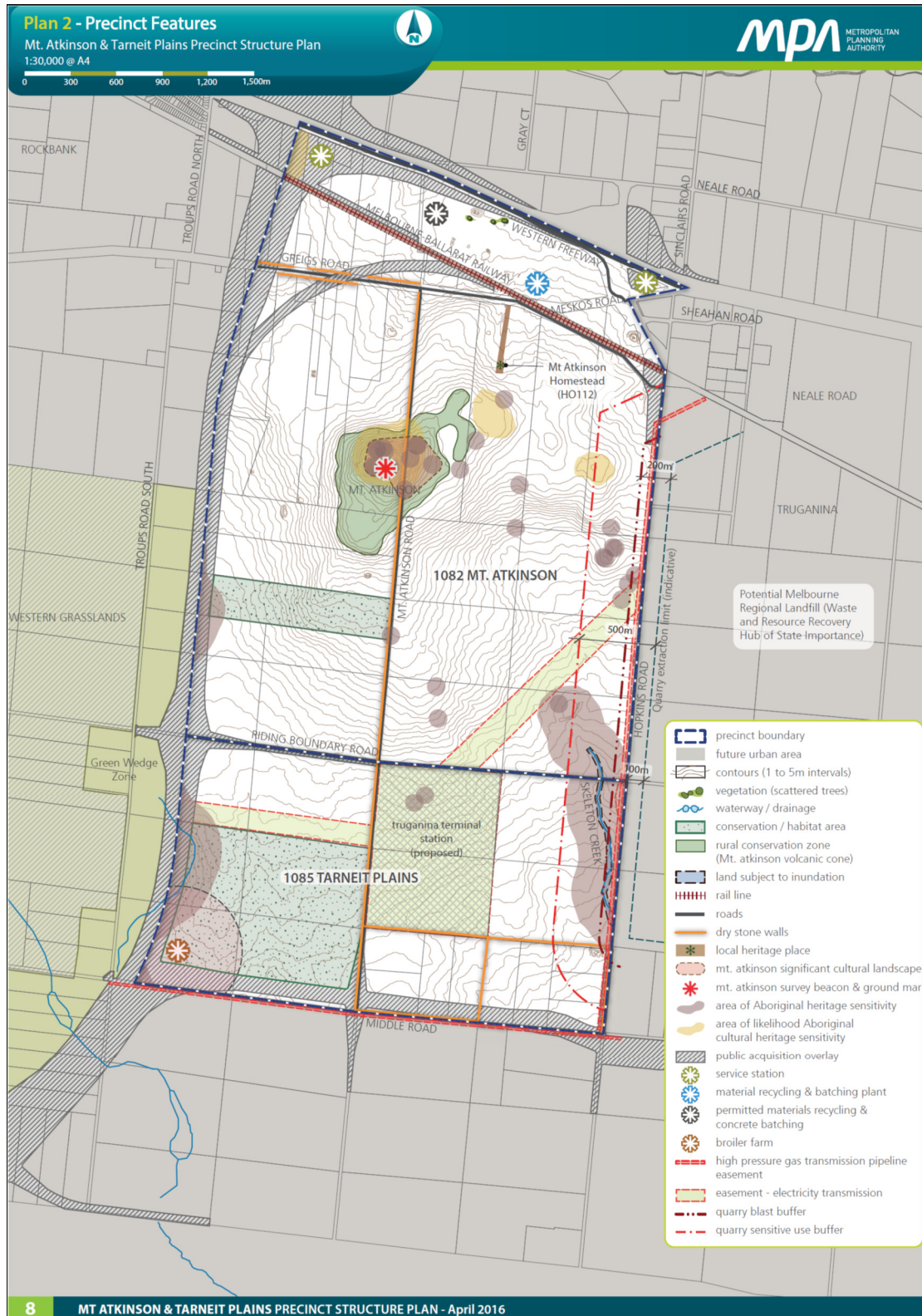


Figure 3 Precinct features, including the location of buffers and easements (exhibited version)

The PSP area directly abuts Hopkins Road, which separates the Precinct from the existing Boral Ravenhall Quarry and Melbourne Regional Landfill. The exhibited PSP identifies the “*Potential Melbourne Regional Landfill (Waste and Resource Recovery Hub of State Importance)*” on various plans contained in the PSP, and identifies a ‘Quarry Blast Buffer’ of approximately 200 metres from the approved quarry extraction limit, and a ‘Quarry Sensitive Use Buffer’ of approximately 500 metres from the approved quarry extraction limit. The PSP does not specifically identify any landfill buffers.

2.5 Response to site constraints

The VPA submitted that the PSP responds to identified site constraints in the following ways:³

The existing power transmission easement that traverses through the Precinct will be zoned Special Use Zone Schedule 11 (SUZ11) to ensure appropriate development within these areas. The future terminal station will be retained in the Special Use Zone Schedule 3 (SUZ3). A measurement length is established adjacent to the existing high pressure gas transmission easement, which traverses along the east and southern boundary of the Precinct. The PSP will ensure sensitive land uses are minimised within the measurement length of the high pressure gas transmission pipelines adjacent to Hopkins Road and Middle Road, and that construction is managed to minimise risk of any adverse impacts.

The Amendment provides clarity for development on land along the western side of Hopkins Road, responding to the existing quarry works authority and the designated Waste and Resource Recovery Hub of State importance by directing sensitive land uses be located outside the relevant buffer distances that encroach into the Precinct.

The PSP, and Schedule 9 to the UGZ, have responded to the existing quarry buffers established to protect the operation of the state significant Deer Park Quarry. The quarry blast buffer extends 200m from the approved quarry works authority and Schedule 9 to the UGZ identifies restrictions on use and development within this area.

The quarry sensitive use buffer extends 500m from the approved quarry works authority. The West Growth Corridor Plan identifies land with a width of approximately 500m from the western edge of Hopkins Road as the Hopkins Road Business Precinct. Schedule 9 to the UGZ identifies restrictions on use and development within the quarry sensitive use buffer. Additionally, Schedule 9 to the UGZ outlines specific referral requirements to relevant authorities.

The potential future Melbourne Regional landfill expansion is not anticipated to impact on the development of the PSP. The applied zoning and Schedule 9 to the UGZ responds to the potential for adverse amenity from odour from any expanded future landfill by establishing a distance of at least 500m from residential uses to the landfill site. This is expected to be complemented by a

³ VPA Part B submission

500m distance containing no putrescible fill within the landfill site itself to ensure 1km is established between the landfill and residential uses. Further, a planning permit is required for uses pursuant to Provision 52.10 (Uses with Adverse Amenity potential) within the business, business/large format retail, industrial and light industrial land.

The PSP assumes all landfill gas migration will be retained within the landfill site and that any buffers to mitigate landfill gas migration required by the Best Practice Environmental Management (BPEM) for Siting, Design, Operation and Rehabilitation for Landfills are internalised on the landfill site. Therefore no additional planning controls or referrals have been included in the PSP to mitigate landfill gas migration.

3 Planning policy context

The VPA provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report. That content is not repeated in this report, however this Chapter provides a summary of the background material and policy context that has informed the Panel's consideration of the key issues raised in submissions.

3.1 Growth area planning

Growth area planning is guided by a hierarchy of plans prepared by State and local governments at a metropolitan, municipal or precinct level. The hierarchy of plans provide the framework for growth area planning and development and to achieve the objectives of the *State Planning Policy Framework*.

Designation of the land for urban growth

The Urban Growth Boundary (UGB) designates the long-term limits of urban development.

The UGB first came into effect in 2002 in conjunction with the release of *Melbourne 2030*. This plan established the long-term plan for land within the UGB, including the intention to review the boundary at an appropriate time in the future.

The initiative of *Melbourne at 5 Million* in 2008 and the subsequent *Delivering Melbourne's Newest Sustainable Communities Program Report 2009* facilitated the expansion of the UGB in 2010. It was at this time the West Growth Corridor, including the Mt Atkinson and Tarneit Plains Precinct, was brought into the UGB.

Plan Melbourne

Plan Melbourne: Metropolitan Planning Strategy, an adopted government policy document released by the Victorian Government in May 2014, outlines the provision of necessary infrastructure and support for development proposed by the West Growth Corridor Plan as part of its discussion regarding Melbourne's Western Subregion.

Growth Corridor Plans: Managing Melbourne's Growth

Work on Melbourne's Growth Corridor Plans began in 2011, with consultation at the end of the same year. These plans were formally approved by the Minister of Planning in mid-2012.

The *Growth Corridor Plans: Managing Melbourne's Growth* (GCP) are high level integrated land use and transport plans that provide a strategy for the development of Melbourne's growth corridors over the next thirty to forty years.

These plans will guide the delivery of key housing, employment and transport infrastructure and open space in Melbourne's newest metropolitan suburbs.

The GCPs identify:

- the long-term pattern of land use and development
- committed transport networks as well as network options for investigation
- committed regional open space networks as well as investigation sites
- opportunities for creating green corridors.

The GCP informs the development and review of local planning schemes and the preparation of future strategies, structure plans and other planning tools. They also provide a strategic basis for infrastructure and service planning as well as sequencing of land release.

The preparation of PSPs is the primary vehicle for the implementation of the GCP.

West Growth Corridor Plan

The West Growth Corridor Plan (WGCP) covers Melbourne's western corridor and includes the City of Melton and the PSP area. The section of the WGCP that applies to the PSP area and adjoining areas is included below.



Figure 4 Extract of the West Growth Corridor Plan

The key elements of the WGCP that apply to the PSP area include:

- The designation of most of the precinct as “industrial” (mauve)
- The designation of the northern area as “business with residential” (purple hatched)
- A “Specialised Town Centre” (Hopkins Road) in the north east (the orange star)
- Two “biodiversity areas” (green hatched).

To the west is the Outer Metropolitan Ring Road and to east is the Ravenhall Quarry (brown).

The PSP includes a number of variations to the WGCP, including the provision of residential rather than industrial development in the central area of the precinct (refer to Figure 4). The VPA described these variations as follows:

- *The Hopkins Road Specialised Town Centre has moved to the west of the location proposed in the West Growth Corridor Plan in response to potential impacts from the high pressure gas pipeline measurement length*

and to allow for the development of a potential future rail station close to the Specialised Town Centre.

- *In response to the potential for the development of a train station, the land use north of the rail corridor has partially changed to commercial and mixed use (from industrial) to capitalise on the potential station development.*
- *The designation of 'business with residential' has been refined to propose mixed use and commercial 1 and 2 zoning south of the rail line, and predominantly residential uses around the Mt Atkinson volcanic cone.*
- *The southern section of the Mt Atkinson Precinct is identified in the Corridor Plan as industrial. The PSP establishes a section of this land as residential to allow for the development of a critical residential mass to support two community hubs providing council community facilities, open space and government primary schools within the precinct (one either side of the volcanic cone open space). This reconfiguration of land uses also establishes the high transmission electricity easement as a logical interface with the industrial land in Tarneit Plains along with the application of the industrial 3 zone. The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) did not object to this change of land use at agency consultation nor at public exhibition.*
- *The PSP retains commercial and industrial land use designations abutting Hopkins Road.*

The Panel is satisfied that the PSP is generally consistent with the strategic intent of the WGCP.

3.2 Quarry buffers

West Growth Corridor Plan

Section 3.7.4 (Maintaining Local Quarrying Potential) of the Growth Corridor Plans states:

The Growth Corridors contain significant mineral resources and a number of operating quarries. To avoid the need to transport construction materials substantial distances it is important to enable the continued operation of these quarries and for appropriate buffers to be maintained from the working surfaces of all quarries.

Section 4.7 (Other Infrastructure) of the West Growth Corridor Plan discusses (among other things) the quarry:

[The Plan] ensures that approved and operational quarries are protected from encroachment by sensitive land uses and identifies industrial or commercial development activities adjacent to existing Holcim and Boral quarry sites within/adjacent to the UGB. On that basis, these precincts could be rezoned from Farming Zone to Urban Growth Zone. Any buildings proposed within 200m of the title boundary of these quarries will be subject to a risk assessment to be undertaken at PSP stage, to ensure that the impact of rock blasting is acceptable.

State Planning Policy Framework (SPPF)

Clauses of the SPPF that are particularly relevant to planning near quarries include:

- **Clause 11 (Settlement)** discourages siting incompatible land uses close together, and encourages planning for urban growth to consider the limits of land capability, natural hazards and environmental quality
- **Clause 13.04-1 (Noise abatement)** includes strategies to ensure that community amenity is not reduced by noise emissions, using a range of techniques including building design, urban design and land use separation.
- **Clause 14.03 (Resource exploration and extraction)** includes the objective of encouraging stone extraction in accordance with acceptable environmental standards, and strategies to:
 - protect the opportunity for extraction where this is consistent with overall planning considerations and acceptable environmental practice
 - provide for the long term protection of natural resources in Victoria
 - determine buffers on the basis of a number of considerations including limiting effects at sensitive locations using practical and readily available technology; whether a change in land use in the vicinity of the stone extraction is proposed; and uses within buffer areas that are not limited by adverse effects caused by the stone extraction.
- **Clause 17.02-2 (Design of industrial development)** encourages planning to provide separation/buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure residents are not affected by adverse environmental effects, nuisance or hazards.
- **Clause 17.02-3 (State significant industrial land)** encourages planning to protect State significant industrial land, particularly for industries that require significant buffers to sensitive or incompatible uses, and to protect heavy industrial areas from encroachment from sensitive or incompatible uses.

EPA Separation Distance Guideline

EPA Publication 1518 *Recommended Separation Distances for Industrial Residual Air Emissions* March 2013⁴ (the EPA Separation Distance Guideline) recommends minimum separation distances between a range of amenity impacting industries and 'sensitive uses'. It defines sensitive use as:

Any land uses which require a particular focus on protecting the beneficial uses of the air environment relating to human health and wellbeing, local amenity and aesthetic enjoyment, for example residential premises, child care centres, pre-schools, primary schools, education centres or informal outdoor recreation sites.

The publication recommends a minimum separation distance of 500 metres for quarries.

⁴ The Guideline is not legally binding.

3.3 Waste policy and landfill buffers

Plan Melbourne

Plan Melbourne recognises that “*even with greater waste reduction and recovery, there will still be waste products to manage*”. Direction 5.8 (Plan for better waste management and resource recovery) states:

The planning system must ensure that waste management and resource recovery sites and infrastructure are protected from incompatible nearby land uses. It must also ensure that waste management and resource recovery systems provide adequate infrastructure for new urban developments in a way that ensures the health and amenity of residents are protected.

Initiative 5.8.1 is to separate waste management and resource recovery facilities from urban encroachment, and assess opportunities for new waste facilities. It includes as a short-term measure for the VPA:

- *Ensure precinct structure plans provide for waste and resource recovery infrastructure identified in the Metropolitan Waste and Resource Recovery Strategic Plan.*

West Growth Corridor Plan

Section 3.7.5 (Planning for Landfills) of the Growth Corridor Plans states:

The Growth Corridor Plan also ensures that approved and operational landfills referred to in The Metropolitan Waste and Resource Recovery Strategic Plan and potential organic waste treatment/recovery are protected from encroachment by sensitive uses. Any development within 500 metres of putrescible landfill sites will be subject to an environmental audit to ensure that any potential landfill gas migration is mitigated. Some existing quarries may also have the potential to be utilized for landfill purposes in the future upon completion of extraction of the resource at the site. In this case buffer requirements will also need to be taken into account when planning these PSPs to ensure appropriate land uses and separation distances are maintained.

Section 4.7 specifically references the environmental audit requirement for any development within 500 metres of the Deer Park putrescible landfill site.

SPPF and LPPF

The Clauses of the SPPF that are relevant to planning near quarries apply equally to planning near landfills. In addition, Clause 19.03–5 (Waste and resource recovery) includes strategies specific to planning near landfills, including:

- ensuring that buffers for waste and resource recovery facilities are defined, protected and maintained
- siting and managing waste disposal and resource recovery facilities in accordance with the EPA’s *Waste Management Policy (Siting, Design and Management of Landfills)* 2004 (the 2004 Waste Management Policy)
- encouraging waste generators and resource recovery businesses to locate in close proximity.

Clause 19.03-5 requires planning to consider:

- *Towards Zero Waste* (Victoria's waste strategy), which has since been replaced by *Getting Full Value*
- the 2004 Waste Management Policy
- any relevant regional waste management plan, which is now the *Metropolitan Waste and Resource Recovery Implementation Plan 2016* (the MWRRIP), which was approved shortly after the Hearing concluded
- EPA Publication 788.3 *Best Practice Environmental Management Siting, Design, Operation and Rehabilitation of Landfills* August 2015 (the BPEM)
- the *Metropolitan Waste and Resource Recovery Strategic Plan 2009* (the 2009 Strategic Plan).

Clauses 13.04-2 (Air quality) and 17.02-2 (Design of industrial development) also require planning to consider the BPEM.

Getting Full Value

Getting Full Value: the Victorian Waste and Resource Recovery Policy:

- outlines the government's approach to reducing the amount of waste being sent to landfill
- highlights that waste management and resource recovery facilities need secure, long-term sites and secure, long-term supplies of waste materials to remain commercially viable
- recognises the need for landfills to have good access between transfer stations, recovery facilities and markets for end products
- recognises the need for landfills to be buffered from incompatible and sensitive land uses.

The 2004 Waste Management Policy

The objectives of the 2004 Waste Management Policy are to:

- (a) protect the environment, including human health and amenity, from risks that may be posed by the disposal of waste to landfill;*
- (b) encourage innovation, cleaner production, resource efficiency and waste reduction, including promoting and facilitating the diversion of waste from landfill, in accordance with the wastes hierarchy; and*
- (c) minimise the development and use of landfills, consistent with the policy principles.*

Statewide Waste and Resource Recovery Infrastructure Plan 2015

The *Statewide Waste and Resource Recovery Infrastructure Plan 2015* (SWRRIP) sets the State policy directions for waste and resource recovery over a 30 year time frame. The SWRRIP adopts the concept of waste and resource recovery hubs and spokes. A 'hub' is a facility, or group of facilities, that manage recovery of waste or material streams. 'Spokes' are networks that move materials from generators to the hubs. There are three levels of hub: State, regional and local. The "Deer Park Precinct TPI Landfill and Boral Quarry", which includes the Melbourne Regional Landfill, is identified in the SWRRIP as a State significant hub. With respect to State significant hubs, the SWRRIP notes:

Any impact on the functionality of these sites is likely to affect the waste and resource recovery system at the state level, which needs to be recognised when making local and regional planning decisions.

Metropolitan Waste and Resource Recovery Implementation Plan 2016

The final MWRRIP was approved by the Minister and gazetted on 6 October 2016, after the Hearing had concluded. The final approved MWRRIP differed in some respects from the 2015 consultation draft MWRRIP, and the parties were given the opportunity to make further written submissions about the implications of the final MWRRIP.

Consistent with the SWRRIP, the MWRRIP highlights the Deer Park precinct as a State significant hub. It schedules the Melbourne Regional Landfill to 2046 (noting that further approvals are required for it to operate beyond 2026), and notes that it has capacity to operate beyond 2046⁵. The MWRRIP indicates that the landfill's full capacity will be required notwithstanding the overriding policy objectives of reducing the amount of waste sent to landfills and increasing recycling and resource recovery rates.

Best Practice Environmental Management — Siting, Design, Operation and Rehabilitation of Landfills

The BPEM is the key source document for best practice environmental management measures for landfills. The BPEM also addresses buffer and encroachment issues relating to landfills. For Type 2 landfills (those that accept putrescible waste), the BPEM requires a default buffer of 500 metres to any buildings and structures. The BPEM states that the buffer is primarily required to manage landfill gas migration, safety and amenity impacts, but that the buffer also allows other amenity impacts (such as litter, dust and odour) to be managed. The BPEM notes that it is better for buffer land to be under the control of the landfill operator, but this is not a requirement.

The BPEM notes:

Failure to preserve an appropriate buffer and maintain compatible land uses within the buffer may result in unacceptable offsite impacts that limit future development of the landfill.

Although the default position is a 500 metre buffer to any building or structure, the BPEM contemplates land within buffer areas being used for non-sensitive uses, provided that the use is not adversely affected by landfilling. The BPEM recommends an audit under section 53V of the EP Act be carried out that assesses landfill gas migration risk before a planning scheme amendment or permit is approved that would allow development within the buffer.

Draft EPA Landfill Planning Guideline

The draft EPA Publication 1625 *Assessing planning proposals near landfills* June 2016⁶ (the draft EPA Landfill Planning Guideline) provides information and advice on assessing planning permit applications and planning scheme amendments for development near an operating or closed landfill. It adopts the BPEM recommendation for a 500 metre landfill gas and odour buffer, and recommends a risk assessment be undertaken for any planning scheme

⁵ The final MWRRIP schedules landfill capacity over a 30 year horizon, whereas the draft MWRRIP only scheduled landfill capacity over a 10 year horizon.

⁶ The Guideline, even when finalised, will not be legally binding.

amendment that proposes to allow new buildings or structures within the buffer. For large landfills accepting putrescible waste, the recommended form of risk assessment is a section 53V audit.

3.4 Melbourne Strategic Assessment and Biodiversity Conservation Strategy

Melbourne Strategic Assessment

In June 2009, the Victorian and Commonwealth governments agreed to undertake a strategic assessment of the Victorian Government's urban development program *Delivering Melbourne's Newest Sustainable Communities*. The Melbourne Strategic Assessment (MSA) evaluated the impacts of the program on matters of national environmental significance (MNES) protected under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). It also established conservation measures to mitigate these impacts which are outlined in *Delivering Melbourne's Newest Sustainable Communities Program Report 1* (the Program Report).

Biodiversity Conservation Strategy

The MSA led to the *Biodiversity Conservation Strategy for Melbourne's Growth Corridors* (BCS). The BCS was approved by the Commonwealth Minister for the Environment in 2013 and finalises the planning for biodiversity under the MSA. The BCS sets out the conservation measures required to satisfy the commitments under the MSA and to meet State requirements for biodiversity under Victorian planning schemes.

The BCS identifies those MNES that must be protected and conserved and those areas that can be removed to enable the urban expansion of Melbourne. With regard to the Mt Atkinson and Tarneit Plains PSP, all areas can be developed for urban purposes with the exception of Conservation Areas 7 and 8.

Time stamping native vegetation

The time-stamping project captured and "time-stamped" native vegetation information to establish a native vegetation dataset and maps showing the type, extent and condition of all native vegetation in the growth corridors. This information has been used, along with information on threatened species habitat from the conservation strategies, to calculate habitat compensation obligations and native vegetation offsets for urban development.

Habitat compensation

The habitat compensation scheme provides enables collection of offsets for the removal of native vegetation and loss of habitat for threatened species protected under the EPBC Act on land developed for urban uses within Melbourne's growth corridors.

3.5 Conclusion

The Panel concludes that the Amendment is consistent with the broader policy context, subject to addressing the more specific issues raised in submissions and discussed in the following chapters.

The Panel is satisfied that the Amendment is well founded and strategically justified, and that it should be adopted subject to the Panel's detailed recommendations.

4 Quarry buffers

4.1 The issues

The issues are:

- What uses should be prohibited or permit required within the Quarry Sensitive Use Buffer?
- What development controls should be in place within the quarry buffers?
- What referral requirements should apply to applications within the quarry buffers?
- Whether the quarry owner/operator should have notice and appeal rights in respect of applications within the quarry buffers.
- Whether a reverse amenity assessment or a risk assessment should be required for use and development applications within the quarry buffers.
- Whether an additional decision guideline should be included in the UGZ9 requiring the responsible authority to consider amenity impacts of the quarry when considering permit applications within the quarry buffers.
- How the quarry and the quarry buffers should be identified and recognised on the various Plans in the PSP and the UGZ9.
- Whether the quarry owner/operator and DEDJTR should be consulted in relation to the Hopkins Road Business Precinct UDF.
- Whether additional requirements recognising and responding to the quarry should be included in the PSP.
- Whether the PSP should specify that future road widening of Hopkins Road will occur to the west.

4.2 Background

The PSP area directly abuts Hopkins Road, which separates the precinct from the existing Boral Ravenhall Quarry. Quarrying is approved to within 100 metres of the quarry site boundary, for the entire length of Hopkins Road.

The exhibited PSP identifies a 'Quarry Blast Buffer' (QBB) extending 200 metres from the approved extraction limit under the quarry Works Authority, and a 'Quarry Sensitive Use Buffer' (QSUB) extending 500 metres from the approved extraction limit⁷. These buffers are shown in Plan 2 in the PSP (refer to Figure 3 above).

Objective 10 on page 13 of the PSP states:

O10 Ensure appropriate planning controls are established for uses located within the quarry sensitive use buffer to ensure the ongoing viability of these uses and the Deer Park Quarry into the future.

The Amendment proposes non-residential uses within the QSUB, in recognition of the impacts of the quarry. The PSP nominates 'business/large format retail', 'light industrial' and 'industrial', and the UGZ9 applies the Commercial 2, Industrial 3 and Industrial 1 zones.

⁷ The QBB extends approximately 60 metres into the PSP, and the QSUB extends approximately 360 metres into the PSP. The rest of the quarry buffers are taken up by the high pressure gas transmission pipeline easement (approximately 20 metres), the Hopkins Road reserve (approximately 20 metres), and the internal 100 metre setback on the quarry site.

The UGZ9 (including post-exhibition changes proposed by the VPA) proposes:

- the following uses are prohibited in the QSUB (Clause 2.4):
 - Accommodation
 - Child care centre
 - Education centre (other than Business college, Employment training centre or Tertiary institution)
 - Hotel
 - Motel
 - Pre school.
- the following uses require a permit in the QSUB (Clause 2.4):
 - Business college
 - Car wash
 - Dry cleaner
 - Employment training centre
 - Panel beating
 - Research and development centre
 - Tertiary institution.
- the following uses are prohibited in the 'light industrial' portion of the QSUB, and require a permit in the 'retail' portion of the QSUB (Clause 2.4):
 - Laundromat
 - Supermarket
 - Dry Cleaning Agent.
- the construction of a building will be prohibited in the QBB (other than temporary buildings, minor utility installations or telecommunications facilities, structures, fences and appurtenances) (Clause 2.10)
- permit applications to construct a building in the QSUB will be referred to the Secretary of the Department of Economic Development, Jobs, Transport and Resources⁸ (DEDJTR) (Clause 2.11).

The PSP identifies several Urban Design Framework (UDF) Extent areas for which a UDF must be approved. The UDFs must be generally in accordance with the PSP. The Hopkins Road Business Precinct UDF Extent area is partially within the northern section of the QSUB.

The Hopkins Road Business Precinct UDF must meet the following requirements relating specifically to the quarry (set out in Requirement R37 of the PSP):

- *Landscaping of the Hopkins Road frontage, to present an attractive frontage while responding to the quarry buffer requirements*
- *The location of building entrances must front away from Hopkins Road, to respond to the potential adverse amenity from the Deer Park Quarry*

A permit application must be consistent with the approved UDF or, if the UDF has not yet been approved, consistent with the PSP requirements for the UDF (Clause 2.8 of the UGZ9).

⁸ As the Secretary of the Department administering the *Mineral Resources (Sustainable Development) Act 1990*.

4.3 Evidence and submissions

Boral

Boral (Submission 18⁹) operates the quarry, and opposed the PSP on the basis that it fails to adequately respond to the quarry and threatens its ongoing viability. Boral submitted that the quarry has been operating since 1965, and that there is strong policy support for the quarry and for protecting it from encroachment of sensitive uses in the planning scheme. It submitted that amenity impacts from dust, vibration, noise and air blast have not been given sufficient consideration.

In its submissions at the Hearing (Documents 32 and 41), Boral expressed general (albeit qualified) support for the PSP, but submitted that further changes to the controls were necessary to protect the quarry and address potential conflict with future uses and development within the quarry buffers.

Boral submitted that uses that involve large numbers of people congregating should be prohibited until quarrying is completed, on the basis of Mr Moore's evidence (discussed below) that vibration levels within the QSUB would be "*strongly perceptible*" and "*unpleasant*".

Boral submitted that all other uses should require a permit in the QSUB. Boral submitted that it was not possible to comprehensively identify and include specific permit triggers for all uses that have the potential to be impacted by (or to impact on) the quarry. Boral noted all buildings require a permit under the applied zones in the QSUB, and that adding a blanket use permit trigger would not create a substantial extra administrative burden.

Boral requested other changes to the Amendment:

- Refer all applications within the QSUB (for use, development and subdivision) to the Secretary to DEDJTR.
- Give the quarry owner/operator notice and review rights for all applications within the QSUB.
- Include the notation 'State significant quarry' on Plan 2 in the PSP, and show the QBB and QSUB more clearly on Plan 2 and Plan 3.
- Introduce an application requirement for all permit applications within the QSUB for a reverse amenity and buffer assessment, in order to avoid inter industry conflict.
- Remove the exemption for a buildings and works permit for alterations to existing facades in the QSUB.
- Add further requirements in the PSP to the effect that:
 - the quarry owner/operator and the Secretary to DEDJTR are to be consulted in relation to the Hopkins Road Business Precinct UDF
 - allocation of land uses, building design and interface treatments must minimise potential impacts from the operation of the nearby quarry.
- Provide in the PSP that Hopkins Road will be widened to the west, as the eastern side of the road is required for quarry blasting buffers and quarry landscaping buffers (and there are safety concerns associated with bringing people and vehicles closer to quarry operations).

⁹ Prepared by Tract Consultants Pty Ltd.

Mr Moore gave evidence on behalf of Boral in relation to vibration caused by quarry blasting activities. He considered two types of vibration – ground vibration and airblast. His evidence was that appropriate limits for avoiding potential damage to buildings, and human annoyance, were:

- sensitive receptors¹⁰ – 10 mm/s for ground vibration and 120 dBL for airblast
- commercial and industrial premises – 25 mm/s for ground vibration and 133 dBL for airblast
- offices and workshops – 14 mm/s for ground vibration and 133 dBL for airblast.

APA VTS Australia (Operations) Pty Ltd (APA) owns and operates two high pressure gas transmission pipelines along the western edge of Hopkins Road, approximately 130 metres from the approved extraction limit. APA requires ground vibration to not exceed 20 mm/s at the pipelines. In Mr Moore's evidence, this is equivalent to a limit of 40 mm/s on the surface above the pipelines.

Mr Moore calculated the likely vibration levels within the QBB and the QSUB based on Boral's blasting activities carried out in accordance with its Work Authority, and on the need to meet the 40 mm/s limit at the surface level over the pipelines. The predicted vibration levels are represented in Figures 5a and 5b of his report (Figure 5a is reproduced below as Figure 5).

Mr Moore concluded that measures would need to be taken in response to predicted ground vibration levels in the QSUB:

Buildings within the QBB and pipeline easement would have to be designed to resist vibration damage, but the vibration to people inside the buildings would be intolerable. This, in my opinion, would surely restrict the types of businesses that would be appropriate in this area.

In the area between the QBB and the QSUB, zoned as Industrial and Business/large format retail, the predicted vibration levels can be described as strongly perceptible and 'unpleasant'.

The construction of any buildings in this zone would have to be designed to resist the high levels of vibration expected, and preferably where large numbers of people do not congregate. In my opinion, this would preclude the large scale retail use, before the quarry is worked out.

He concluded that airblast impacts in the QSUB would likely be acceptable, and that vibration limits (both ground vibration and airblast) could be met in the proposed residential areas. He also confirmed that the vibration levels in the QBB would not unduly affect Hopkins Road, and that the proposed exceptions in Clause 2.10 for some buildings and structures within the QBB were acceptable.

¹⁰ Sensitive receptors are defined in DEDJTR guidelines as "any land within 10 m of a residence, hospital, school, or other premises in which people could reasonably be expected to be free from undue annoyance and nuisance caused by blasting".

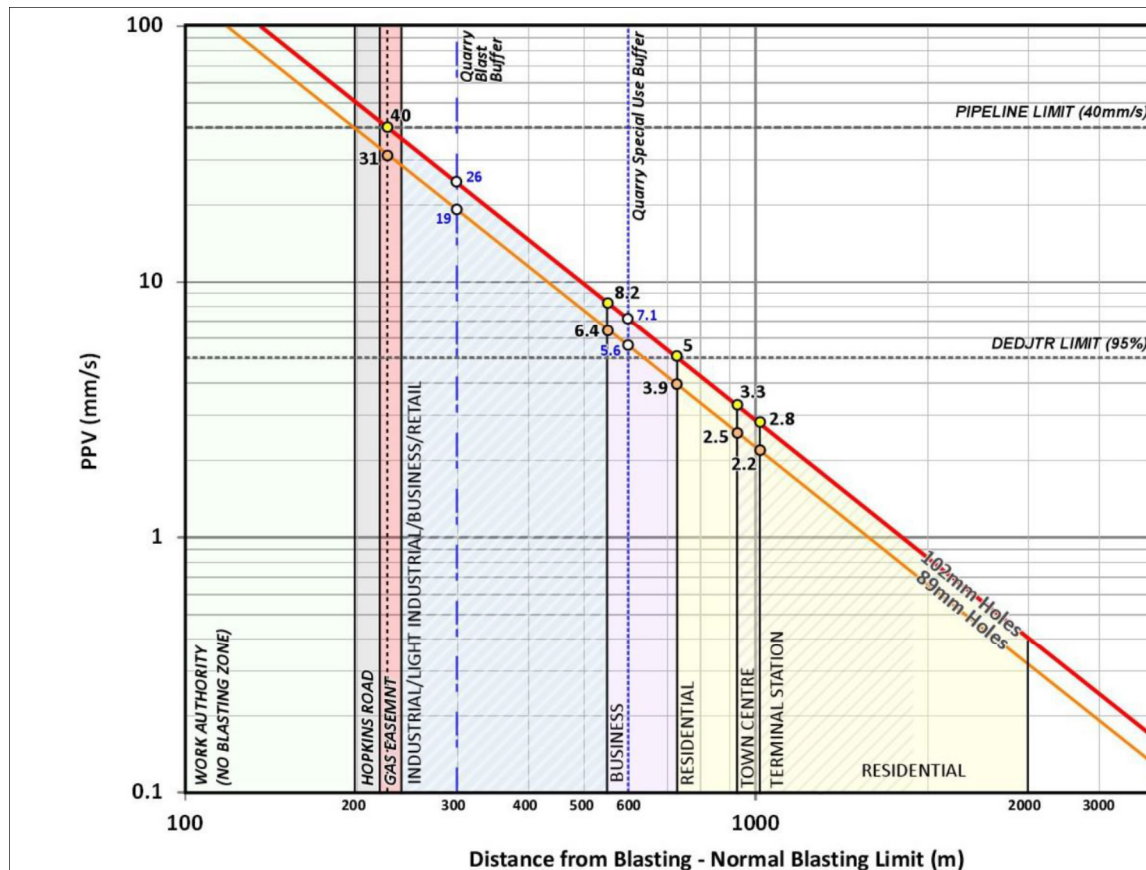


Figure 5a – Predicted Maximum PPV vs Distance from blasts at the Extraction Limit

Figure 5 Extract of Figure 5a from expert witness report of Adrian Moore

In cross examination, Mr Morris (for the VPA) put to Mr Moore that his expert witness report was inconsistent with advice he gave to the (then) Department of Primary Industries (DPI) in 2010, which recommended a separation distance of 200 metres between quarries and commercial and industrial development (Document 38)¹¹.

Mr Morris also put to Mr Moore that to meet APA requirements of 20 mm/s at the pipelines, vibration levels at the surface over the pipelines would need to be considerably lower than the 40 mm/s assumed by Mr Moore, on the basis of a Canadian study he tabled (Document 40). Mr Moore responded that his assumption was based on measurements he had taken at similar pipelines in Sunshine Road and in NSW, and he did not concede that the Canadian study was necessarily a more accurate predictor of the likely vibration levels at the surface over the APA pipelines.

Boral retained Mr Clarke to peer review its initial submission (Submission 18). Mr Clarke gave evidence supporting most of the changes requested in the submission, other than the prohibition of commercial uses within the QSUB. Mr Clarke's evidence was that commercial uses can protect themselves from amenity impacts from the quarry, so they should remain

¹¹ The Panel does not consider that Document 38 significantly undermines the reliability of Mr Moore's evidence. Document 38 contained very general 'in principle' advice which was based on a number of general assumptions. His expert report, on the other hand, constituted a detailed assessment of the impacts of Boral's blasting activities, based on actual operational data provided to Mr Moore by Boral.

section 2 uses. He supported prohibiting Residential hotel, Motel and Caretakers residence from the QSUB on the basis that they were sensitive uses.

In relation to introducing a permit trigger for all other uses in the QSUB, Mr Clarke's evidence was that he found the task of individually identifying every use that should trigger a permit "*impossible*", which is why he embraced an "*all in*" approach.

Mr Clarke also supported a broad referral requirement to DEDJTR. In response to cross examination by Mr Tobin (for Council) and questions from the Panel, Mr Clarke clarified that use applications should be referred, to ensure that sensitive uses are protected from the quarry (and vice versa). He considered that applications for buildings should also be referred, but that he had "*no issue*" with applications for works not being referred. He said that he was "*in two minds*" about whether it was necessary to refer subdivision applications.

Boral called Christophe Delaire to present noise evidence to the Panel. His evidence (which was unchallenged) was that noise modelling predicted that the quarry would be able to achieve compliance with *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N1* (SEPP N1), although compliance would potentially be compromised if residential development was allowed within the QSUB.

DEDJTR

The Earth Resources and Regulation division of DEDJTR regulates the Victorian extractive industry. It was responsible for issuing Work Authority 97 for the operation of the quarry. DEDJTR made a submission to the Amendment (Submission 26), but did not appear at the Hearing.

DEDJTR submitted that maintaining an appropriate buffer between urban development and quarry/landfills is crucial to the ongoing protection of the quarry/landfill resources, as well as human health. DEDJTR submitted that:

- the quarry buffers should be shown on Map 1 in the UGZ9 controls, and carried through on other plans in the PSP
- additional uses (Residential hotel, Caretakers residence, Hospital and Hotel) should be prohibited in the QSUB
- Shop and Food and drink premises should require a permit in the QSUB
- use applications (as well as subdivision and buildings and works applications) in the QSUB should be referred to the Secretary to DEDJTR
- Boral should be given notice of all applications in the QSUB
- applications in the QSUB should be accompanied by a risk assessment assessing impacts of the quarry such as dust, vibration, odour and noise, and demonstrating that a sensitive use can be safely developed within 500 metres of the quarry
- the Hopkins Road Business Precinct UDF Extent should extend the entire length of Hopkins Road, rather than just the northern section of Hopkins Road, and should be referred to DEDJTR for comment.

The VPA

The VPA submitted that its approach of identifying the buffers, prohibiting certain sensitive uses within the QSUB and triggering a permit for others, prohibiting most buildings within the QBB, and requiring applications for buildings within the QSUB to be referred to DEDJTR was appropriate. It submitted that the proposed 500 metre QSUB and the proposed 200

metre QBB were in accordance with the requirements of the EPA Recommended Separation Distances Guideline, and consistent with advice from DEDJTR. The proposed list of prohibited and permit required sensitive uses had been developed with reference to the definition of sensitive uses in the EPA Recommended Separation Distance Guideline.

The VPA challenged the reliability of Mr Moore's evidence that vibration levels beyond 200 metres would be "*strongly perceptible*" and "*unpleasant*", and rejected Boral's submission that the list of prohibited uses should be expanded beyond the post-exhibition changes agreed to by the VPA. The VPA also rejected Boral's submission that all non-prohibited uses within the QSUB should trigger a permit. It submitted that this was unnecessary, unduly onerous, and would stifle development in a State significant employment precinct.

The VPA considered that potential amenity impacts from the quarry (in particular dust and grit) could be dealt with via building design measures (such as air conditioning) or building orientation, and that a requirement to refer applications for buildings to DEDJTR would adequately deal with the issues.

In response to the specific changes requested by Boral and others, the VPA submitted:

- Applications to construct a building in the QSUB would be referred to DEDJTR, as DEDJTR could provide meaningful input in relation to building design measures to mitigate amenity impacts from the quarry. However it did not agree that use applications, subdivision applications or applications to construct or carry out works should be referred.
- It did not agree to notice and appeal rights for Boral, and submitted that it was "*very confident*" that the prohibition on sensitive uses and the requirement to refer applications to construct a building to DEDJTR would address the majority of adverse amenity impacts.
- A new decision guideline would be added for use applications within the QSUB, requiring the responsible authority to consider the effect of noise, vibration, odour, dust and grit from the quarry on the proposed use (Clause 7.0 of the UGZ9).
- A reverse amenity and buffer assessment should not be a requirement for a use application, as amenity issues can be appropriately dealt with through building design/orientation. While an application requirement for a reverse amenity and buffer assessment could be considered for applications for buildings, the more appropriate response is to refer applications for buildings to DEDJTR.
- A requirement to orient building entrances away from Hopkins Road would be a poor design outcome, and other design options are available to mitigate the potential amenity impacts of the quarry.
- No other changes are required to the PSP requirements, as the issue of sensitive uses is dealt with by the revised list of prohibited and permit required sensitive uses.
- It does not agree that DEDJTR should be consulted on the UDF as it is unclear what input DEDJTR would have.
- In relation to the widening of Hopkins Road, there are other constraints (such as the high pressure gas transmission pipelines) that may prevent the ultimate widening of Hopkins Road to the west. In any event, VicRoads has indicated that it will not consider the ultimate widening of Hopkins Rd until quarrying has finished. The interim widening treatments can be accommodated within the existing road reserve.

Council

Melton City Council (Submission 33) submitted that although the PSP identifies buffers, Council *“is concerned about the lack of clear direction in the UGZ Schedule as it relates to the use and development of affected land”*. Council supported a broad referral requirement for all applications (including use applications) within the buffers, but queried whether the Secretary to DEDJTR has the capacity and technical expertise to assess applications. In its submissions at the Hearing (Document 16 and Document 64), Council indicated that it was satisfied that the new Clause 2.10 in the proposed UGZ9 addresses the risks to buildings within the QBB, and that while Council supports the broadening of the referral to DEDJTR to include use, Council does not support notice and review rights for Boral.

Other submitters

Mt Atkinson Holdings (Submitter 22) submitted that the proposed controls in the QSUB were too restrictive, and would unjustifiably impact on development within the PSP (which is part of a State significant industrial and employment precinct). Relying on expert planning evidence from Mr Woodland and Mr Crowder, Mt Atkinson Holdings opposed:

- the post-exhibition introduction of additional permit triggers in the QSUB proposed by the VPA
- prohibition of Caretakers residence in the QSUB
- all non-prohibited uses requiring a permit in the QSUB
- a requirement to refer any applications in the QSUB to DEDJTR (it submitted that referrals should be restricted to the QBB)
- notice and appeal rights for the quarry owner/operator
- a requirement to orient building entries away from Hopkins Road, particularly given that Hopkins Road is the key road frontage to the industrial and business/large format retail areas within the PSP.

Mr Crowder’s evidence was that the exhibited PSP’s treatment of the interface with the quarry is largely acceptable. He noted that the main impacts from the quarry are noise, dust, fly rock and ground vibration, and that there are conditions in work authority to deal with these impacts. Mr Crowder:

- indicated no in principle difficulties with the VPA’s post-exhibition changes to the list of prohibited uses in the QSUB
- did not support a prohibition on Caretakers residence unless it could demonstrably compromise quarrying operations
- did not support introducing a permit trigger for all non-prohibited uses in the QSUB, because the other controls already included in the QSUB are sufficient to ensure appropriate land use development outcomes
- supported the prohibition on most buildings in the QBB
- supported referral of applications in the QSUB to DEDJTR, although noted that there may be some benefit in refining the referral requirement so it does not become unduly onerous
- did not support giving the quarry owner/operator formal notice and review rights, as this would be unnecessary given the other controls
- did not support a formal application requirement for a reverse amenity and buffer assessment in all cases, but thought this could be required at the responsible authority’s discretion

- supported a decision guideline requiring the responsible authority to consider impacts of the quarry when assessing applications in the QSUB.

Mt Atkinson Holdings submitted that the evidence does not support Boral's submission that all uses in the QSUB should require a permit, or that the additional prohibitions or permit triggers proposed by Boral or the VPA are justified. It submitted that the evidence did not establish any real risk of dust impacts, that ambient dust levels in industrial areas and near roads are higher in any event, and that dust-sensitive uses would not choose to locate in an area adjacent to a quarry.

Mt Atkinson Holdings submitted that Mr Moore's evidence on vibration did not provide a basis for imposing a permit trigger in the QSUB. It submitted that the reliability of his evidence was undermined by unexplained inconsistencies between advice he gave to the then DPI in 2010 (Document 38), and his evidence to the Panel.

Mt Atkinson Holdings also submitted that the evidence did not support any planning basis for referral requirements or notice and appeal rights in the QSUB. Relying on the evidence of Mr Crowder, it submitted that there is a reasonable expectation that planning proposals that generally accord with a PSP are exempt from notice and review, and there is no reason to depart from that principle.

Mr Antonopoulos gave expert noise evidence on behalf of Mt Atkinson Holdings. His evidence was that the PSP responded appropriately to noise impacts, including from the quarry. He noted that much of the blasting would take place in a pit, which provides some shielding of noise impacts. He considered it appropriate from a noise perspective to separate residential areas from the quarry, and noted that there are already sensitive receptors (existing residences) located much closer to the quarry than the proposed residential areas, which would provide a limiting factor for noise emissions in the PSP.

4.4 Discussion and conclusions

4.4.1 Sensitive uses in the Quarry Sensitive Use Buffer

(i) Caretakers residence

Boral, DEDJTR and Council submitted that Caretakers residence should be prohibited in the QSUB. Mt Atkinson Holdings disputed this.

The Panel found the VPA's submissions on a Caretakers residence somewhat ambiguous. VPA's closing submission (Document 48) noted that although a Caretakers residence does not have the high amenity expectation of a standard residential dwelling, it is a residence and should be treated as such. However, the VPA's preferred version of the UGZ9 controls tabled at the end of the Hearing did not prohibit Caretakers residence in the QSUB, or require a permit for Caretakers residence.

The Panel considers that Caretakers residence should be a permit required use in the QSUB. The Panel notes Mt Atkinson Holdings' submission that some industrial uses require a caretaker to be on-site 24 hours a day, and that prohibiting a Caretakers residence in the QSUB might compromise the ability for these industries to locate in the QSUB. The Panel agrees that this is not desirable. However, a Caretakers residence is a dwelling, and could therefore be regarded as a use that is particularly sensitive to dust and vibration on that

basis. The Panel considers that it should be a discretionary use within the QSUB, so that proposals for Caretakers residences can be assessed on a case by case basis.

(ii) Uses where people congregate

The Panel accepts Mr Moore's conclusion that vibration levels within the QSUB will be above his recommended limits for human annoyance. Having said that, the Panel considers that Mr Moore's predicted vibration calculations may be somewhat conservative, in light of the issues raised in cross examination by Mr Morris (for the VPA).

On the basis of Mr Moore's evidence, the Panel considers that it is appropriate to place some restrictions on uses where large numbers of people congregate. The Panel does not agree with Boral or Mr Moore that these uses should be prohibited. The Panel accepts Mr Moore's evidence that building design can mitigate the impacts of vibration, and the VPA's submission that building design and orientation can mitigate the other impacts of a quarry (such as dust). The Panel considers that prohibition of these uses is unnecessary, provided mechanisms are in place to ensure that buildings are appropriately designed to respond to the impacts of the quarry.

(iii) Should a permit be required for all non-prohibited uses?

The Panel considers that there is some merit in the submissions of the VPA that it is preferable to identify the specific uses that might be impacted by the quarry and require a permit for those uses, rather than applying a blanket permit requirement for all non-prohibited uses. This approach was supported by Mr Woodland (for Mt Atkinson Holdings).

On balance, the Panel accepts Boral's submission (and the evidence of Mr Clarke) that the task of identifying all potentially dust and/or vibration sensitive uses is a difficult one. The Panel prefers the approach recommended by Mr Clarke of requiring a permit for all non-prohibited uses. The Panel agrees with Boral that requiring a use permit would not add unnecessary bureaucracy to the planning system, or impose a significant additional administrative burden in this case, since all buildings (with some minor exceptions) will already require a permit in the QSUB under the applied zones.

(iv) Other uses

DEDJTR submitted that Hospital, Residential Hotel and Hotel should be prohibited in the QSUB, and that Shop and Food and drink premises should be permit required. The VPA's post-exhibition changes prohibit Accommodation (which includes Residential hotel) and Hotel. Hospital is already prohibited under the applied zones within the QSUB. If the Panel's recommendations are accepted, Shop and Food and drink premises will require a permit, along with all other non-prohibited uses.

(v) Conclusions

The Panel concludes that:

- The post-exhibition list of prohibited uses in the QSUB proposed by the VPA (including, in effect, Hospital, Residential Hotel and Hotel) are appropriate.
- All non-prohibited uses (including Caretaker's residence, Shop, Food and drink premises and uses where people congregate) should require a permit in the QSUB.

4.4.2 Development controls within the quarry buffers**(i) Buildings within the Quarry Blast Buffer**

All relevant experts, as well as Boral, supported the VPA's proposal to prohibit buildings in the QBB (with some minor exceptions), but not works (such as car parks, access road and the like). The Panel agrees, and generally supports the VPA's proposed drafting of Clause 2.10 of the UGZ9.

(ii) Design responses along Hopkins Road

The Panel agrees with submissions that the requirement to orient building entries away from Hopkins Road, a key road frontage, is a somewhat blunt design approach. The Panel accepts the VPA's submissions that alternative (and better) design outcomes might be available. The Panel considers that orienting building entrances away from Hopkins Road should only be required where other design responses are not available to manage the impacts of the quarry. Requirement R37 in the PSP should be modified accordingly.

The Panel considers that the quarry owner/operator and the Secretary to DEDJTR should be consulted on the Hopkins Road Business Precinct UDF. These agencies have the technical and operational knowledge to best understand how the quarry might impact land use and development along Hopkins Road, and how building design and orientation can best respond to the quarry. The Panel considers that their input in relation to the UDF would be valuable. Further, if the UDF takes into account potential impacts of the quarry, subsequent permit applications will better address the potential impacts of the quarry, reducing the administrative burden associated with referring permit applications within the QSUB.

The Panel is not persuaded by DEDJTR's submission that the Hopkins Road Business Precinct UDF Extent should extend the entire length of Hopkins Road. The Panel does not consider that the impacts of the quarry are likely to be as significant on the industrial uses in the southern section of Hopkins Road as the business uses in the Hopkins Road Business Precinct UDF Extent.

(iii) The permit exemption for facade works in the QSUB

The Panel is not persuaded by Boral's submission that the exemption for façade works should be removed within the QSUB. Mr Moore's evidence was that structural and design issues could contribute to a building being more vulnerable to vibration impacts, not façade works.

(iv) Conclusions

The Panel concludes:

- Buildings should be prohibited within the QBB, and the VPA's proposed Clause 2.10 is generally supported.
- In Requirement R37 in the PSP, the dot point reading "*The location of building entrances must front away from Hopkins Road, to respond to the potential adverse amenity from the Deer Park Quarry*" should be modified to only require this if other suitable design solutions are not available.
- Boral or DEDJTR should be consulted in relation to the Hopkins Road Business Precinct UDF, but there is no justification for extending the UDF Extent down the entire length of Hopkins Road.
- There is no justification for removing the exemption for façade works in the QSUB.

4.4.3 Application requirements and decision guidelines within the quarry buffers**(i) Discussion**

The Panel does not consider that any additional controls relating to reverse amenity and buffer assessments or risk assessments are required. All experts who addressed the issue (including Mr Clarke for Boral) agreed that a blanket requirement for a reverse amenity and buffer assessment for all applications within the QSUB was unnecessary, but that the responsible authority should have the discretion to call for such an assessment in appropriate cases. The Panel accepts this evidence, and agrees with Mr Clarke's suggestion that the responsible authority could require an assessment in appropriate cases through a request for further information made under section 54 of the *Planning and Environment Act 1987*.

The experts all supported an additional decision guideline along the lines suggested by Mr Clarke:

Before deciding on an application to use land for any purpose within the Quarry Sensitive Use Buffer on Plan 2 in the Mt Atkinson & Tarneit Plains Precinct Structure Plan, the responsible authority must consider the potential impact of quarrying operations on the future amenity of that use with respect to airblast, vibration, noise and dust.

The Panel accepts the evidence in this regard, but considers that the decision guideline should equally apply to applications for buildings, given the Panel's finding that the impacts of the quarry can be mitigated by building design.

(ii) Conclusions

The Panel concludes:

- A reverse amenity and buffer assessment should only be required on a case by case basis, and can be managed through the section 54 process.
- A decision guideline should be added requiring the responsible authority to consider the amenity impacts of the quarry before deciding on any application to use land or construct a building within the QSUB.

4.4.4 Notice and referral requirements within the quarry buffers

(i) Discussion

There was little consensus in submissions or among the experts on notice and referral requirements within the quarry buffers. On the one hand, Boral and DEDJTR supported a broad notice and referral requirement for all applications within the QSUB. On the other hand, the VPA submitted that referrals should be restricted to applications for a building. Mt Atkinson Holdings opposed any referrals outside the QBB, although its expert Mr Crowder supported referral to DEDJTR within the QSUB. Notice and review rights for Boral were opposed by all parties other than Boral and DEDJTR, and no expert other than Mr Clarke supported notice and review rights for Boral.

The Quarry Hills PSP Panel considered whether referrals to DEDJTR should be required for applications within 500 metres of the Wollert quarry. It concluded that referral was unnecessary, as Clauses 14.03, 52.09 and 66.05 provided for adequate notice and consideration of the quarry.

This Panel takes a different view to the Quarry Hills PSP Panel. While Clause 14.03 provides recognition in the SPPF of the significance of the stone extraction industry and the need to apply buffers between quarries and sensitive uses, Clauses 52.09 and 66.05 only require notice to the Secretary to DEDJTR of an application to use or subdivide land or construct a building for Accommodation, Child care centre, Education centre or Hospital on land within 500 metres of a quarry. The Panel has found that there are many uses, other than those listed in Clause 66.05, that could potentially be impacted by the quarry (and vice versa).

The Ravenhall quarry is a State significant facility, and its ongoing operation is supported by State and local policy. The Amendment proposes to remove the existing Farming Zone to the west of the quarry, facilitating a range of additional uses in the buffer that are currently prohibited. In light of this, and in light of the Panel's findings that a range of uses could be impacted by (and impact on) the quarry, the Panel considers that a referral requirement to DEDJTR is appropriate.

The Panel considers that use applications should be referred, as well as applications to construct a building. The use can be equally as sensitive to the impacts of the quarry as a building. The Panel does not consider that there is a compelling reason for works applications or subdivision applications to be referred. Expert evidence on this issue was limited to that of Mr Clarke, who indicated that he did not consider that works applications required referral, and that he was "*in two minds*" as to whether subdivision referrals were necessary.

The exhibition version of the Amendment proposes that the Secretary will be a determining referral authority for applications within the QSUB. The Panel considers that this is not required, and that recommending referral authority status is more appropriate and more consistent with the principles in Practice Note 54.

The Panel does not consider that notice and review rights will always be required for the quarry owner/operator. It considers that referral to the regulator is the preferable way to ensure that inter industry conflicts do not arise, and that amenity impacts of the quarry on the proposed use and/or development (and vice versa) are taken into consideration.

The Panel notes that any proposal that may cause material detriment to the quarry owner or operator would, in any case, require notice under section 52(1) of the Act.

(ii) Conclusions

The Panel concludes that:

- Use applications and applications to construct a building within the QSUB should be referred to the Secretary to DEDJTR.
- The Secretary to DEDJTR should be a recommending referral authority rather than a determining referral authority.
- Notice and review rights to the quarry owner/operator do not need to be specified in the planning scheme.

4.4.5 Detailed drafting matters

DEDJTR submitted that the quarry buffers should be shown on Map 1 in the UGZ9. The Panel agrees that this may improve the transparency of the controls, however accepts the VPA's view that it is adequately covered in the PSP at Plan 2 – Precinct Features.

4.5 Recommendations

The Panel makes the following recommendations in relation to quarry buffers:

3. Amend Clause 2.4 of the Urban Growth Zone Schedule 9, to include the following as uses which are prohibited in the Quarry Sensitive Use Buffer:

- Accommodation
- Child care centre
- Education centre (other than Business college, Employment training centre or Tertiary institution)
- Hotel
- Motel
- Pre school.

4. Amend Clause 2.8 of the Urban Growth Zone Schedule 9 to replace the second paragraph with the following:

An urban design framework approved under this schedule must be generally in accordance with the precinct structure plan applying to the land. Prior to approving an urban design framework for the 'Mt Atkinson Specialised Town Centre', the responsible authority and the Growth Areas Authority must seek the views of the owner and operator of the Boral Ravenhall Quarry and the Secretary to the Department of Economic Development, Jobs, Transport and Resources in relation to how the urban design framework responds to the potential impacts of the quarry.

5. Amend the Urban Growth Zone Schedule 9 to include the following:

2.10 Specific provision – Uses within the Quarry Sensitive Use Buffer

Any use that is not prohibited requires a permit if conducted within the Quarry Sensitive Use Buffer shown on Plan 2 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan.

2.11 Specific provision – No buildings within Quarry Blast Buffer

The construction of a building (but not including a temporary building, a building associated with a minor utility installation or telecommunication facility, a structure, a fence and other appurtenances of a building) on land shown within the quarry blast buffer shown on Plan 2 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan is prohibited.

2.12 Specific provision – Referral of applications – Ravenhall Quarry

An application to use land, or to construct a building, on land identified within the Quarry Sensitive Use Buffer shown on Plan 2 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to the Secretary of the Department administering the Mineral Resources (Sustainable Development) Act 1990.

6. Amend the schedule to Clause 66.04 to specify that the Secretary of the Department administering *the Mineral Resources (Sustainable Development) Act 1990* is a recommending referral authority for applications within the Quarry Sensitive Use Buffer.
7. Amend the Ravenhall Quarry Sensitive Use Buffer Decision Guideline at Clause 7.0 of the Urban Growth Zone Schedule 9 so that it also applies to applications to construct a building.
8. Amend the 6th dot point in Requirement R37 in the Precinct Structure Plan to read:
 - *The location of building entrances must front away from Hopkins Road, unless an alternative design approach responds to the potential adverse amenity from the Deer Park Quarry.*

5 Potential landfill buffers

5.1 The issues

The substantive issues are:

- Whether the Amendment should specifically provide for a landfill gas migration buffer and a landfill odour/amenity buffer.
- Whether landfill buffers should be internal or external to the landfill site.
- Whether the land use allocation proposed in the Amendment is an appropriate response to the landfill and its potential expansion.
- What additional controls should apply within the potential landfill buffers, if they are external.

5.2 Background

The existing Melbourne Regional Landfill (operated by Landfill Operations) is located in the south eastern section of the Ravenhall Quarry. Landfill Operations is seeking a planning permit and works approval to extend the landfill west and north, across much of the approved quarrying area.

The exhibited PSP identifies the “*Potential Melbourne Regional Landfill (Waste and Resource Recovery Hub of State Importance)*” on various plans contained in the PSP. It does not specifically identify any landfill buffers, but in recognition of the odour impacts of the landfill, residential areas in the PSP are separated by a minimum of 1 kilometre from the proposed landfill expansion.

Objectives set out in the PSP (at page 13) include:

O12 Ensure that the PSP responds to the potential for adverse amenity from odour from any potential future landfill expansion on adjoining land by enabling a separation of residential uses 1km from the proposed landfill and ensuring appropriate employment land uses within the business, business/large format retail and industrial land.

Section 2.2 of the PSP (Response to adjoining existing and proposed land uses) states:

The potential future Melbourne Regional landfill expansion is not anticipated to impact on the development of the PSP. The applied zoning and Schedule 9 to the UGZ responds to the potential for adverse amenity from odour from any expanded future landfill by establishing a distance of at least 500m from residential uses to the landfill site. This is expected to be complemented by setting back putrescible fill 500m from the landfill property boundary to ensure 1km is established between the landfill and residential uses. Further, a planning permit is required for uses pursuant to Provision 52.10 (Uses with Adverse Amenity potential) within the business, business/large format retail, industrial and light industrial land.

The PSP assumes all landfill gas migration will be retained within the landfill site and that any buffers to mitigate landfill gas migration required by the Best Practice Environmental Management (BPEM) for Siting, Design, Operation and Rehabilitation for Landfills are internalised on the landfill site. Therefore no

additional planning controls or referrals have been included in the PSP to mitigate landfill gas migration.

The landfill expansion applications include a Buffer Plan, reproduced as Figure 6 below. Figure 6 shows the extent of the permit application area and the proposed buffers, which are proposed to be largely internal north of Riding Boundary Road, and largely external south of Riding Boundary Road. The landfill buffer in the southern section is proposed to extend into the PSP area.

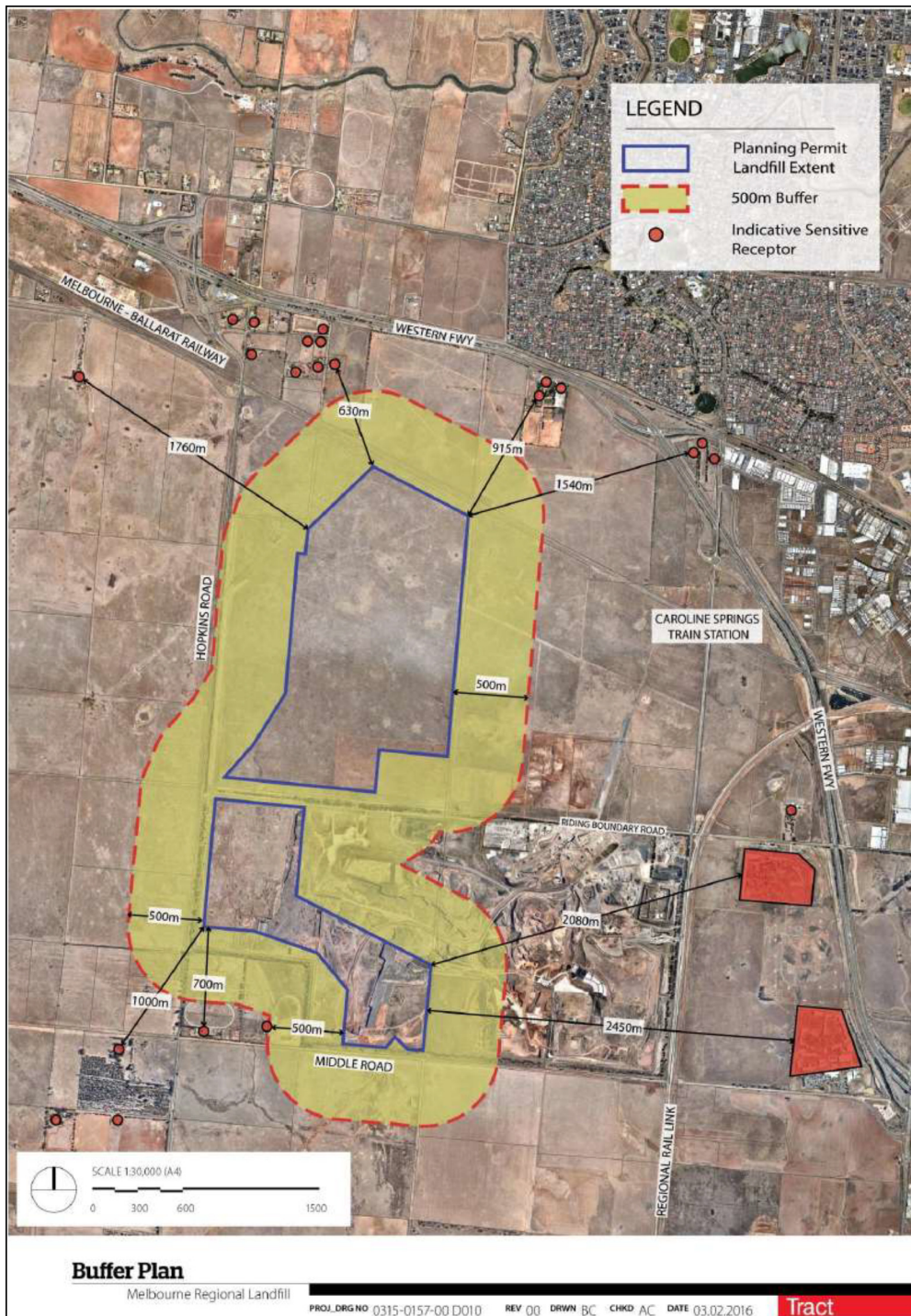


Figure 6 Buffer Plan extracted from the planning permit application for the landfill expansion.

The southern portion of the landfill gas buffer proposed in the landfill expansion applications overlaps with the Quarry Sensitive Use Buffer. The overlap area is approximately indicated by the hatching in Figure 7 below, which represents the landfill buffers and interface area that Landfill Operations submitted should be shown on Map 1 in the UGZ9 controls.

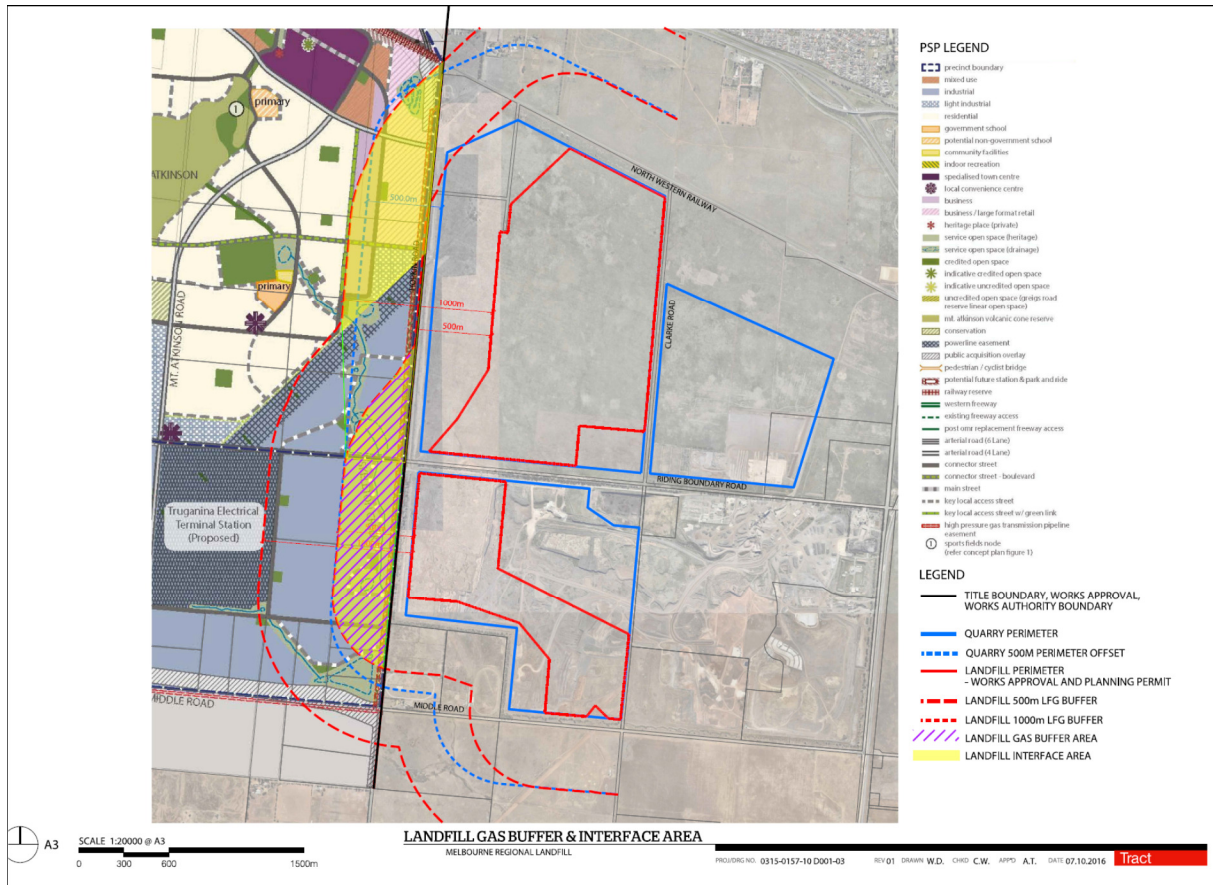


Figure 7 Landfill Buffers and Landfill Interface Area as identified by Landfill Operations

5.3 Evidence and submissions

Landfill Operations

Landfill Operations (Submission 21) opposed the Amendment, submitting that it did not provide adequate recognition of the landfill, failed to adequately protect it from encroachment from sensitive uses, and threatened its ongoing viability. It submitted that an internal 500 metre buffer south of Riding Boundary Road “*would have a significant impact upon the operation of the proposed MRL extension, resulting in capacity in the southern portion being absorbed by 2031 rather than 2039*”.

Landfill Operations submitted that the landfill’s full capacity should be protected by external buffers, and that this was more important than the development of a small amount of (albeit State significant) industrial land in the PSP. It submitted that the industrial land in the potential landfill gas buffer is already significantly constrained by the quarry buffers, the pipeline measurement length, drainage reserves and Skeleton Creek.

Landfill Operations submitted that extensive mitigation measures had been incorporated into the landfill design, including a state of the art landfill gas extraction system, modern three layer base and side liners, modern interim and final capping systems, and regular and

comprehensive leachate and landfill gas monitoring, both at the edge of the landfill cells and at the property boundary. Landfill Operations relied on Mr Kortegast's expert evidence that the proposed 200 metre separation distance provided by the Quarry Blast Buffer is sufficient to manage potential landfill gas migration risks, but that the Amendment should nevertheless identify a 500 metre (external) landfill gas buffer.

Waste agencies

Sustainability Victoria (Submission 29) referred to the critical importance of the State's waste and resource recovery hubs, and the role of the Melbourne Regional Landfill within the State significant Deer Park quarry precinct and landfill hub. It submitted that the landfill should be protected by external buffers, and that internal buffers would increase the costs of waste and resource recovery, threatening investment, jobs and growth in Victoria.

The Metropolitan Waste and Resource Recovery Group (MWRRG) (Submission 15) raised many of the issues raised by Sustainability Victoria, and highlighted that the metropolitan region is at risk of inadequate landfill capacity if the landfill does not continue at this site in the long term. MWRRG called for external buffers to protect the full future capacity of the landfill, to prevent encroachment of incompatible land uses and to underpin the future viability of the landfill. It also submitted that an Environmental Significance Overlay could be applied to protect the buffer in the longer term.

The EPA

The EPA (Submission 31) supported a 500 metre landfill gas buffer (as recommended by the BPEM) and a 1 kilometre odour and amenity buffer, which (under the BPEM) could be internal or external. The EPA submitted that landfill buffers should be shown on the PSP.

The BPEM recommends that a section 53V audit be carried out before allowing any development within the landfill gas buffer. The EPA submitted that a meaningful section 53V audit could not be carried out until the cells were operating and actual data could be collected. This presented a "*major dilemma*", as the PSP land is likely to be ready for development before the closest cells (4, 5 and 6) become operational (due in 2031). The EPA submitted that development in the landfill gas buffer may need to be deferred until cells 4, 5 and 6 were operating.

The EPA did not consider it should be a referral authority for permit applications within the landfill buffers. It submitted that while it could manage the administrative burden of being a referral authority, this was not necessary, as the EPA has a longstanding practice of working with councils who refer matters to the EPA informally. It preferred to have an advisory role than a formal referral authority role.

The VPA

The VPA submitted that it was appropriate and fair for any buffers required to manage landfill gas to be internal to the landfill site. It submitted that this was consistent with:

- the BPEM, which states that is preferable for buffers to be owned or controlled by the landfill operator
- the West Growth Corridor Plan, which envisages commercial and industrial uses up to the Hopkins Road boundary of the PSP

- various principles underpinning the *Planning and Environment Act* 1987, the *Environment Protection Act* 1970 and State waste policy (for example, the principles of fair and orderly planning, the polluter pays principle and the ‘agent of change’ principle).

The VPA called Mr Mival to give expert evidence in relation to landfill gas migration and odour impacts. Mr Mival’s evidence was:

- a minimum 500 metre buffer should be provided to any occupied building
- precautionary mitigation measures (such as a section 53V audit) would be required if development were to occur within that buffer
- the proposed 1 kilometre odour and amenity buffer is appropriate
- odour impacts could be mitigated by operating measures similar to those imposed in the Enforceable Undertaking on the Hallam landfill (many of which are proposed to be adopted for the proposed landfill expansion).

Mr Mival’s evidence was that any section 53V audits undertaken before the cells were operating would be *“speculative and theoretical”*, and that any recommendations coming out of such an audit *“would likely be heavily conservative to allow for potential worst case scenarios.”* The VPA urged the Panel not to recommend a section 53V audit for any development within the buffer that preceded the landfill cells, as it would be impractical and would result in potentially cost prohibitive recommendations for construction mitigation measures.

Council

Council supported a 500 metre landfill gas migration buffer and a 1 kilometre odour buffer. It expressed concern about any buildings being allowed within the 500 metre landfill gas buffer, pointing to the evidence of Mr Mulvey (for Mt Atkinson Holdings) and Mr Mival (for the VPA) that:

- landfill gas can accumulate in any building (whether commercial or residential), causing risk of asphyxiation and explosion
- engineering controls such as landfill liners and gas extraction systems are eventually bound to fail.

Council submitted that the landfill buffers should be internal to the landfill site. Allowing the landfill to extend to the Hopkins Road boundary would result in excessive capacity well beyond the capacity need forecast in the MWRRIP, and would be contrary to the strategic objective to reduce waste sent to landfill.

Council submitted that applications within the landfill gas buffer should be referred to the EPA as a determining referral authority, and the landfill owner/operator as a recommending referral authority, as they were the agencies with the technical knowledge required to assess and determine applications. Council submitted that there were a number of problems associated with the EPA’s preferred practice of providing informal advice to Council, including a lack of transparency, and a potential lack of consistency and rigour in the advice provided.

Other submitters

Mt Atkinson Holdings (Submission 22) supported a 500 metre buffer for both landfill gas and odour and amenity impacts, and submitted that the buffers should be internal. Internal buffers were consistent with the BPEM, the polluter pays principle and the planning and

waste policy frameworks, and could be accommodated on the landfill site without compromising its role as a State significant waste and resource recovery hub. It submitted that neither Landfill Operations nor the State waste agencies had established the need for such a large scale expansion of the landfill, noting that State waste policy puts landfill at the bottom of the waste hierarchy.

Relying on evidence from Mr Woodland and Mr Crowder, Mt Atkinson Holdings submitted that State planning policy favours the development of the State significant industrial precinct (of which the PSP forms part) over protecting the full capacity of the landfill via imposing external buffers. It submitted that external buffers would have *“real and serious consequences”* for the development of the PSP land, threatening the viability of this State significant project. It proposes to service the PSP land from the south, which requires the early development of the industrial land along the southern portion of Hopkins Road. If an external landfill gas buffer is applied which prevents (or delays) development of this land, the development of the whole PSP would be affected (including because it would no longer be practicable or cost effective to bring services up from the south).

Catholic Education Melbourne (Submission 28) submitted that *“We would like to be reassured that adequate buffers are in place to prevent adverse amenity impacts for the future occupiers of the schools”*.

Australian Council of Concerned Residents (Submission 9) raised concerns in relation to the proximity of the proposed schools in the PSP area to the proposed landfill expansion, given the odour, leakage (liquid and gas), vermin, noise and excessive traffic. It submitted that all proposed medium density housing within 1 kilometre of the proposed landfill expansion should be prohibited, and that schools and neighbourhood convenience centres could remain where proposed provided they remain more than 1 kilometre from the landfill, and people are not required to be there for long periods of time.

ComfortID (Submission 35) raised concerns in relation to the proposed landfill expansion and whether it limited opportunities for more efficient waste solutions with better environmental outcomes. ComfortID’s submission did not raise any issues directly related to the Amendment.

5.4 Discussion and conclusions

The Panel’s approach to potential landfill buffers has been to consider first whether the Amendment adequately responds to the existing landfill, and secondly what (if any) additional matters might need to be considered if the existing landfill is expanded.

Landfill buffers are required to manage two key impacts of landfills:

- odour and other amenity impacts (such as dust and litter)
- landfill gas migration risk.

The BPEM provides for a default buffer of 500 metres between a landfill that accepts putrescible waste, and any buildings and structures. The BPEM indicates that the primary purpose of the 500 metre buffer is to prevent landfill gas accumulating in buildings or structures, causing risks of asphyxiation and explosion. The BPEM notes that a 500 metre buffer is also adequate in most cases to manage odour and amenity impacts.

The BPEM recognises that the default 500 metre buffer can be reduced for non-sensitive uses, and recommends a section 53V audit be carried out that assesses landfill gas migration

risk before a planning scheme amendment or permit is approved that would allow development within the buffer.

5.4.1 Existing landfill

(i) Discussion

The Panel considers that the Amendment adequately responds to the existing landfill. The existing (approved) landfill is located approximately 1.5 kilometres away from the nearest point in the PSP. This is three times the recommended separation distance in the BPEM. No evidence was presented to the Panel which suggested that more than 1.5 kilometres was required to manage either odour and amenity impacts or landfill gas migration risks from the existing landfill.

(ii) Conclusions

The Panel concludes:

- The Amendment adequately responds to the existing landfill.

5.4.2 Proposed landfill expansion

(i) Discussion

If the proposed landfill expansion is approved, it will reduce the 1.5 kilometre separation distance between the landfill and the PSP. This Panel cannot predict or pre-empt the decision of the Minister (on the permit application) or the EPA (on the Works Approval Application) for the landfill expansion. However, if the applications were approved in the form sought, the separation distance would be reduced to approximately 500 to 540 metres in the northern portion (north of Riding Boundary Road), and 140 metres in the southern portion (south of Riding Boundary Road).

The primary way in which the PSP responds to the landfill is through the pattern of land use allocation. It allocates industrial, light industrial and business/large format retail uses within the first 500 metres of the PSP area west of Hopkins Road (along with some service open space areas for drainage). This land use allocation ensures a minimum separation distance of 500 metres between residential areas and the proposed landfill, although the separation distance is in fact anticipated to be 1 kilometre, as the landfill expansion applications provide for a 500 metre internal buffer north of Riding Boundary Road (refer to Figures 6 and 7 above).

While the Panel understands the rationale behind the land use allocations in the PSP, the Panel does not consider that land use allocations alone are sufficient to respond to the impacts of the landfill if the expansion is approved. Land use allocations do not perform all of the functions that landfill buffers may need to perform. The Panel finds that if the landfill expansion is approved, the Amendment should be reviewed to ensure that it adequately responds to the proposed expansion. Matters that will need to be considered include:

- whether adequate buffers are provided (for both odour and amenity impacts, and for landfill gas migration risks)
- whether the general land use allocation within the buffers is appropriate
- whether any specific controls on use or development within the buffers are required, including:

- restrictions on use
- development restrictions and/or controls
- additional application requirements and decision guidelines
- notice and/or referral requirements.

Subject to the specific issues discussed below, the Panel considers that the land use allocations and controls within the proposed 1 kilometre odour and amenity buffer are generally appropriate. However, until the landfill expansion applications are determined, there is considerable uncertainty regarding the potential landfill gas buffer. The Panel does not have adequate information before it to finally determine what the landfill gas buffer distance should be, or what controls should apply within the potential landfill gas buffer.

If the Amendment is approved before the landfill expansion applications are determined, the Panel considers that interim arrangements will be required under which:

- the area affected by the potential landfill gas buffer should be identified as a 'Landfill Gas Further Investigation Area'
- use and development should not be allowed to occur within that area, until the VPA has determined (in consultation with the EPA) the required buffer distance and what (if any) controls should be applied to allow use and development to occur within the buffer.

Alternatively, if the Amendment is approved after the landfill expansion applications are determined, and the issues relating to the landfill gas buffer can be resolved prior to the Amendment being approved, there may be no need for the interim arrangements.

There may also be a need for adjustments to the odour and amenity buffer once the landfill expansion applications are determined. For example, if the landfill expansion applications were approved in a form that required a larger internal setback, it may be possible to reduce the landfill odour and amenity buffer distance, or to relax the controls within the buffer.

If the Amendment is approved first, and adjustments are required to the PSP and the UGZ9 controls once the landfill expansion applications are determined, a further planning scheme amendment is likely to be required. The Panel anticipates that, subject to adequate consultation occurring with the relevant agencies and affected parties, it may be appropriate to exempt the further amendment from the usual statutory notice and consultation requirements under either section 20(2) or section 20(4) of the Act.

(ii) Conclusions

The Panel concludes:

- Once the landfill expansion applications are determined, the VPA should work with the EPA to determine:
 - whether an external landfill gas buffer is required
 - if so, the appropriate buffer distance, and what (if any) specific controls can be applied to allow use and development within the landfill gas buffer to occur
 - whether any adjustments are required to the landfill odour and amenity buffer.
- If the Amendment is approved before the landfill expansion applications are determined, interim arrangements should be put in place under which:
 - the area that is within the potential landfill gas buffer should be identified as the 'Landfill Gas Further Investigation Area' in the PSP and the UGZ9

- a note should be added to the PSP making it clear that the area is subject to further investigation
- no use or development should be allowed within the Landfill Gas Further Investigation Area until the landfill gas buffer has been resolved.

5.4.3 Buffer distances

(i) Discussion

The Panel considers that the proposed odour/amenity buffer distance of 1 kilometre is acceptable. This reflects an agreed position between all parties other than Mt Atkinson Holdings (who submitted that 500 metres was adequate to deal with odour). The Panel considers that a 1 kilometre buffer distance for odour is supported by the material put before the Panel, including: data relating to prevailing winds; Mr Mival's evidence; and, to some degree, the EPA's odour surveillance data.

Figure 7 above, prepared by Landfill Operations, identifies a 1 kilometre odour buffer for the entire length of the PSP. The Panel considers that the odour and amenity buffer is only required in the northern portion of the PSP, to ensure a 1 kilometre separation distance to residential areas, mixed use areas, the town centre and recreational open space. The Panel does not consider that the odour and amenity buffer is required where industrial uses will locate, because industrial uses are less odour sensitive than the mixed use and retail uses proposed in the northern section of the PSP. The odour and amenity buffer can terminate at the high voltage electricity transmission easement.

The Panel considers that the landfill gas buffer/further investigation area should be set at 500 metres as recommended by the BPEM, unless a lesser buffer distance is agreed to by the EPA as part of the assessment of the landfill expansion applications.

Landfill technology is continually improving. The engineering solutions proposed for the landfill expansion, including liner and gas extraction systems, are far superior to those employed at some of the other landfills that were discussed at the Hearing (such as the Cranbourne landfill). As the technology improves, so do the performance standards set out in the BPEM (which is currently in its third iteration). Required buffer distances may well reduce in future, as technology and standards improve.

Further, as Mr Kortegast explained, the approval of a landfill is an iterative process. While the works approval relates to the entire landfill, each cell must be separately approved and licenced by the EPA, based on a detailed cell design. The EPA may agree to a reduced buffer distance at the stage of approving particular cells, based on the detailed cell design.

The Panel therefore expects that there will be opportunities to revisit buffer distances throughout the life of both the PSP and the expanded landfill (if it is approved).

(ii) Conclusions

The Panel concludes:

- The odour and amenity buffer should be set at 1 kilometre (measured from the edge of the nearest proposed landfill cell), and only needs to apply north of the high voltage electricity transmission easement.
- The landfill gas buffer/further investigation area should be set at the BPEM recommended 500 metres (measured from the edge of the nearest potential landfill

cell), and may be adjusted in future should the EPA determine that a lesser buffer is required.

5.4.4 Internal versus external buffers

(i) Discussion

The Panel accepts that, in balancing the competing policy objectives, preservation of the full capacity of the landfill should take priority over the immediate development of the affected portion of industrial land in the PSP. The Panel considers that the State planning and waste policy frameworks summarised in Chapter 3 of this report provide strong support for protecting the full capacity of the landfill site, including the application of external buffers around the landfill site.

The Panel recognises that if an external landfill gas buffer is applied, the result could be (at worst) the temporary quarantining of the industrial land in the buffer until cells 4, 5 and 6 are operational and an effective section 53V audit could be carried out to properly assess the risk of developing within the buffer. The Panel's view is that, if necessary, this would be an acceptable outcome in net community benefit terms.

The Panel notes that, if the landfill gas buffer/further investigation area is set at 500 metres, it would extend to up to approximately 60 hectares of industrial land in the PSP. Some 20 hectares of this is already subject to significant development constraints. Given the long term supply of industrial land in Melbourne, the Panel does not consider that deferring development in this area would be contrary to the community's interests (although it will clearly have an impact on Mt Atkinson Holdings). On the other hand, the Panel accepts that it could be contrary to the community's interests to curtail the capacity of this State significant waste and resource recovery hub.

Mt Atkinson Holdings submitted an external landfill gas buffer would have serious consequences for the entire Mt Atkinson Holdings development, because (among other things) it would prevent bringing services into the PSP area from the south. No evidence was presented to the Panel that an external landfill gas buffer would prevent servicing the land from the south. Nor was any evidence presented that other servicing options (for example, servicing the land from the north) are not viable. The Panel was not persuaded that an external landfill gas buffer would prevent the PSP land from being serviced and therefore developed.

(ii) Conclusions

The Panel concludes:

- The full capacity of the landfill should be protected. If the determination of the landfill expansion applications results in a landfill gas buffer of more than 200 metres being required, it is appropriate that the buffer extends into the PSP area.

5.4.5 General land use allocations within the potential buffers

(i) Discussion

The general land use allocation in the PSP provides for:

- industrial uses within 500 metres of the potential landfill expansion
- light industrial and business/large format retail uses between 500 metres and 1 kilometre from the potential landfill expansion
- a separation of at least 1 kilometre between the potential landfill expansion and residential areas, mixed use areas, the town centre and recreational open space areas.

The Panel considers that the general land use allocation in the PSP represents an appropriate response to the landfill.

The key objective from a land use planning perspective is to ensure that sensitive uses are separated from the landfill, to minimise the impacts of the landfill on those sensitive uses and to minimise the risk of land use conflict. In this context, the Panel considers that the definition of sensitive uses from the EPA Separation Distance Guideline provides useful guidance:

Any land uses which require a particular focus on protecting the beneficial uses of the air environment relating to human health and wellbeing, local amenity and aesthetic enjoyment, for example residential premises, child care centres, pre-schools, primary schools, education centres or informal outdoor recreation sites.

The Panel supports a 1 kilometre separation distance between the proposed landfill expansion and residential areas, mixed use areas, recreational open space and the town centre. The Panel considers that 1 kilometre is sufficient to manage odour and amenity impacts of the landfill on sensitive uses that will locate in these areas.

The Panel considers that industry is an appropriate land use within 500 metres of the proposed landfill expansion, and that light industrial and business/large format retail uses are appropriate land uses for between 500 metres and 1 kilometre of the proposed landfill. The Panel does not agree with Mr Barlow's evidence that the Commercial 2 zone should be reconsidered along the northern section of the Hopkins Road boundary. Light industrial and business/large format retail uses are not sensitive uses for the purposes of the EPA Separation Distance Guideline, and amenity expectations are not as high for these types of uses as for residential areas.

If, in determining the landfill expansion applications, larger (or smaller) buffers are required, land use allocations within the final buffers may need to be reconsidered in light of the above principles.

(ii) Conclusions

The Panel concludes:

- The general land use allocation provided for in the PSP is appropriate to respond to the possible impacts of landfill.
- If larger (or smaller) buffers are required by the determination of the landfill expansion applications, land use allocations within the buffers may need to be reconsidered.

5.4.6 Specific controls within the landfill buffers

(i) Potential restrictions on uses

While the Panel finds that the general land use allocations within the potential landfill buffers are appropriate, there may nevertheless be the potential for particular section 1 or section 2 uses that are incompatible with a landfill to locate within the buffers. This was recognised by the relevant experts, although none of the experts were able to present a definitive list of uses that they considered should be prohibited or require a permit within the potential landfill buffers.

The Panel anticipates that the list of uses that are prohibited or require a permit within the Quarry Sensitive Use Buffer may well capture many of the uses that might also be incompatible with a landfill. However, the landfill has different impacts to a quarry (notably odour), and the Panel recommends that the VPA consider whether any additional uses should be prohibited or require a permit within the landfill buffers. The VPA should have particular regard to the definition of sensitive use in the EPA Separation Distance Guideline, and to Sustainability Victoria's submission that Informal outdoor recreation should be prohibited within the landfill buffers (The Panel notes that Informal outdoor recreation is a section 1 use in all of the applied zones within the potential landfill buffers).

The VPA may find that identifying specific uses that should require a permit is a difficult task, as the Panel found in relation to the Quarry Sensitive Use Buffer. The VPA should consider whether the preferable approach is to introduce a blanket permit requirement for non-prohibited uses within the landfill buffers (as Landfill Operations submitted). The Panel considers that to impose a blanket permit trigger for non-prohibited uses would not unnecessarily add to the administrative burden, as all buildings will require a permit under the applied zones within the landfill buffers.

The VPA should undertake this further work in consultation with the EPA and Landfill Operations. Ideally this work would be undertaken after the landfill expansion applications are determined, and before the Amendment is adopted. However if the Amendment is approved first, the VPA will need to consider what, if any, adjustments may be required to the restrictions on sensitive uses within the landfill odour and amenity buffer, and the landfill gas buffer in light of the determination of the landfill expansion applications.

(ii) Potential development restrictions or controls

The Panel does not consider that there is a need for further restrictions or controls on development within the landfill odour and amenity buffer. The odour and amenity impacts of the landfill will be adequately addressed by the general land use allocations, and the further work recommended by the Panel in relation to restrictions on uses within the landfill buffers.

All relevant experts agreed that there would need to be some restrictions or controls on development within any external landfill gas buffer, particularly in light of the potentially serious consequences if landfill gas were to accumulate in buildings or structures. Options canvassed by the experts (and by various submitters) included:

- a requirement to undertake a section 53V audit before allowing development within the landfill gas buffer

- a requirement to undertake an alternative form of risk assessment before allowing development within the landfill gas buffer
- a requirement that the applicant for a permit within the landfill gas buffer demonstrate compliance with the BPEM
- a higher level of master planning within the landfill buffers (for example, by way of Urban Design Frameworks developed with input from the EPA)
- incorporation of building design measures within the landfill gas buffer, ranging from concrete slab foundations and impermeable gas membranes in building foundations, through to passive or active gas extraction systems in buildings.

The key issue with development within the potential landfill gas buffer is timing. Cells 4, 5 and 6 (the cells along the Hopkins Road boundary south of Riding Boundary Road) are unlikely to begin operating until approximately 2031. It is likely that the area within the potential landfill gas buffer would be sought to be developed before then.

The EPA submitted that a section 53V audit should be required before any building or structure was allowed within the landfill gas buffer, but that it would be impossible to undertake a section 53V audit in advance of the relevant cells operating. All experts except Mr Kortegast agreed that undertaking a section 53V audit without actual data that could be measured on emissions from operating cells was highly problematic. Mr Kortegast said that a legitimate approach would be to measure actual data from earlier operating cells and extrapolate the data to assess the likely risks from the future cells 4, 5 and 6. Neither the EPA nor any other relevant expert supported this approach. Nor does the Panel.

One potential solution to this dilemma is to require buildings in the landfill gas buffer that precede cells 4, 5 and 6 to incorporate landfill gas mitigation design measures, on the basis that there is a possibility that landfill gas migration may occur in future. The Panel is cautious about this approach. No consensus was reached among the experts about what the appropriate design measures would be, or how they would be determined in the absence of a section 53V audit. The Panel is also cognisant of Mt Atkinson Holdings' submission that requiring design measures to be incorporated into buildings could be "*cost prohibitive*", and the VPA's submission that if Mr Kortegast's opinion (that a 200 metre buffer will be adequate) is right, it would be a waste of money.

The Panel agrees with Mt Atkinson Holdings that it is not appropriate to include a requirement in the UGZ9 that the applicant for a permit within the landfill gas buffer demonstrate compliance with the BPEM. The BPEM imposes performance requirements and standards on landfill operators, rather than adjacent land uses. Such a requirement would be uncertain and difficult to comply with, in that it is not clear what an adjacent landowner would be required to demonstrate to meet the BPEM requirements.

The Panel does not agree with Landfill Operations and Mr Crowder that there be should some form of higher order master planning (such as a UDF) within the landfill buffers, involving consultation with the EPA and the landfill owner/operator. Although the Panel concluded that similar controls would be appropriate in respect of the Quarry Sensitive Use Buffer, the Panel considers that unlike dust impacts from the quarry, landfill gas risk needs to be addressed by a detailed design response on a case by case basis. The Panel does not consider that landfill gas risk is likely to be able to be adequately addressed with the types of high level design measures that could be reflected in a UDF.

The Panel considers that there is some merit in Mr Kortegast's suggestion that a generic risk assessment could be undertaken to the satisfaction of the EPA that could inform all future development applications in the potential landfill gas buffer, rather than landowners within the buffer having to carry out a separate risk assessment in support of each application. This should be further explored by the VPA in consultation with the EPA.

(iii) Application requirements and decision guidelines

The Panel does not accept Landfill Operations' submission that applications within the landfill buffers be required to demonstrate that the use or development will not adversely affect the landfill operator's ability to comply with the BPEM. In the Panel's view, it would be very difficult for a landowner to demonstrate that the operation of the landfill could continue to comply with the BPEM.

The Panel accepts Landfill Operations' submission that a decision guideline should be included requiring the responsible authority to consider the potential effect on the proposed use or development of the landfill (including noise, dust or odour). This is consistent with the Panel's conclusions in relation to decision guidelines within the Quarry Sensitive Use Buffer. The Panel does not, however, agree that the decision guideline should refer to:

- Clause 19.03-5 of the SPPF (the responsible authority is already required to consider the SPPF when considering permit applications)
- the BPEM (as noted above, the BPEM imposes performance requirements and standards on a landfill operator, rather than on surrounding land uses or developments. It is not clear what aspect of the BPEM the responsible authority is required to consider, or how it should apply the BPEM, when assessing a permit application for use or development on adjacent land)
- a 'reverse amenity' assessment (consistent with its findings in relation to the quarry, the Panel considers that referral to the regulator is the preferable way to ensure that inter industry conflicts do not arise — refer below).

(iv) Notice and referral requirements

The Panel accepts the various submissions and expert evidence that the EPA should be a referral authority for applications to construct buildings, structures or works within the landfill gas buffer (should an external landfill gas buffer be required). The EPA is Victoria's primary environmental regulator, and has the necessary specialist and technical knowledge to properly assess the risk posed by potential landfill gas migration. All relevant experts agreed that applications within the landfill gas buffer should be referred to the EPA. The Panel agrees with Council that it is not appropriate to leave responsibility for assessing technical risks of this nature to Council staff who are unlikely to be qualified in landfill gas migration issues. The Panel agrees that the EPA's input should be formally obtained, through the referral process set out in section 55 of the Act.

The Panel is concerned about EPA's reluctance to assume formal referral authority status. While it acknowledges that the EPA has a well-established practice of working cooperatively with councils in an informal advisory capacity, the Panel shares Council's concerns about this approach. The EPA would have no formal statutory rights or responsibilities (including rights of review in VCAT) in an informal advisory role. The EPA's practice of informally providing

advice lacks transparency, and inappropriately places sole accountability on Council, rather than the EPA, for the ultimate decision. This is not appropriate.

The Panel agrees with Council that the EPA should be a determining referral authority for applications within the landfill gas buffer. The Panel concluded that DEDJTR should be a recommending referral authority for applications within the Quarry Sensitive Use Buffer. The Panel takes a different approach in relation to referrals within the landfill gas buffer because:

- Landfill gas migration risks are complex, and require particular technical knowledge and understanding of matters that council planning officers are not necessarily qualified in, whereas the impacts of the quarry (principally dust impacts and how they may be mitigated by building design) are more generic matters that are more routinely addressed in the planning process.
- The quarry approvals contain conditions that are designed to address the more serious potential impacts of the quarry, such as blast impacts and fly rock. The conditions that are likely to apply to the landfill expansion are unknown until the landfill applications are determined (and possibly even until licence applications for each landfill cell are determined).

The Panel accepts submissions that the EPA should be a referral authority for applications within the landfill odour and amenity buffer. The landfill is a State significant facility, and the landfill can have amenity impacts on surrounding land uses, particularly in relation to odour. The Panel considers that referral of applications to the regulator will ensure that the State significant landfill facility is properly considered, that inter industry conflicts do not arise, and that amenity impacts of the landfill on the proposed use and/or development (and vice versa) are taken into consideration. The Panel considers that in the odour and amenity buffer, recommending referral authority status is more appropriate than determining referral authority status.

The Panel does not agree with Council's submission that the landfill owner/operator needs to be a recommending referral authority for applications within the landfill buffers. The Panel considers that the EPA will have access to the detailed information required to properly and fully assess permit applications within the landfill buffers. The Panel anticipates that the EPA licences will include detailed monitoring, reporting and auditing requirements. The EPA will also have detailed records of landfill cell design through the works approval and licencing processes. If the EPA does not consider it has sufficient information to assess a particular application, it can request that information from the landfill operator.

The Panel does not consider that specific notice and review rights are required for the landfill owner/operator. The Panel considers that referral to the regulator is the preferable way to ensure that inter industry conflicts do not arise, and that amenity impacts of the landfill on the proposed use and/or development (and vice versa) are taken into consideration. This is consistent with the Panel's conclusions in relation to notice and review provisions in the quarry buffers.

(v) Detailed drafting matters

The Panel agrees with submissions that the landfill buffers should be shown on Plan 2 in the PSP. The Panel considers that the landfill gas buffer (and the Landfill Gas Further Investigation Area, if required) should also be identified on Plan 3 in the PSP and Map 1 in the UGZ9. This is because strict controls will apply within this area, and it is important that the area is easily identified by landowners, the VPA and the EPA.

Landfill Operations submitted that a new requirement should be inserted into the PSP requiring allocation of land uses, building design and interface treatments in the Hopkins Road employment area to have regard to potential amenity impacts of the landfill, and the proposed use or development to impact on the landfill. The Panel is not persuaded that such a requirement would add anything. As noted above, landfill gas impacts require a detailed design response which can be addressed as part of the referral process. No evidence was presented that the amenity impacts of the landfill can be addressed by building design measures (other than perhaps air conditioning). If there are design features that may be able to assist with ameliorating the amenity impacts of a landfill, these can be addressed at permit application stage, including through the referral process.

(vi) Conclusions

The Panel concludes that prior to adopting the Amendment, the following changes are required in relation to the landfill odour and amenity buffer:

- Amend Plan 2 in the PSP to show a Landfill Odour and Amenity Buffer of 1 kilometre (measured from the edge of the nearest proposed landfill cell), north of the high voltage electricity transmission easement.
- The VPA needs to further consider (in consultation with the EPA and Landfill Operations) whether any additional uses should be prohibited or permit required within the Landfill Odour and Amenity Buffer, beyond those prohibited or permit required in the Quarry Sensitive Use Buffer.
- Include a new decision guideline for all applications within the Landfill Odour and Amenity Buffer requiring the responsible authority to consider the potential effect of the landfill on the proposed use or development.
- Make the EPA a recommending referral authority for all applications within the Landfill Odour and Amenity Buffer.

The Panel concludes that once the landfill expansion applications have been determined:

- The VPA can proceed with resolving the landfill gas buffer issues in consultation with the EPA. The VPA should have regard to the following principles:
 - If the landfill gas buffer extends into the PSP area, it should be shown on Plan 2 and Plan 3 in the PSP, and on Map 1 in the UGZ9.
 - Consider whether the landfill gas buffer distance can be reduced to less than the BPBM recommended 500 metres.
 - Consider whether any additional uses should be prohibited or permit required in the landfill gas buffer.
 - Consider what (if any) controls could be applied that would allow use and development in the landfill gas buffer in advance of cells 4, 5 and 6 of the landfill becoming operational.

- Consider whether a generic risk assessment could be undertaken to the satisfaction of the EPA that could inform all future development applications in the landfill gas buffer.
- Make the EPA a determining referral authority for all permit applications within the landfill gas buffer.
- The VPA should consider whether any adjustments are required to the landfill odour and amenity buffer.

The Panel concludes that if the Amendment is adopted prior to the landfill expansion applications being determined and the landfill gas buffer issues being resolved, the following interim arrangements should be put in place in respect of landfill gas:

- Amend Plan 2 and Plan 3 in the PSP, and Map 1 in the UGZ9, to show a 'Landfill Gas Further Investigation Area' of 500 metres (measured from the nearest proposed landfill cell).
- Amend the UGZ9 to prohibit use and development within the Landfill Gas Further Investigation Area until further controls are applied to address landfill gas mitigation risk.

5.5 Recommendations

The Panel makes the following recommendations odour and amenity buffers:

9. Prior to adopting the Amendment, make the following changes in respect of the Landfill Odour and Amenity Buffer:

- a) Amend Plan 2 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan to show a 'Landfill Odour and Amenity Buffer' of 1 kilometre (measured from the edge of the nearest proposed landfill cell), north of the high voltage electricity transmission easement.
- b) Determine (in consultation with the Environment Protection Authority and Landfill Operations) whether any additional uses should be prohibited or permit required in the Landfill Odour and Amenity Buffer, beyond those prohibited or permit required in the Quarry Sensitive Use Buffer, and amend the Urban Growth Zone Schedule 9 accordingly.
- c) Insert the following Clause in the Urban Growth Zone Schedule 9:

2.13 Specific provision – Referral of applications – Melbourne Regional Landfill

The following applications must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to the Environment Protection Authority:

- ***An application to use land, or to construct a building, on land identified within the Landfill Odour and Amenity Buffer shown on Plan 2 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan***
- d) Include the following additional Decision Guidelines in Clause 7.0 of the Urban Growth Zone Schedule 9:

Melbourne Regional Landfill

Before deciding on an application to use or develop land within the Landfill Odour and Amenity Buffer shown on Plan 2 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan, in addition to the decision guidelines at Clause 37.07-14, the responsible authority must consider the amenity impacts

(including noise, dust and odour) that the nearby Melbourne Regional Landfill facility may have on the proposed use or development.

- e) Amend the schedule to Clause 66.04 to specify that the Environment Protection Authority is a recommending referral authority for applications within the Landfill Odour and Amenity Buffer.

The Panel makes the following recommendations if the Amendment is adopted before the planning permit application and the works approval application for the expansion of the Melbourne Regional Landfill are determined and the final landfill gas buffer issues are resolved:

10. Prior to adopting the Amendment, make the following changes:

- a) Amend Plan 2 and Plan 3 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan to show a 'Landfill Gas Further Investigation Area' of 500 metres (measured from the edge of the nearest proposed landfill cell).
- b) Include the following note on Plan 2 and Plan 3 of the Mt Atkinson and Tarneit Plains Precinct Structure Plan:

*Landfill Gas Further Investigation Area
Use and development within the Landfill Gas Further Investigation Area is subject to further investigation.*

- c) Amend Map 1 in the Urban Growth Zone Schedule 9 to show the Landfill Gas Further Investigation Area.
- d) Insert the following Clause in the Urban Growth Zone Schedule 9:

2.14 Specific provision – Uses and development within the Landfill Gas Further Investigation Area
Use and development within the Landfill Gas Further Investigation Area is prohibited.

The Panel makes the following recommendations for further work once the planning permit application and the works approval application for the expansion of the Melbourne Regional Landfill are determined:

11. If the planning permit application and the works approval application for the expansion of the Melbourne Regional Landfill are determined in a form that requires a landfill gas buffer that extends into the Precinct Structure Plan area:

- a) Amend Plan 2 and Plan 3 in the Mt Atkinson and Tarneit Plains Precinct Structure Plan, and Map 1 in the Urban Growth Zone Schedule 9, to show the Landfill Gas Buffer.
- b) The Victorian Planning Authority should consult with the Environment Protection Authority to determine what planning controls should be applied within the landfill gas buffer, having regard to the following principles:
 - Consider whether the landfill gas buffer distance can be reduced to less than the Environment Protection Authority Publication 788.3 *Best Practice Environmental Management Siting, Design, Operation and Rehabilitation of Landfills* August 2015 recommended 500 metres.
 - Consider whether any additional uses should be prohibited or permit required in the landfill gas buffer.

- Consider what (if any) controls could be applied that would allow use and development in the landfill gas buffer in advance of cells 4, 5 and 6 of the landfill becoming operational.
 - Consider whether a generic risk assessment could be undertaken to the satisfaction of the Environment Protection Authority that could inform all future development applications in the landfill gas buffer.
- c) Amend the new Clause 2.14 in the Urban Growth Zone Schedule 9 (Specific provision - Referral of applications - Melbourne Regional Landfill) to add the following additional dot point:
- An application to use or develop land within the Landfill Gas Buffer identified on Map 1 in Clause 1.0 of this Schedule, and shown on Plan 2 and Plan 3 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan.
- d) Amend the schedule to Clause 66.04 to specify that the Environment Protection Authority is a determining referral authority for applications within the Landfill Gas Buffer.
12. The Victorian Planning Authority should consider whether to:
- a) make any adjustments to the Landfill Odour and Amenity Buffer as a result of the determination of the landfill expansion applications
 - b) remove any redundant references to the Landfill Gas Further Investigation Area in the Mt Atkinson and Tarneit Plains Precinct Structure Plan and the Urban Growth Zone Schedule 9 as a result of the resolution of the landfill gas buffer issues.

6 Easements and other land use constraints

6.1 High pressure gas pipeline

6.1.1 Background

APA VTS Australia (Operations) Pty Ltd (APA) operates four high pressure gas transmission pipelines within the PSP area, located within two separate easements, as shown in Figure 3. These pipelines make up an integral section of the Victorian gas transmission system.

6.1.2 The issues

The pipeline easements, along with their measurement length¹², are identified on Plan 12 (Utilities) of the PSP (reproduced as Figure 4 below).

The issues are:

- Whether sensitive uses should be prohibited within the measurement length of the pipelines.
- Whether additional permit triggers should apply for sensitive uses within the measurement length.
- Whether the proposed application of the Mixed Use Zone (MUZ) is appropriate in the measurement length.
- Whether the Safety Management Study (SMS) undertaken by APA in respect of the PSP needs to be updated in light of the proposed application of the MUZ.
- What notice or referral requirements should apply within the measurement length.
- The proposed requirements for a construction management plan for works within the measurement length.
- Requirements and guidelines in the PSP around construction of infrastructure within the pipeline measurement length.

Issues relating to the proximity of the pipelines to the proposed landfill extension will be addressed in the Panel's main report.

6.1.3 Sensitive uses within the measurement length

(i) Submissions

APA (Submission 10) submitted that sensitive uses should require a permit within the measurement length of the pipelines, including:

- uses involving congregations of people (such as place of assembly and retail), given the difficulties in evacuating large numbers of people in the event of an incident
- uses involving vulnerable people who may not be able to escape effectively in case of an incident (for example, accommodation, aged care facilities and dependent persons unit).

The exhibited Amendment already included a permit trigger for a number of sensitive uses in the measurement length, and the VPA agreed to add service station in response to APA's

¹² Defined as the 4.7kW/m² radiation contour for a full bore rupture, as defined in AS2885 Clause 4.3.2. The measurement length is sometimes called the consequence zone and represents the area in which there will be a significant safety impact in the event of the worst case pipeline failure.

submission. The sensitive uses that remained in dispute were retail premises and accommodation.

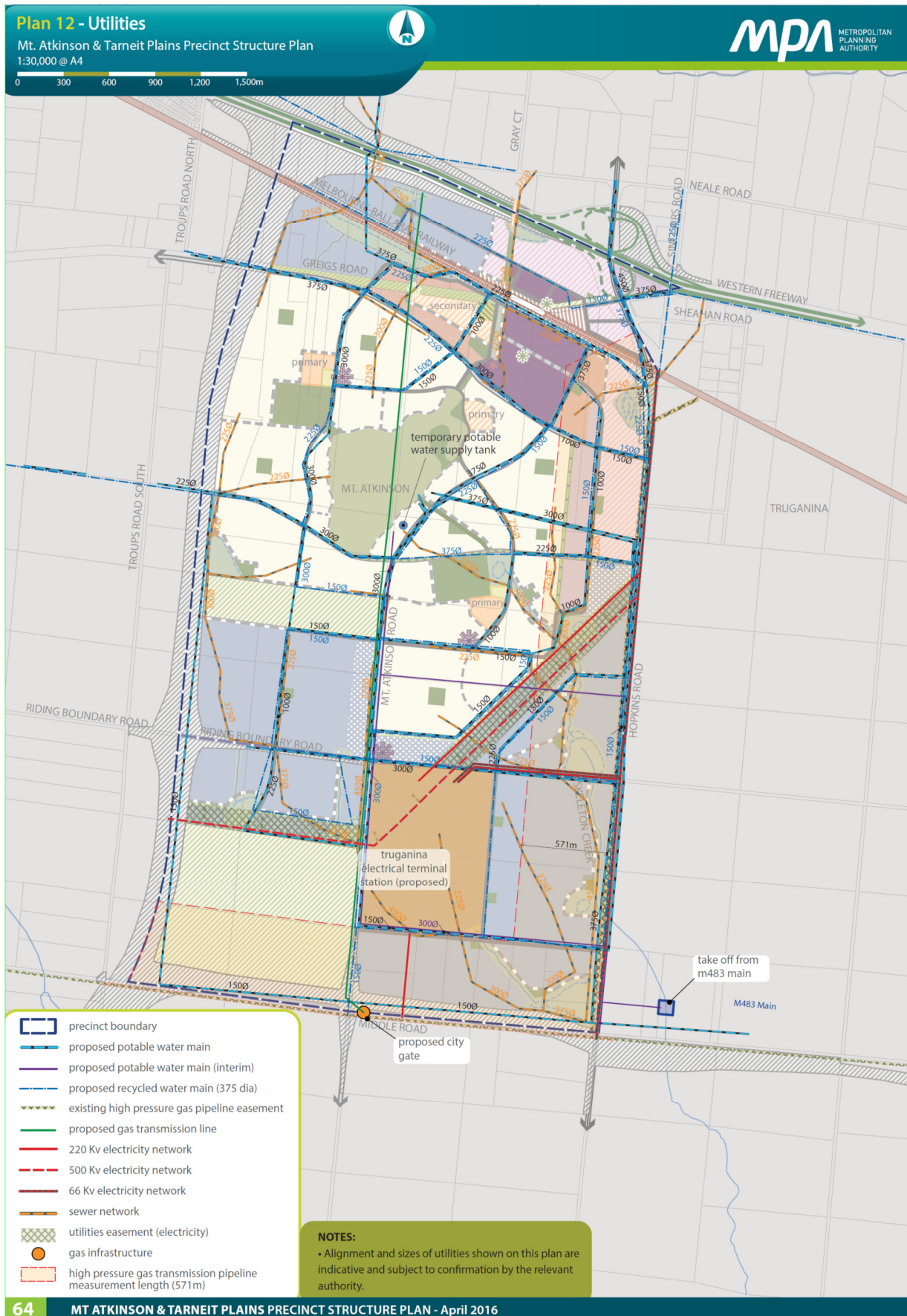


Figure 8 Plan 12 (Utilities) from the PSP

APA submitted that retail premises are commonly identified as a sensitive use, as they include a wide range of uses involving persons who have different ability to manage and respond to risk events. APA indicated that including retail as a sensitive use was 'standard' within the planning system, and submitted that the Panel for the Donnybrook/Woodstock PSP had included retail as a sensitive use. The VPA did not agree. It submitted that retail, particularly large format retail, does not generally involve large congregations of people, and restricting otherwise as of right uses in a business/large format retail area would be counterproductive to facilitating development. Mt Atkinson Holdings (Submission 22) supported the VPA's position.

APA submitted that a permit trigger should be introduced for accommodation in the measurement length. The VPA considered that this was "*overly onerous*", and that the requirement to notify APA of applications for residential development of four or more storeys was adequate.

Council (Submission 33) submitted that sensitive uses (as defined in AS2885) should be prohibited in the measurement length, unless APA is made a determining referral authority for such applications. It submitted that Council does not have the requisite technical expertise to determine whether a particular sensitive use might be appropriate within the measurement length. Council also supported a permit trigger for retail within the measurement length.

Council submitted that aged care facilities and the like should not be located within the measurement length, and that Guideline 22 in the PSP should be amended accordingly, and made into a Requirement. Council also expressed concerns about higher density housing being located in the measurement length, noting that the purposes of the MUZ encourage higher density housing.

(ii) Discussion

The Panel considers that the preferable way to manage sensitive uses within the measurement lengths is to introduce permit triggers for appropriate sensitive uses, rather than prohibiting sensitive uses. This approach is consistent with recent PSP panels, including Wollert and Donnybrook/Woodstock.

The Panel agrees with APA that a permit should be required for retail premises within the measurement length. Retail, including large format retail such as an Ikea or a Bunnings, can attract significant numbers of people. In the Panel's view, it is appropriate to exercise a degree of caution before allowing such uses within the measurement length of the pipelines.

The Panel does not agree that a permit should be required for accommodation. The only applied zone within the measurement length in which accommodation would be permissible is the MUZ. This is confined to a relatively small area, located at the outer edge of the measurement length at some distance from the pipelines. The Panel supports the proposed permit triggers for some of the uses nested within accommodation (namely corrective institution, dependent person's unit and residential aged care facility), although the Panel considers that retirement village should also require a permit (on the basis that retirement villages will accommodate potentially significant numbers of vulnerable people).

The Panel does not consider that any additional restrictions are required in respect of higher density housing. A permit is required in the MUZ for more than one dwelling on a lot, so

applications for higher density housing can be considered through the permit application process. APA did not express any in principle concerns over higher density residential development within the measurement length, provided it was a permit required use and referral requirements applied.

The Panel's findings in relation to permit triggers for retail premises and accommodation are consistent with recent PSP panels, including Wollert and Donnybrook/Woodstock, and the Panel sees no compelling reason to depart from that position.

The Panel considers that the PSP should be consistent with the UGZ9 controls, and that Guideline G22 should be amended to make it clear that lifestyle communities, retirement living and aged care facilities should not be located in the measurement length.

(iii) Conclusions

The Panel concludes:

- Retail premises should require a permit within the measurement length.
- Accommodation should not require a permit within the measurement length, although certain land uses nested within accommodation (namely corrective institution, dependent person's unit, residential aged care facility and retirement village) should require a permit.
- No additional restrictions are required in relation to higher density housing in the measurement length, beyond those already provided.

6.1.4 The appropriateness of the Mixed Use Zone

(i) Submissions

Council submitted that the MUZ is inappropriate in the measurement length, as it allows certain sensitive uses as of right, and encourages higher density residential development. Council also queried whether the conclusion of the SMS that risks are 'low' would have been reached if the SMS had been prepared on the basis that the MUZ would be applied (the MUZ was introduced into the PSP after the SMS was completed).

APA submitted that it was comfortable with the MUZ applying within the measurement length. It submitted that the larger of the pipelines along Hopkins Rd was built recently (in 2012), to a higher standard, and is therefore considered a lower risk profile. APA also considered other changes to the PSP since the SMS, including that sections of the pipeline are now proposed to be covered by concrete structures such as shared paths that will provide an additional level of protection. APA's position was subject to the proviso that the changes requested in its original submission will be made.

APA did not consider that the SMS needed updating to reflect the MUZ prior to gazettal of the Amendment, but noted that the SMS would be reviewed in light of the land use or development that may occur in future, in accordance with AS2885. The VPA supported this position.

The VPA submitted that the issue is the uses, not the applied zone, and that Council's concerns should be addressed by requiring a permit for the potentially sensitive uses that would otherwise be as of right under the MUZ. It submitted that Council's concerns about the MUZ encouraging higher density residential development should be addressed by the

requirement to notify APA of permit applications for residential development of four or more storeys.

(ii) Discussion

The Panel considers that the position adopted by APA and the VPA in relation to the MUZ is reasonable. APA has specifically considered the application of the MUZ in light of the risk posed by the pipeline along Hopkins Rd, and has indicated it is comfortable due to (among other things) the higher construction standards of that pipeline. The Panel agrees that there is no need to update the SMS at this stage. Specific concerns about sensitive uses and higher density residential development allowed or encouraged under the MUZ can be appropriately addressed by specific controls in the UGZ9.

(iii) Conclusion

The Panel concludes:

- It is appropriate for the MUZ to apply within the measurement length, as shown in the PSP.
- There is no need to update the SMS at this stage to reflect the application of the MUZ.

6.1.5 Referral and notice requirements

(i) Submissions

APA's original submission (Submission 10) argued that either Energy Safe Victoria or the Secretary or Minister to the Department administering the *Pipelines Act 2005* should be a determining referral authority for permit applications for subdivision and construction of a building to be used for sensitive purposes within the measurement length of the pipelines. APA clarified at the Hearing that its preference is for APA to be a referral authority, as it has the most detailed knowledge and understanding of the pipelines.

APA also submitted that referral was preferable to notification. While notification was useful, and would give APA an understanding of land use and development patterns around its pipelines, APA submitted that it has industry knowledge that could be useful to feed into the planning process more formally. It submitted that best practice involves decision makers taking into account the comments of the regulators or industry participants about these matters. Council supported APA's position.

The VPA submitted that notice to APA was more appropriate than referral. It submitted that notice provides APA with the ability to comment on the proposal if there are concerns regarding the proposed use. It submitted that notice reduces the administrative burden that referral would otherwise impose on all parties, without reducing the degree to which Council takes APA's comments into account.

(ii) Discussion

The Panel agrees with the VPA that notice is preferable to referral. The rationale for submissions in support of referral was that APA has the technical expertise and industry knowledge necessary to properly inform a decision on a permit application. The Panel considers that notice provides APA with the opportunity to input its technical expertise into permit decisions (without determining their outcome), and that APA would have appeal

rights at VCAT if it was not satisfied with a particular permit decision. This approach is consistent with recent PSP panels, including Wollert and Donnybrook/Woodstock.

(iii) Conclusion

The Panel concludes:

- Permit applications for the listed sensitive uses (and applications for subdivision or the construction of a building for a listed sensitive use) within the measurement length should be notified to the pipeline owner/operator.
- No additional referral requirements are required in respect of applications within the measurement length.

6.1.6 Construction management plans

(i) Submissions

Council expressed concerns in relation to the proposed requirements in Clause 2.7 of the exhibited UGZ9 for a construction management plan for works within the measurement length. Council submitted that it was not the right body to assess such a plan. Council's preferred approach was for APA to craft a model construction management plan which could be included in the PSP, along with a requirement that all works comply with the model plan unless APA consented otherwise.

APA submitted that construction management plans should be required for all works within the measurement length, but it only needs to approve plans for works that are 'within, crossing or in close proximity to' the gas transmission easements. It submitted that although a standard form construction management plan could potentially be developed as a base requirement, plans need to be tailored to a particular site and a particular type of works.

In its closing submission (Document 64), Council confirmed that it was satisfied with APA pre-approving construction management plans, and acknowledged APA's advice that plans need to be tailored to specific circumstances.

Council submitted that the reference to 'close proximity' was unhelpful, and more specificity was required. The VPA agreed. APA responded that it is not practical to specify a precise distance, as it depends on a number of variables including easement area, pipeline pressure, diameter and wall thickness, and soil types. Having said that, it submitted that *"For the purposes of this exercise we consider that the following values for 'close proximity' should be adopted:*

- *Derrimut to Sunbury Pipeline PL 122 (T62): 40m*
- *Truganina to Plumpton Pipeline PL 122 (T118): 50m*
- *Brooklyn to Ballan Pipeline PL78 (T56): 40m*
- *Brooklyn to Lara Pipeline PL226 (T112): 50m*

(ii) Discussion

The Panel agrees that construction management plans should be endorsed by the pipeline owner/operator. The pipeline owner/operator has the relevant technical expertise to best assess the potential risks. The Panel also accepts APA's advice that a standard form construction management plan is not viable, and that tailored plans are required to address the specific circumstances.

The Panel agrees that it is preferable to specify the precise distance at which APA's approval is required for a construction management plan. No consensus was reached at the Hearing on what that distance should be. The SMS recommends that APA approve construction methodology "*in areas of the easement and over the pipeline*"¹³, which are 20 metres wide. Both Council and the VPA suggested a distance of 50 metres from the easements in their preferred versions of the UGZ9. In light of APA's submissions, the Panel considers that it is appropriate to take a conservative approach, and adopt the greatest distance suggested in submissions – namely within 50 metres from the boundary of the pipeline easements.

APA submitted that a construction management plan should be required outside this distance but within the measurement length, but that APA would not need to approve or endorse any such plan. The measurement length is 571 metres from the pipelines, and covers a substantial portion of the PSP area. The Panel considers that this requirement is potentially onerous, and could place a significant administrative burden on Council. The Panel does not see any utility in requiring a plan if APA does not consider it needs to endorse the plan. The Panel therefore considers that the requirement for a construction management plan should be limited to the area within which APA endorsement of plans is required.

As exhibited, the requirement for a construction management plan in Clause 2.7 of the UGZ9 applies whether or not a permit is required. Council raised concerns that the requirement could be difficult to enforce when it does not attach to a permit application, as there is no statutory process to support the requirement. Council submitted that Clause 2.7 should be amended so that it only applies where a permit is required.

The Panel does not agree with this approach. There may be circumstances where works are undertaken within 50 metres of the pipeline easements that do not require a permit. These works have the potential to affect the pipelines, and should be subject to a construction management plan. The Panel acknowledges that enforcing the requirement may be more difficult in situations where there is no permit application, but restricting the requirement to situations where a permit is required is not, in the Panel's view, an appropriate response.

The Panel notes that it will be important to ensure that the requirement in Clause 2.7 is translated into an appropriate planning control (such as a design and development overlay) when the land in the PSP is eventually translated from the UGZ into the relevant applied zones.

(iii) Conclusions

The Panel concludes:

- Construction management plans should be pre-endorsed by the pipeline owner/operator, and approved by the responsible authority.
- Construction management plans should be required for works undertaken within 50 metres of the boundary of the pipeline easements. They should not be required beyond that distance, even if they are undertaken within the measurement length.
- The requirement for a construction management plan should apply for all works within the 50 metre distance, whether or not those works require a permit.

¹³ Refer to pages 26 and 27 of the SMS - Document 17 Tab 1.

6.1.7 Minor drafting matters

Council submitted that:

- the gas pipelines and their measurement length constitute a *“barrier to development”*, and as such should be shown on Map 1 in the UGZ9
- the measurement length should be shown on Plan 2 (Precinct Features) in the PSP, as well as Plan 12 (Utilities).

The Panel agrees that it will improve the transparency of the controls to include the measurement length on Map 1 in the UGZ9, as the UGZ9 controls directly reference the measurement length. The Panel also considers that the measurement length, like the quarry buffers, responds to an existing feature of the precinct, and should be identified on Plan 2 in the PSP.

APA requested that additional objectives and requirements be included in the PSP to ensure that infrastructure adjacent to or crossing the pipelines was appropriately sited, designed and constructed. It also requested that the shared path along Hopkins Road be relocated over the pipeline, to provide additional protection. The VPA agreed to these requests, which the Panel considers appropriate. They are included in the Panel’s recommendations set out below.

6.1.8 Recommendations

The Panel makes the following recommendations in relation to the high pressure gas pipelines:

- 13. Amend Clause 2.4 of the Urban Growth Zone Schedule 9, to include the following as uses which require a permit in the high pressure gas pipeline measurement length:**
 - Child care centre
 - Cinema based entertainment facility
 - Corrective institution
 - Dependent persons unit
 - Education Centre
 - Hospital
 - Place of assembly
 - Residential aged care facility
 - Retail premises
 - Retirement village
 - Service Station.
- 14. Amend Guideline G22 in the Precinct Structure Plan to add the following dot point:**
 - *Not be located in the high pressure gas transmission pipeline measurement length identified on Plan 12 (Utilities).*
- 15. Amend Clause 6.0 of the Urban Growth Zone Schedule 9 to require applications for use, subdivision or construction of a building for the following uses to be notified to APA VTS Australia (Operations) Pty Ltd:**
 - Child care centre
 - Cinema based entertainment facility

- Corrective institution
- Dependent persons unit
- Education Centre
- Hospital
- Place of assembly
- Residential aged care facility
- Retail premises
- Retirement village
- Service Station.

16. Amend Clause 2.7 of the Urban Growth Zone Schedule 9 to read as follows:

2.7 Specific provision – gas pipeline construction management plan required whether or not a permit is required

Prior to the commencement of any works, including demolition, on land within, or within 50 metres of the boundary of, the high pressure gas pipeline easements shown on Plan 2 (Precinct Features) and Plan 12 (Utilities) in the Incorporated Mt Atkinson and Tarneit Plains Precinct Structure Plan, a construction management plan must be submitted to and approved by the responsible authority. The plan must:

- *be endorsed by the pipeline owner and operator prior to being submitted to the responsible authority*
- *prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the pipeline owner and operator.*

The gas pipeline construction management plan must be implemented to the satisfaction of the responsible authority.

The gas pipeline construction management plan may, with the prior approval of the pipeline owner and operator, be amended to the satisfaction of the responsible authority.

17. Include the following additional guidelines in section 3.7.2 (Utilities) of the Precinct Structure Plan (and renumber the remaining guidelines accordingly):

G79: Any road networks running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.

G80: Any drainage infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.

G81: Any utility infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.'

18. **Amend Appendix G of the Precinct Structure Plan to relocate the shared path within the high pressure gas transmission pipeline easement over the Deer Park to Sunbury 150 millimetre pipeline.**
19. **Show the high pressure gas pipelines and their measurement length on:**
 - a) **Map 1 in the Urban Growth Zone Schedule 9**
 - b) **Plan 2 (Precinct Features) in the Precinct Structure Plan.**

6.2 High voltage transmission line easement

(i) The issue

The issue is whether the proposed Special Use Zone Schedule 11 (SUZ11) is appropriate.

(ii) Background

A high voltage transmission easement crosses the PSP area, extending diagonally from Hopkins Road down to the north-east corner of Conservation Area 8, and then along its northern boundary. The Amendment inserts the SUZ11 into the Melton Planning Scheme and rezones the high voltage transmission easement to this zone to encourage a greater range of industrial uses and the development of land in the easement generally in accordance with the PSP.

The Truganina Electrical Terminal Station is proposed to be located on the corner of Riding Boundary Road and Mt Atkinson Road. It will provide both 500kV to 220kV and 220kV to 66kV. Easements and indicative circuits are shown in Plan 12 in the PSP. The land required for this terminal station is currently zoned SUZ3 and this zoning will be retained.

(iii) Submissions

Council submitted that it does not support the introduction and application of the SUZ11 on the basis that it does not reflect the possible uses identified in the exhibited PSP at pages 44 and 45, and would result in a number of uses, subdivision, buildings and works being exempt from permit requirements.

Council further submitted in post-hearing correspondence (Document 89) that, in the event that the SUZ11 is adopted, the referral provisions should be extended to include use. It submitted that *“absent the referral of applications for use, the scope of the referral authority would be substantially limited.”*

The VPA responded that it prefers the exhibited version of the SUZ11 for the following reasons¹⁴:

- *The MPA (VPA) considers that the land is most suited to accommodate industrial uses compatible with the adjoining applied IN1Z land*
- *High voltage electricity transmission easements across Melbourne are located within zones that allow a broad range of uses that don't reflect the restrictions of the easement (see attached example of zone map with high voltage easement in IN1Z)*
- *The aim of the zoning is not to reproduce the effect of the easement, but to allow scope for use and development considered appropriate to the area*

¹⁴ Email from VPA to Council dated 2 September 2016 provided to the Panel post-hearing.

- *The purpose of the zone includes providing for the development of land generally in accordance with the PSP, the PSP in turn includes guidelines, concept plans and a table listing possible uses within the easement – all giving direction on the outcomes sought*
- *A permit is required for all subdivision and buildings and works under the zone*
- *The electricity easement within the PSP contains powerlines of 220kv upwards*
- *Clause 66 requires a referral (determining) to the ‘relevant electricity transmission authority’ for any application:*
 - *To subdivide land within 60 metres of a major electricity transmission line (220 Kilovolts or more) or an electricity transmission easement.*
 - *To construct a building or construct or carry out works on land within 60 metres of a major electricity transmission line (220 Kilovolts or more) or an electricity transmission easement.*
- *Regardless of the planning scheme, approval from SP Ausnet is required for any use or development within the transmission easement.*

In response to the issue of referral provisions for use, the VPA submitted that the Victoria Planning Provisions (VPPs) set out appropriate referrals for subdivision and buildings and works. It submitted that to include a referral for use is not only unnecessary (as the PSP adequately provides direction on appropriate uses), but would also be inconsistent with the approach taken in other growth area municipalities.

(iv) Discussion

The Panel agrees with the VPA that the proposed SUZ11 together with the PSP provide for appropriate land uses in the electricity easement and sufficient guidance for use, subdivision, buildings and works and the interface with surrounding land uses. The Panel was not convinced of the need for a referral provision for use.

(v) Conclusion

The Panel accepts the SUZ11 and references to the powerline easement in the PSP as exhibited.

6.3 Rail noise

(i) The issue

The issue is whether the proposed railway noise amenity controls are appropriate.

(ii) Background

The northern area of the PSP includes the Melbourne-Ballarat rail line. The PSP identifies a ‘railway noise amenity area’ in Plan 10 and requirement R72 states:

Any application for development within the railway noise amenity area illustrated on Plan 10 – Public Transport and Path Network must carry out an acoustic assessment in accordance with the requirements of Schedule 9 to the UGZ.

Clause 3.4 of the VPA'S final UGZ9 reads as follows:

An application for use or development within the 'railway noise amenity area' on Plan 10 of the Mt Atkinson & Tarneit Plains Precinct Structure Plan must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- *The acoustic assessment report must demonstrate compliance with 'Section 14 – Connector Street – Railway Interface' cross-section in the PSP.*
- *The acoustic assessment report must also include (as appropriate to the particular use or development):*
 - *An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line.*
 - *Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LAeq,8h for the night period from 10pm to 6am.*
 - *Recommendations for limiting the impact of railway noise on future buildings within the proposed subdivision.*
 - *A design response that addresses the recommendations of the acoustic assessment including all necessary architectural noise attenuation treatments.*

All to the satisfaction of the responsible authority and Public Transport Victoria.

(iii) Evidence and submissions

Any application for development within the railway noise amenity area must be accompanied by an acoustic assessment in accordance with the requirements of the UGZ9.

The VPA referred to the *Potential Acoustic Impact Assessment* background report prepared by Arup, which:

- assessed potential acoustic impacts of the Melton Line Upgrade Project on future residential development
- determined the land area expected to exceed the investigation thresholds, so that a planning control could be created for the area.

The Arup background report identified investigation thresholds in relation to internal bedroom noise (future acoustic assessment reports must include recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed these thresholds) as well as recommendations to limit the impact of railway noise and a design response.

The VPA submitted that noise attenuation measures are designed to ensure internal bedroom noise levels will not exceed 65dBLAmax and 40dBLAeq, for the 8 hour period from 10pm to 6am. This is consistent with the levels required for Section 2 of the Regional Rail Link project.

The VPA noted that a Design and Development Overlay (DDO) approach was adopted for Section 2 of the Regional Rail Link project to ensure noise attenuation measures were

implemented. The Amendment does not adopt this approach. Instead, it uses the same approach supported by the Panel in the Rockbank PSP¹⁵. The VPA submitted that it is clearer to have the amenity area shown in the PSP document than located in a separate overlay.

VicTrack (Submission 32) submitted that it prefers the DDO approach applied to the Regional Rail Link in earlier PSPs in Wyndham and Melton. VicTrack also noted that the Arup background report drew attention to the requirements of recent VCAT decisions and the adoption of lower noise limits than the earlier Regional Rail Link DDOs. VicTrack supported lower noise limits being applied.

Mr Antonopoulos, on behalf of Mt Atkinson Holdings, gave the following evidence:

Clause 3.5 of Schedule 9 to the UGZ includes prescriptive rail noise assessment requirements. The Clause requires assessment of both existing and future noise levels associated with the operation of the railway line and calls up the following numerical criteria:

- Bedroom noise levels not to exceed 65 dBA, L_{max} and 40 dBA L_{Aeq,8h} for the night period from 10 pm to 6 am.*

The Clause provides a high level consideration of the rail noise impacts, and provision of minimum amenity design targets. The nominated targets are based on the previously adopted Regional Rail Link targets and would be readily achievable with basic building constructions and acoustic upgrades. I would normally recommend more stringent targets than the above, and would also address non-bedroom areas. The targets recommended in the Arup Melton Rail Corridor Report 2016 are more in agreement with my own opinion being:

- Bedroom noise levels not to exceed 55 dBA, L_{max}.*
- Living Rooms not to exceed 60 dBA, L_{max}.*

The response from VicTrack dated 14 June 2016 also requests consideration of lower (i.e. more stringent) noise criteria in preference to those adopted in the Regional Rail Link project.

In summary, my opinion is that the PSP responds to the potential for rail noise impact on the site and provides a rail amenity zone that triggers a rail noise assessment. The prescribed noise criteria are considered absolute minimum amenity targets, which may be acceptable for a high level assessment. Better amenity targets are recommended.

In its closing submission, the VPA acknowledged Mr Antonopoulos' evidence that there have been numerous VCAT decisions, for example *Richmond Icon Pty Ltd v Yarra CC & Ors* [2013] VCAT 493, and *Lazzcorp Brunswick Pty Ltd v Stonnington CC & Ors* [2002] VCAT 889, that have resulted in the lower noise levels being implemented.

The VPA submitted, however, that the Minister for Planning's directions to local councils (in relation to the Regional Rail Link project) to use specified internal noise limits of 65dBL_{Amax} for bedrooms and 40dBL_{Amax} ought to be adopted. The VPA submitted that "these levels have translated through to the Melton Planning Scheme in Schedule 3 to the Design and

¹⁵ Amendment C145 to the Melton Planning Scheme.

Development Overlay, Schedule 8 to the UGZ (Paynes Road PSP) and should be implemented in this case”.

(iv) Discussion

The Panel accepts that either the application of a DDO or inclusion of noise assessment requirements in the UGZ9 are acceptable means to provide railway noise amenity controls. The Panel believes that either approach is sufficiently transparent to alert potential purchasers to the requirement for noise assessment and potential remedial works.

With regard to the appropriate design noise levels in bedrooms and living areas, the Panel notes the Minister’s previous direction in relation to the Regional Rail Link, and agrees that there would be some value in consistency between the requirements of different PSPs. The Panel, however, finds it hard to ignore the weight of:

- the findings of the ARUP Potential Acoustic Impact Assessment
- the expert evidence of Mr Antonopoulos
- the submission of VicTrack
- the findings of at least two relevant VCAT cases.

All of these authorities concluded that lower internal noise levels are more appropriate and the Panel agrees with this general proposition. However, the Panel has not been provided with sufficiently detailed analysis or evidence to recommend specific lower targets.

For this reason, the Panel believes that the VPA should more closely examine the findings of ARUP, Mr Antonopoulos and the VCAT reports, and if necessary, seek further expert opinion, to review the appropriate (lower) noise level standards to be required in the UGZ9.

The Panel notes that a DDO may be required in the future when the UGZ is translated to the underlying applied zones

(v) Conclusions

The Panel concludes:

- The inclusion of noise assessment controls in the UGZ9 is appropriate
- A separate DDO is not required
- The VPA should review the proposed internal noise standards to apply in Clause 3.4 of UGZ9.

(vi) Recommendation

The Panel makes the following recommendation:

- 20. The Victorian Planning Authority should review the internal noise standards to apply in Clause 3.4 of the Urban Growth Zone Schedule 9, with a view to including lower (more stringent) limits.**

6.4 Broiler farm and concrete batching plant

(i) Background

The PSP area contains an existing rock crushing and concrete batching plant at 2-50 Meskos Road (at the northern end of the PSP) and a chicken farm at 671-737 Troups Road (in the south western corner of the PSP).

For these sites, the UGZ9 requires an environmental site assessment for any application to subdivide, use or develop land for a sensitive use.

(ii) Discussion

This requirement was not contested. The VPA proposed a number of minor changes to the wording of the UGZ9 'Application requirements and Conditions and requirements for permits'. These were also not contested and the Panel supports the changes in the VPA's final UGZ9.

7 Infrastructure issues

7.1 The issues

The substantive unresolved infrastructure issues include:

- The appropriateness of the proposed interim arrangements for collecting development/infrastructure contributions
- Whether indicative costings for infrastructure items should be included in the PSP
- Lack of available traffic modelling for interim (2026) intersection layouts
- Design of the future interchange with the Western Freeway, particularly intersections IT-01 and IT-02
- Design of road cross sections, particularly whether bike lanes should be on-road on secondary arterial roads.

The Panel has also commented on how the PSP and ICP may be affected by the recent release of the ICP guidelines.

7.2 Timing of the Infrastructure Contributions Plan

(i) Background

The PSP was exhibited with a Development Contributions Plan Overlay Schedule 9 (DCPO9) to apply to the entire PSP area. The PSP identifies, at Table 9, a list of infrastructure projects proposed to be included in an Infrastructure Contributions Plan (ICP) (formerly called a Development Contributions Plan (DCP)). The items were not costed at the time of the Panel Hearing.

DCPO9 notes that no 'Summary of costs' nor 'Summary of contributions' are specified and that the preparation and incorporation of a plan is required.

The DCPO9 provides for a permit to be granted to subdivide land, construct a building or construct or carry out works before a precinct wide contributions plan has been prepared under certain circumstances, including if an agreement is entered into under section 173 of the *Planning and Environment Act 1987*.

The ICP (and DCP) have not yet been prepared and were not exhibited as part of this Amendment.

(ii) The issue

Should the PSP be delayed until the new ICP system is implemented?

(iii) Submissions

Council submitted that there is considerable uncertainty in relation to the cost of infrastructure items in the absence of a costed DCP. Mr Tobin submitted that this exposes Council to the risk of underfunded infrastructure. Council's position is that the ICP framework should be finalised before the gazettal of this PSP. Council noted that, while the *Planning and Environment Amendment (Infrastructure Contributions) Act 2015* (ICP Act) came into operation on 1 June 2016, much of the detail for the new ICP system has been left to a Ministerial Direction which had (at the time of the Hearing) not yet been finalised.

Council submitted¹⁶:

At present, before any Ministerial direction has been issued, there is no certainty in the public domain as to:

- what the 'allowable items' will include;*
- the rate at which standard levies will be set;*
- when supplementary levies may be used and the rate at which they will be set; or*
- when this information and other important details will be made available.*

This may have an impact on Council's service delivery and spending in the future. It casts uncertainty over the implementation of the PSP and may affect the appropriateness of the future urban structure.

The failure to identify project costs and contribution amounts raises issues for Council when implementing PSPs at the planning permit stage.

It is Council's preference for an ICP (or DCP) to be prepared and exhibited as part of a planning scheme amendment process before this Amendment is finalised. Council submitted that it should be involved in the preparation of any ICP or DCP.

Council submitted that if the Panel agreed that the VPA's interim approach is appropriate, the DCPO9 should be reworded to delete the first dot point under Clause 4.0 (on the basis that it is unnecessary) and make provision for works in kind in the second dot point. The proposed changes were tabled as Document 18.

Council referred the Panel to the Donnybrook/Woodstock PSP panel report (that recommended deferring the finalisation of the PSP until the ICP was finalised), arguing that the VPA has not demonstrated why this Amendment is any different.

In closing submissions, Mr Tobin submitted:

This PSP confirms the infrastructure that will be funded and the methodology for funding that infrastructure. Reaching a conclusion on the funding mechanism with no costings (and various difficulties associated with the intersections as outlined above) is fiscally irresponsible.

In response, the VPA did not consider it necessary to delay the gazettal of the PSP. The VPA submitted that the DCPO9 provided for an interim arrangement to allow an agreement with the responsible authority to be entered into prior to establishment of a precinct wide contributions plan. The VPA submitted that this is appropriate as the PSP establishes the strategic justification for the infrastructure items and the ICP is the mechanism for delivering the infrastructure. The VPA submitted that the fact that the majority of the precinct is in the control of one landholder will also minimise the risk of the responsible authority having to enter into agreements with multiple parties.

The VPA accepted the proposed drafting changes to the second dot point in Clause 4.0 of the DCPO9, but did not agree with the deletion of the first dot point. The proposed VPA preferred revised DCPO9 is attached as Appendix E to this report.

¹⁶ Council submission to the Hearing – Document 16.

The VPA submitted that the funding of infrastructure in this instance is distinct from the situation at the Donnybrook/Woodstock PSP, where it was more difficult to administer section 173 agreements for land development as the land was included in two municipalities.

The submission from Beacon Town Planning (submission 13) on behalf of the owners of 248 to 316 Troups Road raised concerns about the lack of certainty for developers resulting from an un-costed ICP. The submission noted:

The lack of certainty and costing around the ICP items is unacceptable. The inability to scrutinise and cost the apportionment of standard and supplementary levy items is unacceptable from a position of equity and the principles of natural justice.

At the Hearing Mr Hodge, appearing on behalf of Beacon Town Planning, clarified that his client wanted to see the PSP concluded but that the DCP/ICP should be transparent. He submitted that the ability to have a section 173 agreement should be retained and landowners ought to have the ability to input into the ICP quantum.

Mt Atkinson Holdings, the landowner with the biggest interest in the PSP, raised no concerns about the proposed VPA approach.

(iv) Discussion

The Panel agrees that it is appropriate to apply an ICPO over the whole area of the PSP. Note that the Panel recommends the substitution of the DCPO with the new ICPO as discussed in Section 7.3 below. The PSP itself provides the strategic justification for the application of an ICP. The PSP also defines the infrastructure proposed to be included in any ICP. This is largely uncontested, with the exception of a few infrastructure items discussed in the next section.

This PSP will apply a standard rate contribution under the new ICP system. The Panel expects that the PSP process will continue to be the mechanism for identifying the main infrastructure items in the PSP to be funded by the ICP, and it is also likely to be the mechanism for identifying potential supplementary ICP items.

The Panel agrees with Council that the Amendment should not be approved and the PSP should not be finalised before the ICP is prepared. The Panel agrees with Council that there is uncertainty with the approach proposed by the VPA. The Panel believes that it would be difficult to reach agreement on section 173 agreements in the context of the uncertainty about what would be in or out of the ICP, and this may well lead to delays in planning approvals sought through the Council. The Panel agrees with the submission of Beacon Town Planning that to approve the PSP in the absence of the ICP would be to deny the opportunity for scrutiny of the cost and apportionment of standard and supplementary levy items.

The Eddie Barron decision by VCAT in 1990¹⁷ identified four criteria that must be met before a DCP levy could be validly imposed: Need, Equity, Accountability and Nexus. The Panel is comfortable that the PSP, in particular the Precinct Infrastructure list at Table 9, satisfies the

¹⁷ Eddie Barron Constructions Pty Ltd v Shire of Pakenham & Anor [1990] 6 AATR 10.

nexus and probably the need criteria, but it is not possible to assess whether the equity criteria is satisfied in the absence of any costings or apportionment. The Panel considers it prudent to await the preparation of an ICP under the new system, including costing of all items and the identification of any supplementary items, before finalising the PSP. This will provide the opportunity to match any changes to the Precinct Infrastructure list in the PSP to the final form of the ICP and better enable Council to properly plan how they will implement infrastructure projects and fund any shortfall.

The Panel does not accept the VPA argument that this PSP is different to Donnybrook/Woodstock. From the Panel's reading of the panel report for the Donnybrook/Woodstock PSP, the difficulty of entering into a section 173 agreement over two municipalities did not figure in the Donnybrook/Woodstock Panel's reasons for recommending the PSP not be finalised. That Panel concluded "*in the absence of details of the legislation that will determine the contributions required for the stated infrastructure, it would be prudent to delay approval of the DWPSP*". The Panel believes that the same circumstances apply in the Mount Atkinson and Tarneit Plains PSP and that the same conclusion applies.

Deferral of the PSP until an ICP is in place will likely have implications for the wording of the Schedule to the ICPO. The Panel agrees that the first dot point in Clause 4.0 is likely to be redundant if the ICP is in place when the Amendment is finalised.

The Panel expects that, now that the new ICP guidelines have been released, deferring the approval of the PSP until the ICP is in place is unlikely to substantially delay the development of land in the PSP (depending on whether a supplementary levy is imposed as discussed below).

(v) Conclusions

The Panel concludes:

- It is appropriate to apply an ICPO over the whole area of the PSP.
- The Amendment should not be approved and the PSP should not be finalised before an ICP is prepared.
- The proposed Schedule to the ICPO should be reviewed and updated once the ICP is finalised, including considering the deletion of the first dot point of Clause 4.0 as proposed by Council.

7.3 New ICP Guidelines

On 27 October 2016 (post-hearing) the Minister for Planning released the new ICP Guidelines, along with a Ministerial Direction on the preparation and content of infrastructure contribution plans and Planning Advisory Note 64 'Transitional arrangements for metropolitan growth area infrastructure contributions'.

Planning Advisory Note 64 sets out circumstances that must be met for a DCP to be used instead of an ICP. Those circumstances do not apply to Amendment C162, so in the Panel's understanding, an ICP will be required for this precinct.

The Ministerial Direction sets out the requirements for imposing a supplementary levy, including allowable items, criteria for applying and requirements for estimating costs. Importantly, the ICP Guidelines, at page 34, state that "*a normal amendment process will*

apply for an ICP where a supplementary levy is proposed". This could potentially affect the time that may be needed to finalise the ICP in the event that a supplementary levy is required. Clearly if the ICP goes through a separate amendment process, it will take longer.

The Panel understands that, as part of the process to determine whether a supplementary levy is required, it must first be determined whether the cost of the supplementary item/s could be accommodated within the money collected from the standard levy. All items in the ICP (and any proposed supplementary items) will, therefore, need to be costed before a decision can be made about whether a supplementary levy is required.

The Amendment proposes the application of a DCPO over the entire area of the PSP. Given that the ISP Guidelines are now in place, this should be substituted with an ICPO. Planning Practice Note 64 (the transitional arrangements for metropolitan growth area infrastructure contributions) make it clear that a DCP can only be used if it has been placed on exhibition prior to the commencement of the ICP system. No DCP was placed on exhibition in this case, so an ICP and ICPO are the appropriate mechanisms.

7.4 Infrastructure items included in the ICP

(i) The issue

Should the additional items nominated by Council be included in the ICP standard levy, or as part of a supplementary levy in the ICP?

(ii) Submissions

Council has identified a number of additional items for inclusion in the ICP that it submits should be specified in the PSP. These are addressed in turn, with the VPA response and Panel comments.

Hopkins Road

Council submitted that the construction of paths, including off-road bicycle paths, and nature strips for Hopkins Road will be located outside the carriageways, and although Hopkins Road is a declared state arterial road, it is not the responsibility of VicRoads to deliver infrastructure located outside the carriageways. Council sought for the costs of such infrastructure to be funded as an additional item in the ICP.

The VPA responded that *"as Hopkins road is a declared state arterial road and it is the responsibility of the state to fund any upgrades, funding for construction will not be an allowable item."*

The VPA provided the Panel with typical cross sections for Hopkins Road (Documents 80 to 83) which confirm that bicycle paths and footpaths on the west side of the carriageway cannot be accommodated within the 20.5 metre Hopkins Road reserve and would need to be in the gas pipeline easement or to the west of it.

The VPA submitted that the PSP requires developers to provide pedestrian paths, shared paths, landscaping and associated works on the west side of Hopkins Road (Plan 10 of the PSP). It further submitted that, as this land is within one ownership, it is reasonable to expect this to be funded by the developer and the PSP requires this.

The Panel notes the VPA's advice that the paths are developer funded items. This negates the need for them to be included in the ICP.

Road bridge over the Melton rail corridor, north of intersection IT05

Council was concerned that the planned road network will not provide reliable connections to allow north-south movement across the rail corridor. Council submitted that a connector road, including road bridge over the Melton rail corridor, should be provided from intersection IT05 to the north of the rail corridor.

Following the release of the further traffic modelling, Council confirmed its' agreement that there is now no requirement for a western bridge over the railway line. This matter is now resolved.

The Panel agrees that the suggested road bridge is not needed. The revised traffic modelling showed that IT01 and IT02 will function at reasonable operational levels in both the medium and long term, providing access to the north side of the PSP area.

Pedestrian bridge over the freeway

Plan 13 and Table 9 in the PSP show this project (BR01) with Council as the lead agency, and with the purchase of land and 50 percent of the ultimate construction included in the ICP. Council now agrees it can be the lead agency, provided the construction of BR01 is included in the ICP or a supplementary ICP.

Council further submitted:

If construction is not funded by either of those mechanisms, Council considered it would be appropriate for the pedestrian bridge to remain shown on the PSP plans, but be removed from the Precinct Infrastructure Plan.

Council notes that at the Panel hearing in relation to the Rockbank PSP (Amendment C145 to the Melton Planning Scheme), Council argued to include two pedestrian bridges over the Western Freeway. The Panel agreed the pedestrian bridges would be beneficial to connect the communities on either side of the freeway, but considered most of the movement would be from residents to the north, outside of the Rockbank PSP area (page 21)¹⁸. The Panel concluded the two pedestrian bridges 'should remain as potential projects in the PSP but not be included in the DCP' (page 22).

The Panel agrees that the project should be included in the PSP and ICP as proposed. The Panel notes that pedestrian bridges are listed in the Ministerial Direction on the preparation and content of ICPs as an allowable item for a supplementary levy.

The additional cost of constructing road segments and intersections over the gas transmission pipeline

Council submitted that intersections IT03, IT04, IT15 and IT17 include major gas pipelines within their extents. The SMS identifies the 'corrective actions' required to be undertaken for construction works in the vicinity of these pipelines. Council submitted that the corrective actions will increase the costs of construction beyond what would normally be

¹⁸ Panel report dated 27 May 2016.

expected for PSP intersections. Council submitted that the additional costs should be included as supplementary ICP items.

The VPA viewed this as developer works and submitted that the developer should be aware of the encumbrance at time of purchase. The VPA submitted that: *“As all of the roads to be constructed over high pressure gas transmission pipelines are within 1 land ownership, this strengthens the argument for this being developer works.”*

The Panel agrees with the VPA that developer funded works over the gas pipeline should allow for the additional cost of the works. Where the work is within the extent of an ICP funded project, however, responsibility for this additional cost is less clear. Under the old DCP system the full cost of the work would have been included in the intersection costing and funded through the DCP. Under the new system the Panel understands that there is allowance for significant variations to be included in a supplementary item, but that if the variation is small it would be expected to be borne within the standard levy. The Panel agrees that, if the cost differential is significant, a supplementary item could be considered in the ICP. The project would need to be assessed against the new criteria for supplementary levy items.

The upgrade that will be required to the Hopkins Road level crossing

Council submitted that it understands that the VPA has agreed the ‘urbanisation’ of the Hopkins Road level crossing should be included as an additional ICP item.

The VPA confirmed this is correct.

Pedestrian bridge over the rail line

Council submitted that land for and construction of a pedestrian bridge over the railway line should be included in the ICP.

The VPA did not agree to include this as an ICP item. It submitted that *“the primary pedestrian access across the rail corridor in the town centre will be delivered through the construction of the potential future train station. PTV have provided support to the delivery of the station and have funded the required rail upgrades to facilitate the station”*. The VPA submitted that if the station is not delivered, it is questionable if a pedestrian crossing across the rail line will be required. The VPA submitted that it is also difficult to justify the nexus to the rest of the PSP for this infrastructure.

The Panel disagrees that there is not a nexus to the balance of the PSP area. It is likely that car parking will be on both sides of the rail line. Even without the train station it is desirable to link pedestrian and cycling paths from the south to the north and to the proposed pedestrian and cycle bridge across the Western Freeway, which is included in the ICP.

The Panel therefore concludes that the pedestrian bridge (land and construction) should be included in the ICP. The Panel believes that the timing of the need for the bridge is not necessarily dependent on the creation of the railway station, but is more dependent on when the pedestrian bridge over the Western Freeway is built and the need to connect communities as land is developed. The Ministerial Direction on the preparation and content of ICPs lists pedestrian bridges over a railway as an allowable item for a supplementary levy. The Panel concludes that the pedestrian bridge over the rail line should be considered in the ICP as a potential supplementary levy item.

(iii) Summary of conclusions

The Panel draws the following conclusions in relation to the additional ICP items raised by Council:

- The construction of footpaths and off-road bicycle paths for Hopkins Road located outside the carriageways are developer funded items and need not be included in the ICP.
- A road bridge over the Melton rail corridor, north of intersection IT05 is not required.
- The purchase of land and 50 percent of the ultimate construction cost of the pedestrian/cycle bridge over the Western Freeway should be included in the ICP, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.
- A supplementary item for the additional cost of constructing road works over the high pressure gas transmission pipelines should be considered for inclusion in the ICP, but only if the cost differential is significant.
- The urbanisation of the Hopkins Road level crossing should be included as an additional ICP item.
- The pedestrian bridge over the rail line (land and construction) should be included in the ICP, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.

Given that the Panel has recommended that the ICP be prepared before the PSP is finalised, the corresponding changes to the PSP should also be made to match the changes as listed above.

7.5 Traffic and transport issues

7.5.1 Intersections IT12 and IT13

(i) Submissions

Council noted that intersections IT12 and IT13 are located in close proximity to the proposed OMR / Riding Boundary Road interchange. Council submitted that *“it would be appropriate for the VPA to undertake SIDRA analysis of these intersections to demonstrate that sufficient land is provided for the ultimate intersection configuration, considering likely queues and that this area will have significant truck volumes as part of the State significant industrial precinct.”*

The VPA does not believe a SIDRA analysis is required for these intersections. The modelling assessment shows that there is sufficient capacity in the ultimate road network on this part of the network. The VPA submitted that Council’s submission appears to be based on the perception of increased traffic using Riding Boundary Road to access the OMR, but this is not supported by the modelling assessment.

(ii) Discussion

The Panel accepts the VPA’s advice that further analysis is not required and that the standard intersection layouts (and land allocation) will suffice for IT12 and IT13. Refer, however, to the Panel’s comments about the more general issue of reviewing the land budget discussed in Section 7.7 of this report.

7.5.2 Traffic modelling and intersections IT01 and IT02

Council initially raised a number of concerns in relation to the absence of traffic modelling and assessment demonstrating the proposed road network will be able to accommodate the forecast traffic, particularly with regard to intersections IT01 and IT02. It was agreed to undertake further modelling work using the Victorian Integrated Transport Model, including a 2026 model to determine appropriate base case volumes.

This further modelling work was done during the course of the Hearing and all parties now accept that the proposed functional layout plans for IT01 and IT02 are appropriate. The notes of a further meeting of the traffic experts (Document 59) confirm this.

7.5.3 Intersection IT05

(i) Submissions

Intersection IT05 is identified on Plan 13 – Precinct Infrastructure Plan (page 68 of the PSP) at the intersection of Greigs Road and a proposed north-south connector street. Council submitted that intersection IT05 should be moved towards the north-west to maintain the road segment RD01 within the existing 60 metre Greigs Road reserve and minimise land purchase requirements, as shown in Figure 9.

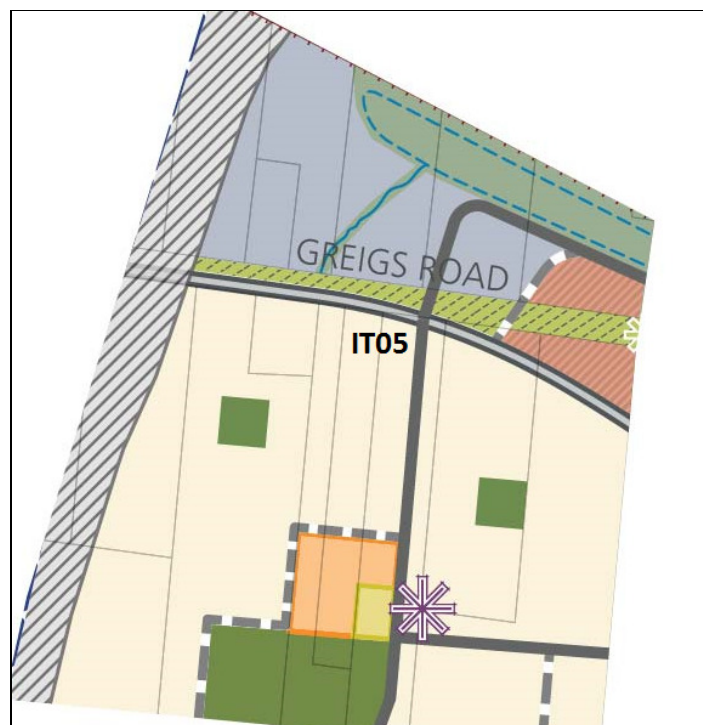


Figure 9 Proposed relocated IT05

Council submitted that moving intersection IT05 to the north-west would avoid creating a small triangle of land between the proposed intersection to the south and the Greigs Road reserve to the north that would prove difficult to develop. It would additionally assist to straighten the proposed north-south connector street and minimise the land purchase requirements for the RD01 road segment.

Council noted that moving intersection IT05 as proposed would result in it being located on land at 289 Greigs Road, owned by Mr and Mrs Keleman (Submitter 8). The Kelemans do not

support the proposed relocation of IT05 on the basis that it further erodes the developable area of their land¹⁹.

Mr Pelosi gave evidence that the location proposed by Council would be *“likely to improve sight distance outcomes by virtue of moving the junction closer to the midpoint of the curve segment”*. The Traffic Conclave Statement records that the experts generally agreed with Mr Pelosi.

The VPA agreed that intersection IT05 should be realigned as proposed by Council.

(ii) Discussion

The Panel agrees that the relocation of IT05 as proposed has a number of advantages in terms of road alignment and development efficiency, and should be adopted. There will inevitably be some landowners who are more affected than others by the location of roads and community facilities. Landowners do get a return on land used for these purposes, although it is acknowledged that returns may be delayed compared to if the land is designated for a higher use.

(iii) Conclusion

The Panel concludes that intersection IT05 should be moved to the location as proposed by Council and shown in Figure 9 of this report.

7.5.4 Carriageway widths in town centre

(i) Submissions

Council submitted that road Section 17 (cross-section for Local Access Level 2) carriageway widths should be widened from 3.0 metres to 3.5 metres.

Council submitted that the additional space would reduce the potential for conflict with on-road bicycles. Council further submitted that the 3.5 metre carriageway widths would not facilitate significantly different speeds within the town centre. Council’s previous experience relating to a 3 metre wide carriageway in Toolern has resulted in advice from PTV seeking a wider carriageway width.

The VPA support the use of narrower carriageways to create a low speed environment in town centres. The VPA submitted that drivers might slow down when they feel the space they are travelling in is narrow or its width changes. The VPA consider that carriageways should be 3.0 metres wide or less to prevent traffic ‘squeezing past’ cyclists. 3.0 metres would allow for cyclists to retain priority on the carriageway, provide enough width for buses to use if required and would contribute towards the creation of a safe, low speed environment.

No expert evidence was presented on this issue.

(ii) Discussion

The proposed road Section 17 seems to assume that cyclists will ‘take the lane’ for the entire length of the main street. A cyclist allowing 1 metre clearance from parked cars to avoid

¹⁹ The Kelemans’ submission in relation to other issues is discussed in section 9.3 of this report.

doorings would be near the middle of the traffic lane. It is the Panel's view that allowing an extra 0.5 metres traffic lane width would not substantially change this situation, but agrees with the VPA that it is more likely to encourage motorists to try to squeeze past a cyclist. It is not clear to the Panel whether this is safer or not. The Council and VPA seem to differ on this and no expert evidence was provided. The Panel is therefore not in a position to make a recommendation based solely on the impact on cyclists.

The Panel is, however, concerned that 3.0 metres is an insufficient traffic lane width to allow sufficient clearance for buses and larger service vehicles to use the road.

The *Public Transport Guidelines for Land Use and Development 2008* do not show this exact scenario, but does seem to imply in a number of the cross sections that are shown in the bus section of the Guidelines that a 3.5 metre lane is more appropriate to allow sufficient clearance for buses. The Guidelines also show a preference for semi mountable kerbs and clear zones on medians for bus routes. The PTV submission (submission 19) stresses that all future bus capable routes should cater for ultra low floor buses.

The Panel notes that similar road cross sections in earlier PSPs (Truganina and Riverdale for example) had a 3.5 metre traffic lane and 2.3 metre parking lane. The reasons for the change in the current PSP have not been explained. The Panel also notes Council's comment that PTV may have had difficulty with narrower lane widths in Toolern. This was not, however, elaborated on by Council.

On balance, the Panel thinks it is prudent to provide a traffic lane of 3.5 metres for Section 17 and encourages the VPA to review Section 17 in conjunction with PTV and in particular address the following points:

- Whether a 3.5 metre traffic lane is preferable
- Whether a semi mountable kerb is preferable, particularly on the median side
- Whether ultra low floor buses are properly catered for
- Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.

Even if the town centre main streets are not regular bus routes, the Panel believes the issues of adequate clearance remain as the roads are likely to be used by trucks servicing businesses in the main street.

The Panel does not have the same concerns about any of the other connector street Sections proposed in the PSP, as either 3.5 metre lanes are provided or two traffic lanes are provided, allowing sufficient manoeuvring space.

(iii) Conclusion

The Panel concludes that:

- A traffic lane of 3.5 metres should be provided for in Road Section 17 (page 109 of the PSP)
- The VPA should review Road Section 17 in conjunction with PTV to address the following points:
 - Whether a 3.5 metre traffic lane is preferable
 - Whether a semi mountable kerb is preferable, particularly on the median side
 - Whether ultra low floor buses are properly catered for
 - Whether the width of kerb outstands should be limited to ensure adequate kerb.

7.5.5 Bicycle paths on primary arterial roads

(i) Submissions

Council proposed a modified cross section for primary arterial roads which separates the two way bicycle path and the pedestrian path. The Council proposal is as shown in Figure 8 of Mr Pelosi's evidence and reproduced as Figure 10 below.

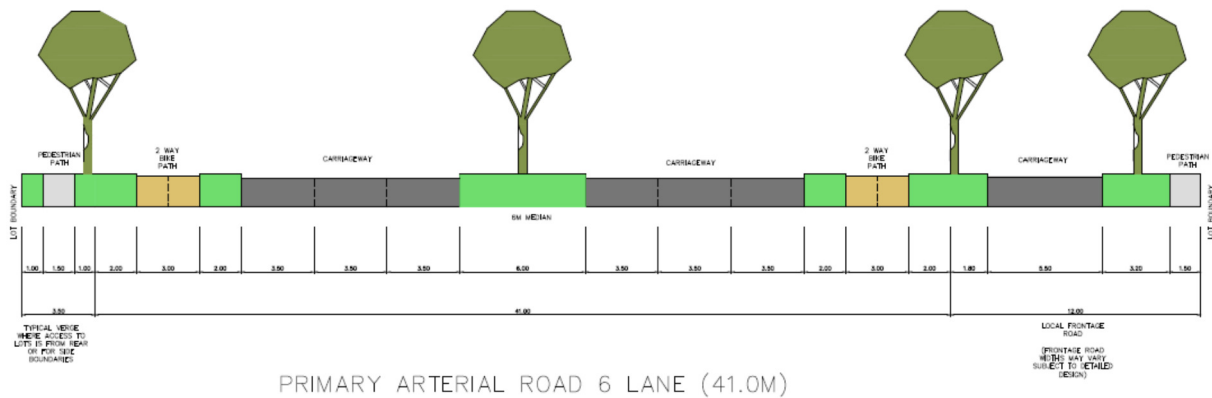


Figure 10 Council preferred primary arterial cross section

The VPA agreed with Council's proposal.

(ii) Conclusion

The Panel accepts that the agreed modified primary arterial 6 lane cross section is an improvement and should be adopted. This should apply to Road Section 7 in the PSP.

7.5.6 Bicycle paths on secondary arterial roads

(i) Submissions

Council did not support on road bicycle paths on secondary arterial roads. Council's preference was to provide two-way off-road bicycle paths on either side of the road reserve (in addition to a pedestrian path on each side of the road). Council provided an alternative secondary arterial road cross-section, which is shown at Figure 9 in Mr Pelosi's expert witness report (page 15), and reproduced as Figure 11 in this report. Council submitted that *"this is caveated by agreement with the VPA that the on-road bike paths forming the western end of Greigs Road in the Rockbank PSP need to be continued for that road formation."* The secondary arterials therefore still in dispute with regard to on-road bicycle lanes are Riding Boundary Road and Mt Atkinson Road.

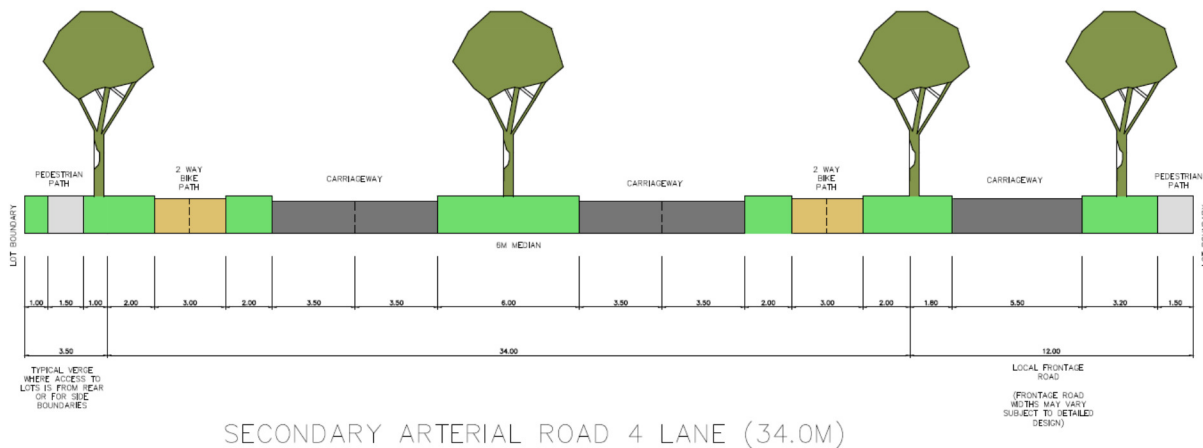


Figure 11 Council preferred secondary arterial cross sections

Mr Pelosi gave evidence that the VPA proposal to have on-road bicycle paths on secondary arterials represents an inconsistency in the treatment of cyclists with an undesirable practical consequence. He gave evidence that this means that cyclists would experience a reduction in the level of protection when travelling from a fully separated off-road bicycle facility on a connector street to a more exposed on-road facility on a secondary arterial road and finally back to full protection in the off-road bicycle path context found on primary arterial roads.

Mr Pelosi gave a number of examples of where he thought off-road bicycle paths worked better, including Footscray Road.

The Traffic Conclave did not reach agreement on this point.

Council submitted that it is not sensible to have off-road bicycle paths on connector streets, on-road bicycle paths on secondary arterials and off-road bicycle paths on primary arterials.

The VPA submitted that Council had agreed to use the cross section agreed for secondary arterial roads in the Rockbank PSP. VPA considers that on-road bicycle lanes are appropriate for secondary arterial roads with a 60 km/hr speed limit.

The VPA submitted that a proportion of cyclists will generally (legally) ride on the road whether or not there are on-road lanes to avoid negotiating slow-speed off-road intersection treatments and the much shorter green traffic signal phases allowed for off-road cyclists. It submitted that there are many real-world demonstrations of this behaviour where on-road cycling is common despite the presence of off-road paths. VPA submitted that *"it is safer to provide a network of on road bicycle lanes for on road cyclists (and shared off-road facilities for other cyclists) in appropriate locations than to assume that on road cyclists can take care of themselves."*

The VPA submitted that constructing on-road bicycle lanes on all secondary arterial roads will provide a network for cyclists to use along preferred routes.

The VPA's proposed secondary arterial road cross section includes 2.0 metre on-road bicycle lanes for use by road bicycle riders, more confident cyclists and intermediate riders wishing to learn road riding skills. The 2.0 metre bicycle lane includes an allowance of 0.5 metres for chevron line marking to separate the bicycle lane from the adjacent traffic lane. The cross section also includes a 3.0 metre shared path on both sides of the road for less experienced riders.

(ii) Discussion

The Panel agrees with the VPA that providing for on road bicycle lanes on secondary arterial roads is a more practical response that provides more appropriately for actual rider behaviour. It makes sense to the Panel to provide for:

- Separated off-road bicycle only paths on primary arterials where vehicle speeds are higher and traffic volumes higher
- Off road shared paths and space on-road for bicycles on secondary arterials where both 'commuter' and less skilled cyclists need to use the route, vehicle speeds are slower and traffic volumes are moderate
- A combination of off-road shared paths and space on-road for bicycles on connector streets, depending on the setting.

The Panel does not agree with Mr Pelosi and Council that inconsistency between types of roads is an issue. The Panel was not persuaded by Mr Pelosi's example of the 'ideal' off-road path, Footscray Road. Footscray Road is in fact a primary arterial, and in a much different setting than an outer growth area.

The Panel believes that cyclists will ride where they feel comfortable, and under what is proposed in the PSP, all riders would have the option of riding off-road for all road types. The more experienced riders would, however, have the option of staying on-road on secondary arterials, and the Panel believes this more accurately reflects rider behaviour.

The Panel was not persuaded that this would be inherently unsafe due to the higher than average proportion of heavy vehicles that are expected on the secondary arterial roads in this PSP. The 2 metre bicycle lane should allow ample clearance for cyclists, even with heavy vehicles.

(iii) Conclusion

The Panel concludes that there should be provision for on-road bicycle lanes on secondary arterials as shown in Road Sections 1 to 6 in the PSP.

7.6 Other infrastructure issues**7.6.1 Central road drainage in local access streets****(i) Submissions**

Council requested changes to the Local Access Street Levels 1 and 2 Central Drainage layouts shown on pages 115 and 117 of the exhibited PSP.

Council did not support drainage pits located in the road because:

- the drainage pits are more likely to be damaged in this location
- accessing the pits would impose a higher traffic management cost
- this location represents greater occupational health and safety risks.

The VPA accepted this and agreed to apply the alternative cross sections agreed for the Rockbank PSP.

(ii) Conclusion

The Panel accepts that this issue is resolved and the alternative cross sections should be applied.

7.6.2 Services under road pavements**(i) Submissions**

Council raised a number of issues in relation to the table to Appendix H (service placement guidelines), particularly that it does not support the placement of services under road pavements.

Council recommended the table to Appendix H be replaced by the table from page 59 of the Paynes Road PSP.

The VPA agreed to this change.

(ii) Conclusion

The Panel accepts that this issue is resolved and the alternative table should be included.

7.6.3 Utility services within the Hopkins Road reserve**(i) Submissions**

VicRoads (Document 30) noted that Plan 12 in the PSP identifies various proposed utilities within the Hopkins Road reserve, including:

- a potable water main within the southern 600 metres
- 66kv electricity lines along the entire length
- a recycled water main to the south of the rail corridor.

VicRoads objected to these utility services being located within the road reserve and requested that Requirement R90 include *“all new utilities must be located outside the existing 20m Hopkins Road reservation”*.

(ii) Discussion

The Panel notes that the VPA have not identified this as an outstanding unresolved item, but the Panel does not have any information on how the issue is to be resolved.

The Panel trusts that the location of services will be resolved in consultation between VicRoads, VPA and other affected parties.

7.7 Land budget review**(i) Submission**

Council made a comparison of the land budget included in the PSP with the land requirements shown in functional layout plans provided for some of the intersections in the PSP, and found that there were some discrepancies. Council noted that this is not surprising as the functional layout plans post-dated the PSP.

Council requested that the land budget be recalculated based on the functional layout plans now available.

The VPA did not respond specifically to this request.

(ii) Conclusion

The Panel agrees with Council that the PSP and ICP should be reviewed before finalisation to ensure that proper allowance is made for land required for intersections, based on the best available layouts at the time. Now that functional layouts are available, land budgets should at least be updated to reflect these.

7.8 Recommendations

The Panel makes the following recommendations in relation to infrastructure issues:

21. Delay approval of Amendment C162 and finalisation of the Mt Atkinson and Tarneit Plains Precinct Structure Plan until a fully costed Infrastructure Contributions Plan has been prepared and adopted for the Precinct.
22. Make any consequential changes to the Precinct Structure Plan to reflect the final Infrastructure Contributions Plan once completed.
23. Substitute the proposed Development Contributions Plan Overlay with an Infrastructure Contributions Plan Overlay.
24. Review and update the contents of any Schedule to the Infrastructure Contributions Plan Overlay, including considering the deletion of the first dot point of Clause 4.0 of the former Development Contributions Overlay Schedule 9 as proposed by Council.
25. Consider a supplementary item in the Infrastructure Contributions Plan for the additional cost of road works over the gas transmission pipeline if the additional costs are substantial.
26. Include a pedestrian bridge over the rail line (land and construction) in the Infrastructure Contributions Plan, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.
27. Move intersection IT05 to the location as proposed by Council and shown in Figure 9 of the this report.
28. Provide a traffic lane of 3.5 metres in Road Section 17 local access level 2 Town Centre Main Street (page 109 of the Precinct Structure Plan).
29. Review Road Section 17 in conjunction with Public Transport Victoria to address the following points:
 - Whether a 3.5 metre traffic lane is preferable
 - Whether a semi mountable kerb is preferable, particularly on the median side
 - Whether ultra low floor buses are properly catered for
 - Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.
30. Modify Road Section 7 primary arterial 6 lane (page 99 of the exhibited Precinct Structure Plan) to separate the two way bicycle path and the pedestrian path as shown in Figure 10 of this report.

- 31. Apply the alternative cross sections agreed for the Rockbank Precinct Structure Plan Local Access Street Levels 1 and 2 Central Drainage layouts (pages 115 and 117 of the exhibited Precinct Structure Plan).**
- 32. Replace the table in Appendix H of the Precinct Structure Plan (service placement guidelines) with the table from page 59 of the Paynes Road Precinct Structure Plan.**
- 33. Review the Precinct Structure Plan and Infrastructure Contributions Plan to ensure that proper allowance is made for land required for intersections, based on the best available functional layouts.**

8 Other unresolved issues raised by Council

8.1 The default applied residential zone in the UGZ

(i) The issue

The issue is the proposed extent of the Residential Growth Zone (RGZ) as the 'applied zone' for residential areas in the Urban Growth Zone Schedule 9 (UGZ9).

The exhibited UGZ9 nominated the RGZ as the applied zone for all residential areas. The exhibited PSP also identifies 'medium density residential areas' (Plan 5) within the broader residential areas.

(ii) Submissions

Council's initial submission on the exhibited Amendment opposed the blanket application of the RGZ as the 'applied zone' for residential areas, submitting that it was excessive and inconsistent with how the reformed residential zones had been applied elsewhere in the municipality.

The VPA subsequently reviewed its approach and proposed to reduce the extent of the RGZ, confining it to various 'walkable catchments':

- 800 metres from the Principal Public Transport Network (PPTN) railway stations
- 800 metres from Major and Specialised Town Centres
- 600 metres from PPTN bus routes
- 400 metres from Local Town Activity Centres
- 100 – 200 metres from Community Hubs and Local Convenience Centres.

The VPA proposed that the GRZ be the applied zone outside of these catchments, resulting in approximately 60 percent of the residential areas being subject to the RGZ and 40 percent being subject to the GRZ.

The VPA advised that this approach was consistent with its draft background paper: *PSP Planning Response to Applied Residential Zone*, September 2016 (Appendix 2 to Document 63).

Council supported the refinements proposed by the VPA, but argued that the proposed extent of the RGZ was still excessive. Council submitted that the 60/40 split between the RGZ and GRZ was "*out of step with the balance of Melbourne*" and noted that such extensive use of the RGZ was not necessary to achieve the minimum residential density sought in the PSP. Council submitted that the preferred residential density could be achieved under the GRZ and that the RGZ should be applied on a more targeted, rather than general, basis.

Council provided an overview of how the residential zones have been applied in the municipality (and other growth area municipalities), including the findings and recommendations of Council's Housing Diversity Strategy.

In this context, Council submitted that the RGZ should be limited to residential areas within:

- 400 metres of the Specialised Town Centre (rather than 800 metres)
- 200 metres of the Mt Atkinson Road and Greigs Road PPTN routes

- 100 metres of the co-located community hubs, sport reserves and local convenience centres.

Council proposed that the GRZ be the applied zone in other residential areas.

(iii) Discussion

The Panel does not support the blanket application of the RGZ as the 'default' applied zone for residential areas as proposed in the exhibited Amendment. As discussed in the Panel report for Amendment C145 to the Melton Planning Scheme (Rockbank PSP), Planning Practice Note 47 (Urban Growth Zone) notes that once development within a precinct is underway, it should be a straightforward task to translate the UGZ to a suitable suite of zones. In that context, the selection of applied zones should reflect the long-term strategic outcomes that are sought for an area and assist the future zone translation process. The Panel was not provided with any justification for the blanket application of the RGZ within the residential areas or the density and scale of development associated with that zone. The Panel notes that recent panel reports for Rockbank, Brompton Lodge and Donnybrook/Woodstock PSPs all recommended that the RGZ should not be the default applied zone in the UGZ.

In contrast to the default application of the RGZ in the UGZ9, the exhibited PSP identifies more limited areas for higher density residential development, including:

- the 'medium density residential areas' in Plan 5 (R17)
- land within a 400 metre walkable distance of the Mt Atkinson Specialised Town Centre and the PPTN (R18).

It is not clear why the RGZ was applied beyond these areas in the exhibited UGZ9.

The Panel believes that a more nuanced approach to applying the RGZ is necessary and notes that this was reflected in the submissions from the VPA and Council at the Hearing. In terms of the differing approaches to applying the RGZ that were proposed, the Panel supports Council's approach on the basis that it is consistent with the *Melton Housing Diversity Strategy 2014* implemented by Amendment C157. That Amendment was approved under section 20(4) of the Act in July 2014 and introduced the suite of new residential zones into the Melton Planning Scheme. It applied the RGZ around major activity centres and PPTN nodes "*generally but not exclusively on a 400-metre radius walking distance*".

Council's approach is also consistent with the exhibited PSP Requirement R18 that identifies land within a 400 metre walkable catchment of the Mt Atkinson Specialised Town Centre and PPTN as suitable for 'medium or higher density housing'.

In contrast, the VPA's broader application of the RGZ, particularly the extensive walkable catchment associated with the PPTN, would be excessive given the characteristics of the precinct, including the distribution of activity centres and the extensive PPTN interfaces. Although the VPA did not map the revised extent of the RGZ, it would apply to a significant proportion of the precinct's residential areas (at least 60 percent) and it is not clear that this would be a sensible or appropriate outcome.

Although the Panel agrees that residential areas in PSPs should provide diversity in dwelling density and form, it also agrees with Council that the GRZ enables this, without the need for applying the RGZ as extensively as proposed by the VPA. The Panel is cautious about applying the RGZ as a default residential zone given that it provides a broader range of

permissible commercial uses that may have implications for residential amenity and commercial activity in planned activity centres.

In reaching this position about the RGZ, the Panel has not formed any firm views about the broader merits or application of the VPA's draft background paper²⁰ and the proposed standards for applying the RGZ. The draft paper was tabled for the first time during the Hearing. The Panel does not believe the paper has yet been thoroughly tested and therefore affords it little weight at this time. The Panel does, however, believe that the further development of the draft paper (in conjunction with growth area Councils) is to be encouraged so that it can be properly reviewed and tested in future, and ultimately be adopted as a more formal guideline.

The Panel accepts that local circumstances might warrant differing approaches and a broader or more confined application of the RGZ in other locations. In the case of this precinct, the Panel is satisfied that the approach sought by Council is preferred and supported by local policy.

(iv) Conclusions

The Panel concludes:

- The RGZ should not be used as the default 'applied zone' for residential areas in the UGZ9.
- The use of the RGZ as an applied residential zone in the UGZ9 should be consistent with the approach sought by Council.
- The PSP Planning Response to Applied Residential Zones Background Paper should be further developed in consultation with growth area Councils.

(v) Recommendations

The Panel makes the following recommendations:

34. Apply the Residential Growth Zone to the 'residential' areas in the Urban Growth Zone Schedule 9 that are within:

- 400 metres of the Mt Atkinson Specialised Town Centre
- 200 metres of the Mt Atkinson Road and Greigs Road Principal Public Transport Network routes
- 100 metres of the co-located community hubs, sport reserves and local convenience centres.

35. Apply the General Residential Zone to the remaining 'residential' areas in the Urban Growth Zone Schedule 9.

The Panel makes the following recommendation for further action:

The VPA should further develop the *PSP (Precinct Structure Plan) Planning Response to Applied Residential Zones Background Paper* in consultation with growth area Councils.

²⁰ PSP Planning Response to Applied Residential Zones Background Paper, VPA September 2016.

8.2 The Mount Atkinson Specialised Town Centre

(i) The issues

The issues are:

- the appropriate distribution of retail floorspace between the northern and southern areas of the Mt Atkinson Specialised Town Centre (the Town Centre) (to the north and south of the rail corridor)
- whether a 'regional' retail facility to the north of the rail corridor should be supported in the PSP.

(ii) Background

The exhibited PSP includes the following guidance in relation to the Town Centre:

The core retail offering will be delivered to the south of the rail corridor to ensure that the primary residential catchment located within the Mt Atkinson Precinct has convenient access, by walking, cycling and car, to this core retail offering without crossing the rail corridor. This is reflected in the 'soft cap' for shop floor space within the Mt Atkinson Specialised Town Centre identified in the PSP and in Schedule 9 to the UGZ.

The town centre to the north of the rail corridor will, following the delivery of the potential future train station, provide a park and ride facility, along with a small scale retail offering. This is reflected in the 'soft cap' for shop floor space within the Mt Atkinson Specialised Town Centre identified in the PSP and in Schedule 9 to the UGZ.

The location of the northern portion of the Mt Atkinson Specialised Town Centre relative to the potential future train station, Hopkins Road and the Western Freeway provides potential for the delivery of a large format speciality retail offering with a regional catchment that predominantly sells fresh and packaged food. A planning application that meets the requirements established in Schedule 9 to the UGZ would be required if the leasable shop floor space exceeds the 'soft cap' for the town centre north of the rail corridor. (section 3.2.1 p30)

The exhibited UGZ9 includes permit triggers (referred to as a "soft cap") for the use of a shop in the applied Commercial 1 Zone (C1Z) within the Town Centre:

- 23,500 square metres south of the rail corridor
- 2,500 square metres north of the rail corridor.

The PSP indicates that the purpose of the soft cap:

...is to ensure the West Growth Corridor's Activity Centre hierarchy is retained and that the core retail offering is delivered south of the rail corridor. Any planning application for a shop use above the leasable floor area specified in the PSP and in Schedule 9 to the UGZ within the Mt Atkinson Specialised Town Centre that does not adversely impact on the Melton City Council Activity Centre hierarchy and the ability of the town centre to deliver a core retail offering south of the rail corridor may be considered.

(iii) Evidence and submissions

MSA Properties submitted that the soft cap for the northern area should be deleted but, if retained, should be increased to 6,000 square metres and the PSP should provide clear guidance about the preferred type of retailing. Mr Cicero submitted that the exhibited PSP text anticipates a *“large format speciality fresh food outlet which is likely to exceed 2,500sqm”*, such as the La Manna Supermarket at Essendon Fields. Mr Cicero provided alternative PSP text (for section 3.2.1) and relied on the evidence of Mr Clarke.

Mr Clarke understood the rationale for treating the southern and northern areas of the Mount Alexander Specialised Town Centre differently, but opposed the 2,500 square metre soft cap on the basis that it can *“potentially stifle rather than encourage early and long-term retail development”*. He also submitted that the caps failed to reflect his view that the southern and northern areas serve different markets.

Council opposed the final paragraph of section 3.2.1, submitting that it was *“inappropriate for a high level strategic planning document”* and that the PSP should not identify specific commercial uses. Mr Tobin submitted that explicit support for such a specific facility had not been justified in any of the background reports or in any material submitted as part of the Amendment process. He submitted that:

Strategic planning is an exercise which should be based on strategic planning work. There was no meaningful strategic basis that Mr Clarke could identify for the inclusion of a regional facility without any testing of the proposal.

Mr Tobin concluded that it is a proposal *“driven by commercial opportunity rather than strategic justification”*.

Mt Atkinson Holdings supported the soft caps in the Town Centre, particularly for the northern area. Mr Gobbo concluded that the caps were an effective means of managing orderly development and that there were no demonstrable problems with this approach. He supported text in the UGZ9 that allowed for retail development to the north of the rail corridor that does not rely on the catchment within the precinct. He also proposed that two additional Decision Guidelines be included in the UGZ9:

- *The extent to which retail development to the north of the rail line is able to be supported by a regional catchment;*
- *Retail development to the north should not prejudice the establishment or expansion of the retail core to the south of the rail line.*

The VPA provided the background to the proposed cap, and noted that:

14. *Splitting the soft cap north and south of the rail corridor is essential to ensure the vision for the Mt Atkinson Specialised Town Centre is achieved ...*
16. *If the soft cap was not applied as proposed in the PSP there is a risk that the core retail centre would be diluted across the extent of the town centre and fail to deliver on this objective.*
17. *Further, if the critical mass of the STC were delivered north of the rail, it would be further from its primary residential catchment, reducing walkability to the centre; and separated by a rail line which as yet has no grade-separated crossing.*

18. *It was suggested by MSA Properties (Paragraph 2.11 of the Submission) that an alternative is for the PSP to specify that the first full line supermarket must be delivered south of the rail corridor. This would not go far enough to ensure the vision of the PSP, where a Specialised Town Centre is much more diverse than simply a supermarket; and the objectives of the Melton Planning Scheme relating to retail are delivered. It would also be highly irregular for a PSP to specify this.*
19. *The VPA considers the application of separate soft caps relating to shop use north and south of the rail corridor crucial for delivering the vision and objectives of the PSP and the Melton Planning Scheme in relation to the Mt Atkinson Specialised Town Centre.*

In relation to the “large format speciality retail offering” reference, the VPA proposed to replace the final paragraph with:

The location of the northern town centre at the confluence of Hopkins Road with the Western Freeway and relative to the potential future train station may also support the delivery of large format specialty retail offer that has a regional catchment. A planning application would be required if the leasable shop floor space exceeds the ‘soft cap’ for the town centre.

The VPA submitted that this wording is appropriate:

as it provides strong strategic guidance for the northern part of the town centre. The characteristics of the site (location relative to the Western Freeway and Hopkins Road, the potential future train station) do make it suitable for a use of this kind subject to a planning application that meets the decision guidelines in clause 7.0 of Schedule 9 to the Urban Growth Zone (UGZ). The wording in 3.2.1 does not replace the need for a planning permit application.

(iv) Discussion

The distribution of retail floorspace

The Panel agrees with the VPA that the rail corridor is a significant barrier to a consolidated and functional activity centre, particularly in light of the limited pedestrian and vehicular access between the northern and southern areas. It makes sense to focus the “core retail offer” to the south, where it is more accessible to the residential and employment population in the Precinct, and to limit retailing in the north. The proposed soft caps will provide the mechanism to manage this distribution of retail floor space, while also managing the overall role of the Town Centre in accordance with the *West Growth Corridor Plan* and *City of Melton Retail and Activity Centres Strategy* retail hierarchy.

The 23,500 square metre cap in the southern area is consistent with a sub-regional centre and was drawn from the background report prepared for the VPA by JLL - the *Mt Atkinson and Tarneit Plains: Commercial and Industrial Land Review*, 2015 (the JLL background report). The 2,500 square metre floorspace cap in the northern area will allow a limited retail offer in association with the transit role of the centre, while regulating larger scale facilities (such as a full-line supermarket) that might compete with the southern area of the centre.

The Panel supports the use of soft caps in the Town Centre and is satisfied that they are necessary to position the centre within the retail hierarchy and to manage the distribution of retail floorspace between the northern and southern areas of the centre.

The Panel is also satisfied that the cap in the northern area is appropriate in light of the limited retail function intended for this area.

Regional retail facility

The PSP support for *“a large format speciality retail offering with a regional catchment that predominantly sells fresh and packaged food”* in the northern area of the Town Centre seems to be a speculative position, rather than one based on any strategic analysis. The need for, or desirability of, such a facility is not discussed in any of the background reports referred to the Panel, including the JLL background report.

It is also unclear what type of facility is contemplated and how much of its catchment would be regional and how much would be within the precinct. In the absence of this information, it is difficult to assess what impact such a facility might have on the southern area of the Town Centre and the early development of retail facilities, particularly a supermarket.

Mr Cicero cited the LaManna Supermarket at Essendon Fields as an example of the type of facility that might be suitable. This is a large-scale retail facility that has most of the characteristics of a conventional, albeit very large, full line supermarket. It seems to the Panel that this type of facility, while drawing regional trade, would also draw trade from within the precinct and would compete with the retail offer envisaged for the southern area of the Town Centre. This would not be a good outcome in light of the access issues associated with the rail corridor and particularly if it delayed the development or impacted on the commercial viability of supermarket and associated facilities in the southern area.

The Panel believes that there has been insufficient analysis of the ‘regional facility’ proposal to justify retaining the exhibited text in the PSP or for it to support the alternative text provided by the VPA.

The Panel agrees with Council that the detail and implications of a ‘regional facility’ need to be better understood before it would warrant strategic support in the PSP. It follows that the Panel does not support an increase in the soft cap for the northern area in order to facilitate such a facility.

For these reasons, the Panel recommends that relevant text be deleted from the PSP, although this does not preclude a permit application being lodged.

Decision Guidelines

In light of the Panel’s conclusions about retailing to the north of the rail corridor, it agrees with Mr Gobbo that the Decision Guidelines for this area should be augmented so that the possible impacts on the retail core to the south is an explicit consideration.

(v) Conclusions

The Panel concludes:

- The retail floorspace soft caps in the Mount Atkinson Specialised Town Centre are appropriate in light of the position of the Centre in the municipal retail hierarchy and in order to distinguish the roles of the southern and northern areas of the Centre.

- The implications of developing a large-scale regional retail facility in the northern area of the Mount Atkinson Specialised Town Centre have not been adequately analysed and because of this the PSP should not support or foreshadow this type of facility.
- The UGZ9 Decision Guidelines should require consideration of the potential impacts of retailing to the north of the rail corridor on the retail core to the south.

(vi) Recommendation

The Panel makes the following recommendation:

- 36. Delete the last paragraph from section 3.2.1 of the Precinct Structure Plan.**
- 37. Include the following additional Decision Guideline in Clause 7.0 (Decision Guidelines) of the Urban Growth Zone Schedule 9:**
 - **The extent to which retailing to the north of the rail corridor might prejudice the development, expansion or operation of the retail core to the south of the rail corridor.**

8.3 Commercial 2 Zone floor space cap

(i) The issue

The issue is whether the applied Commercial 2 Zone (C2Z) should have a 'soft cap' for restricted retail premises.

(ii) Background

The exhibited UGZ9 includes a permit trigger for the use of restricted retail premises in the applied C2Z where the combined leasable floor area exceeds 40,000 square metres on land identified for Business/Large Format Retail in the PSP.

(iii) Evidence and submissions

MSA Properties submitted that the 40,000 square metre cap be deleted. Mr Cicero submitted "*there is no justifiable planning reason*" why a limit should apply in this area. He relied on the evidence of Mr Clarke who noted that restricted retail premise is 'as of right' in the C2Z and that there is no ability to apply a floor space limit. Mr Clarke concluded that there was no basis on which to require a 'use' permit.

Council supported the exhibited cap and noted that "*the JLL report supported 40,000m² to 100,000m² of restricted retail depending on whether large format retailers would locate*"²¹. Mr Tobin noted that the cap did not prohibit further development and concluded that:

The 40,000m² soft cap is appropriate. It is applied to facilitate retail to the point of regional facilities, where it is appropriate to assess the impact, if any, of a permit application for more. That does not mean it will not be appropriate. It simply means that above 40,000m² of floor space, use will become a consideration.

The VPA also relied on the JLL background report, submitting that:

²¹ Mt Atkinson and Tarneit Plains: Commercial and Industrial Land Review, April 2015.

The background report establishes the justification of a soft cap of 40,000sqm as a reasonable amount of large format retail that would be expected in the precinct. If a major regional anchor was attracted to the site such as an Ikea or a Costco which pushes the amount of large format retail above the expected 40,000sqm, it is reasonable that the responsible authority have the opportunity to review a planning permit application when development reaches and exceeds this development scenario.

(iv) Discussion

The JLL background report does not recommend a floor space cap or a permit trigger, it simply notes that:

- some bulky goods precincts have attracted over 100,000 square metres of retail floorspace
- this precinct could become a regional bulky goods destination if it attracts major anchor stores such as Ikea or Costco
- in the absence of these larger stores, up to 40,000 square metres of retail floorspace is possible.

The Panel also notes Mr Clarke's observation that the C2Z does not require a use permit for 'restricted retail premises'. This suggests to the Panel that there should be a compelling reason to require a use permit in the applied C2Z.

The Panel does not believe that the VPA or Council have adequately justified why a permit should be required and what the requirement might achieve. Their position seems to suggest that a regional bulky goods centre that attracted major tenants might be a poor outcome or an outcome that needs to be managed, but it is not clear why this might be so. The Panel also notes that this provision will likely be lost when the UGZ9 is converted into the C2Z in the future.

For these reasons, the Panel recommends that this provision be deleted from the UGZ9.

(v) Conclusion

The Panel concludes that the proposed permit trigger for restricted retail premises in the applied C2Z is not justified and should be removed from the UGZ9.

(vi) Recommendation

The Panel makes the following recommendation:

- 38. Delete the reference to "Restricted retail premises where the applied zone is Commercial 2 Zone" in section 2.4 of the Urban Growth Zone Schedule 9.**

8.4 Conservation Areas 7 and 8

(i) The issues

Council raised a number of issues for clarification in relation to Conservation Areas 7 and 8. Concept plans for the Conservation Areas are shown in Appendix C to the PSP.

(ii) Submissions

Council sought clarification on whether the areas currently depicted as ‘unconfirmed plains grassland’ are intended to be retained.

The VPA responded as follows:

DELWP are supportive of the Concept Plans, subject to some minor adjustments. City West Water have provided a refined utilities plan which will be used to update Plan 12 and remove utilities from the conservation reserves.

Conservation Areas 7 & 8 are reserves identified under the Biodiversity Conservation Strategy for Melbourne Growth Corridors, and in the Final approval for urban development in three growth corridors under the Melbourne urban growth program strategic assessment signed by the Commonwealth Minister for the Environment in September 2013.

Council raised concerns that the Concept Plans in the PSP depict a number of items to be delivered, including shared paths, footpaths, and ‘potential viewing/seating areas’. Council was concerned the proposed works may conflict with State or Federal agreements. Council submitted that the plans in the PSP should include less detail and prescription to allow the future public land manager more flexibility in managing the conservation areas. Council further submitted that the plans should include a note to protect and retain dry stone walls.

The VPA responded that the material in the Concept Plans has been approved and is supported by DELWP. The VPA submitted that “*Concept Plans clearly state that proposals are subject to future detailed design by land manager*”. The VPA also noted that City West Water is providing an updated servicing plan that removes all infrastructure from the conservation reserves, and that there are no dry stone walls identified for retention within the reserves.

The VPA further submitted:²²

In DELWP’s submission (on) the planning scheme amendment it was recognised that walking paths and shared trails are suitable future land uses within conservation areas 7 & 8. It (To) give a level of flexibility, it is proposed to rename the paths as ‘potential low impact connection through conservation area (subject to further investigation to determine consistency with conservation objectives of conservation area)’.

Council made submissions in relation to Conservation Area 8. The Panel understands that these matters were resolved with VPA.

(iii) Discussion

The Panel accepts the clarifications made by the VPA in relation to the status of the conservation reserves in the Biodiversity Conservation Strategy for Melbourne Growth Corridors, and the further design work to be done by the land manager.

²² VPA Part B submission p40.

The Panel notes Council's concerns about the level of detail shown in the concept plans in Appendix C to the PSP, but accepts that the further clarifying note proposed by the VPA adequately addresses this issue.

The Panel also notes that the relevant changes to the PSP are included in Document 1 and do not require a separate recommendation.

(iv) Conclusions

The Panel concludes:

- Further work to be done by the land manager on the design for Conservation Areas 7 and 8 provide the process to address the issues raised by Council.
- The additional text on the Concept Plans for Conservation Areas 7 and 8 in Appendix C proposed by the VPA is supported.

8.5 Other issues

8.5.1 Shape of proposed school sites

(i) Discussion

Council noted that the VPA was awaiting confirmation from the Department of Education and Training in relation to the shape of school sites in the PSP area. The VPA also advised that a workshop had been held with Council, Mt Atkinson Holdings and Catholic Education Melbourne to *"update the shape of the non government secondary school"*.

The Panel agrees with Council's submission that the configuration of the sites should be confirmed before the PSP is finalised.

(ii) Recommendation

The Panel makes the following recommendation:

- 39. Confirm the final shape of the relevant school sites with the Department of Education and Training and Catholic Education Melbourne prior to the finalisation of the Precinct Structure Plan.**

8.5.2 Open space and natural systems requirements

(i) The issue

The issue is whether the PSP should include requirements relating to the equalisation of open space.

(ii) Submissions

Council submitted that Section 3.4 of the PSP (Open Space and Natural Systems) should include a requirement to ensure consistency with the application of public open space and a process for its equalisation. Council did acknowledge, however, that *"in the event that Council can be satisfied equalisation will be wholly and appropriately accounted for through the operation of the ICP, it would not be required"*.

Council submitted that, in the absence of an ICP, it would be appropriate for the Panel to recommend that Requirement R31 in the Rockbank PSP be included in section 3.4 of this PSP.

(iii) Discussion and conclusion

The Panel agrees that consistency with the application of public open space and a process for its equalisation is an important principle, but believes it ought to be dealt with in the ICP. Given the Panel's recommendation that the PSP not be finalised until the ICP is prepared, this can be dealt with in the preparation of the ICP and any necessary changes can also be made to the PSP before it is finalised.

8.5.3 Gas transmission line through Mount Atkinson Reserve

(i) The issue

The issues are the design and siting of the proposed gas transmission line running through Mount Atkinson Reserve.

(ii) Submissions

Council noted that Plan 12 – Utilities (page 64) identifies a proposed gas transmission line running through Mount Atkinson Reserve, along the existing alignment for Mt Atkinson Road to the south.

Council submitted that it would be *“an uncommon outcome for a gas transmission line of this nature to traverse a significant physical feature such as Mt Atkinson and not align with the proposed roads in this portion of the PSP area”*.

Council sought an updated position from SP AusNet to understand whether it is still intended that a gas transmission line bisect Mount Atkinson Reserve and, if it is, whether it will be subterranean or above ground.

(iii) Discussion and conclusion

The Panel agrees it would be highly desirable to avoid the Mount Atkinson Reserve and agrees that the VPA should seek to clarify this and change the PSP as appropriate.

(iv) Recommendation

The Panel makes the following recommendation:

- 40. Clarify the alignment of the proposed gas transmission line shown as bisecting the Mount Atkinson Reserve, and amend the Precinct Structure Plan as appropriate.**

8.5.4 Temporary infrastructure provision

(i) The issue

The issue is whether the UGZ9 should specify permit conditions relating to the removal of temporary infrastructure.

(ii) Submissions

Council noted that a number of temporary facilities, including a potable water supply, are proposed to be constructed on the flanks of Mt Atkinson.

The exhibited PSP addresses the removal of temporary infrastructure by Requirement R98 and Guideline G75. Council did not object to the wording of either of these, but submitted that it would be more appropriate that the primary control for the removal of temporary infrastructure be a condition requirement under UGZ9. Council submitted that the mandatory condition should control:

- the life of a facility (that is, a proposed time limit)
- the remediation associated with the removal of the facility and any necessary bonding.

Council submitted that it would be appropriate for the Panel to recommend that a condition requirement be added to UGZ9 to the following effect:

The temporary infrastructure approved under this permit must be removed at the earlier of the time at which the infrastructure is no longer required or immediately prior to the expiry of the permit.

The area upon which the temporary infrastructure is required must be remediated to the satisfaction of the Responsible Authority at the time the temporary infrastructure is removed. A bond must be provided to the Responsible Authority in a form satisfactory in an amount equal to the costs of remediation of the land, which bond must be returned to the permit holder on completion of remediation to the satisfaction of the responsible authority.

The VPA proposed a minor change to Guideline G75 that is listed in Document 1, but did not support Council's proposed condition requirement in the UGZ9.

(iii) Discussion

The Panel is satisfied that Requirement R98 and Guideline G75 provide appropriate higher order guidance about temporary infrastructure within the Precinct.

The Panel does not agree that the UGZ9 needs to specify permit conditions to address the removal of temporary infrastructure. The level of specificity that Council seeks in the UGZ9 is not warranted and the Panel is satisfied that Council should develop and apply permit conditions on a case by case basis.

(iv) Conclusion

The Panel concludes that the UGZ9 need not specify permit conditions relating to the removal of temporary infrastructure.

8.5.5 PSP Guideline 13**(i) The issue**

The issue is whether PSP Guideline G13 should include a specific trigger for its application.

The Guideline is:

Development of land close to 65-543 Greigs Road East Truganina (HO112) should:

- *Maintain a sense of open space east and west of the heritage place and to the skyline along the ridge to the south to retain its rural setting and associations with its pastoral and farming origins.*
- *Heritage interface areas to be of an appropriate height, scale and setback that does not visually dominate and detract from the heritage place's significance, visual setting and streetscape character.*
- *Development is to positively address the heritage place."*

HO112 (Heritage Overlay 112) is described in the HO Schedule as:

The heritage place is the house and gambrel roofed outbuilding in the yard and mature eucalypts and peppercorn trees flanking the long drive, and peppercorn trees with the house yard (rear of dwelling).

HO112 is a long narrow strip of land bounded to the east and south by the Mount Atkinson Specialised Town Centre and a mixture of proposed public uses to the west.

(ii) Submissions

Council submitted that Guideline G13 should include a specific trigger for its application and suggested that the first line be revised to include:

Development of the land located to the west of the specialised activity centre should ...

Council also sought clarification in the G13 bullet points that the 'heritage place' is HO112.

Council advised that the VPA had agreed to this change on 8 September 2015, although the VPA Part B submission did not reflect this position.

The VPA's part B submission included:

It is not appropriate to quantify the distance from Greigs Road that triggers a development proposal to meet this guideline, as the impact on Greigs road is dependent on the type and scale of development. The RA should use this Guideline to determine which development proposals trigger it.

(iii) Discussion

The Panel is satisfied that the exhibited Guideline is appropriate and that it should apply to all development in proximity to HO112, not just to the Specialised Activity Centre as sought by Council.

Although it might be useful to specify a distance within which the Guideline applies, the Panel was not presented with any heritage or design material on which it could recommend a suitable distance. In any event, the exhibited Guideline provides Council with a degree of discretion about how and when it might be applied and the Panel is satisfied that this is a reasonable approach.

(iv) Conclusion

The Panel concludes that no changes to exhibited PSP Guideline G13 are required.

8.5.6 Residential development north of rail corridor

(i) The issue

The issue is whether the UGZ9 should restrict residential development to the north of the rail corridor until there is a functional pedestrian crossing over the rail corridor.

The PSP and UGZ9 only provide limited opportunities for residential development to the north of the rail corridor in the Mount Atkinson Specialised Town Centre (the Town centre) (applied Commercial 1 Zone).

(ii) Submissions

Council submitted that residential development in the Town Centre on the north side of the rail corridor should not proceed until there is a *“functional pedestrian connection between the two sides of the railway line”*. Council expressed concern about the potential isolation of residential development on the northern side if there is no pedestrian link to the commercial area and other community facilities on the southern side of the rail corridor.

The VPA’s final version of the UGZ9 provided after the Hearing addressed this issue and included the following:

Table 1 UGZ9 Dwelling requirement in the Mt Atkinson Specialised Town Centre

Use	Requirement
Dwelling	The use of land for a Dwelling on land shown north of the Melton Rail Corridor in the Mt Atkinson & Tarneit Plains Precinct Structure Plan is prohibited until a pedestrian bridge or underpass connecting the northern and southern parts of the Specialised Town centre is constructed and operational.

MSA Properties submitted that while pedestrian integration would be *“desirable”*, it is not necessary. Mr Cicero submitted that:

The Activity Centre on the north side of the railway line will have its own local catchment as well as potentially a broader regional catchment and it is likely to find its role in that context.

(iii) Discussion

The Panel agrees with Council that residential development should be restricted in the northern area of the Town Centre until a functional pedestrian connection is provided and supports the VPA’s proposed addition to the UGZ9 to address this. Although Mr Cicero suggested that the northern area might have its own catchment, it would be highly desirable that a pedestrian connection to the south is available.

This is addressed in the VPA’s final version of the UGZ9 and does not require a separate recommendation.

(iv) Conclusion

The Panel concludes that dwellings should be prohibited on the north side of the rail corridor until there is a connection linking it to the south.

8.5.7 Guideline G12

(i) Discussion

Council submitted that Guideline G12 in the exhibited PSP (page 21) should be amended to add *“subject to limitations imposed by utilities or external land uses”* at the end of the guideline. Council advised that the VPA agreed to this, although it is not included in the list of changes described in Document 1 and therefore requires a separate recommendation.

(ii) Recommendation

The Panel makes the following recommendation:

- 41. Amend Guideline G12 in the Precinct Structure Plan to add *“subject to limitations imposed by utilities or external land uses”* at the end of the Guideline.**

8.5.8 Guideline G14

(i) Discussion

Council submitted that Guideline G14 in the PSP (page 24) should be amended to commence: *“Land use and development within or in proximity to land in the Victorian Aboriginal Heritage Register...”*. Council advised that the VPA agreed to this, although it is not included in the list of changes described in Document 1 and therefore requires a separate recommendation.

(ii) Recommendation

The Panel makes the following recommendation:

- 42. Amend Guideline G14 in the Precinct Structure Plan to commence *“Land use and development within or in proximity to land in the Victorian Aboriginal Heritage Register...”***

8.5.9 Development staging

(i) Discussion

Council submitted that Section 3.8.2 (Development Staging) in the exhibited PSP should include an additional requirement:

Construction of the urban upgrade to the existing Hopkins Road level crossing must be undertaken as part of the initial stage of development of the Mt Atkinson Specialised Town Centre.

Council advised that the VPA agreed to this, although it is not included in the list of changes described in Document 1 and therefore requires a separate recommendation.

(ii) Recommendation

The Panel makes the following recommendation:

43. Include the following additional Requirement in Section 3.8.2 of the Precinct Structure Plan:

Construction of the urban upgrade to the existing Hopkins Road level crossing must be undertaken as part of the initial stage of development of the Mt Atkinson Specialised Town Centre.

9 Other issues

9.1 Submission 5 (Mr Nesci – 94- 118 Greigs Road)

(i) The issue

The issue is what land use designation should be applied to 94-118 Greigs Road as shown at Figure 12.

The PSP designates the southern area of this property as ‘*industrial*’ and the northern area as ‘*service open space (drainage)*’ (WI-04 on Plan 11- Integrated Water Management).

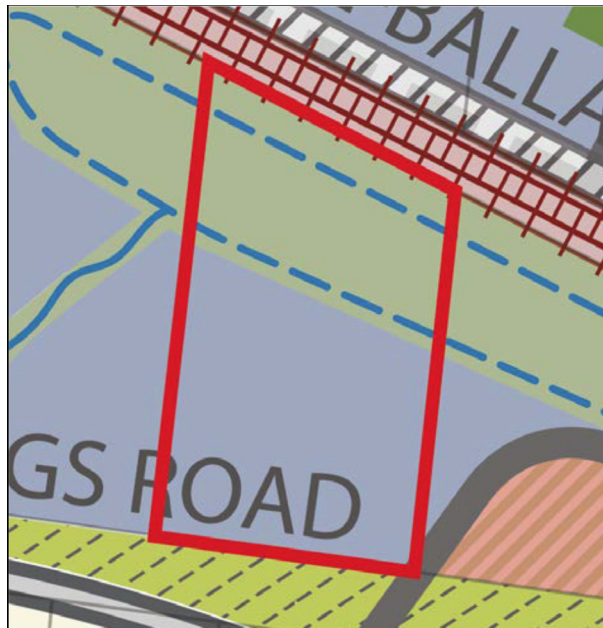


Figure 12 94- 118 Greigs Road

(ii) Submissions

Mr Nesci opposed the designation of his property for industry and open space (drainage), submitting that it would reduce its value. He submitted that the property should be designated for residential or mixed use development, consistent with neighbouring properties.

The VPA noted that the industrial designation in the PSP is consistent with the West Growth Corridor Plan that identifies the property as part of a broader “industrial” area because of its location and access to transport infrastructure. It is also consistent with Plan Melbourne that identifies the PSP area as a “*State Significant Industrial Precinct*”.

The VPA submitted that:

The Growth Corridor Plans set the strategic direction for future urban development in Melbourne's growth areas, including the provision for a 30-40 years supply of industrial land based on anticipated future demand for industrial land. While there is ongoing pressure from land-owners to develop land for other purposes it is important that the state protects the land designated for industrial purposes ...

In relation to drainage, the VPA noted that the proposed drainage reserve is consistent with the Deanside Drive Development Services Scheme developed by Melbourne Water. The VPA also referred Mr Nesci's submission to Melbourne Water for comment.

Melbourne Water responded that the proposed retarding basin is needed to drain the surrounding area and has been located on an existing low point. It has also been elongated to equitably spread it across a number of properties. Melbourne Water also advised that the retarding basin has been refined over time in consultation with landowners so that less developable land is encumbered.

The VPA supported the views of Melbourne Water.

(iii) Discussion

The Panel supports the industrial designation of the property (and this area of the PSP) on the basis that it is consistent with the West Growth Corridor Plan. There is no clear strategic basis on which this property (or this area) should be designated for residential or mixed use development. The Panel also notes that this area is bisected by the rail corridor and that this would potentially create a number of amenity impacts if the area was developed for residential purposes.

The Panel accepts the advice of Melbourne Water that a retardation basin is necessary to drain this area and that the siting of the proposed basin has taken account of the topography of the area. The Panel also supports the proposed "*elongation*" of the basin as a means of equitably sharing the impacts of providing this infrastructure.

(iv) Conclusion

The Panel concludes that the PSP land use designation for 94-118 Greigs Road is appropriate.

9.2 Submission 7 (Mr and Mrs Murga – 603-669 Troups Road)

(i) The issue

The issue is what land use designation should be applied to 603-669 Troups Road as shown at Figure 13.

The area of this lot that is within the PSP is predominantly designated as 'conservation', with the area along the western PSP boundary included within the Public Acquisition Overlay designation associated with the Outer Metropolitan Ring Road.

The property is within Conservation Area 8 (OS37 - BCS grassland conservation reserve - potential for some low key and targeted community access subject to detailed design).

(ii) Evidence and submissions

Mr and Mrs Murga opposed the designation of their property for "*conservation*" in the PSP. They submitted that various environmental surveys of the property since 2004 had not identified any flora or fauna that warranted protection.



Figure 13 603-669 Troups Road

The VPA advised that this site is designated 'conservation' because it is within Conservation Area 8 - identified in the Biodiversity Conservation Strategy for Melbourne's Growth Corridors (Figure 27), and in the Melbourne Strategic Assessment (under the EPBC Act) signed by the Commonwealth Minister for the Environment in September 2013.

The VPA also advised that:

- time stamped vegetation mapping, combined with aerial photography, indicates that Plains Grassland remains across the entire conservation area and that it may support Striped Legless Lizards and Golden Sun Moths
- the Spiny Rice Flower is also considered likely to occur, along with numerous species of state significance
- field surveys were completed on this property on 16 September 2015 that identified endangered plains grassland of high quality rated at 70.76/100 points.

For these reasons, the VPA submitted that the treatment of this area is consistent with the Biodiversity Conservation Strategy and that it should be protected.

The VPA also noted that a change to the Conservation Area would need to be agreed by the Commonwealth Environment Minister.

(iii) Discussion

The protection of this area and its designation for 'conservation' is consistent with the Biodiversity Conservation Strategy for Melbourne's Growth Corridors and the Melbourne Strategic Assessment approved under the EPBC Act.

Mr and Mrs Murga did not provide any evidence or convincing reasons why the designation of this property should be changed.

(iv) Conclusion

The Panel concludes that the PSP land use designation for 603-669 Troups Road is appropriate.

9.3 Submission 8 (Mr and Mrs Kelemen - 289, 311 and 319 Greigs Road)

(i) The issues

The Kelemens raised a number of issues in relation to the land uses proposed for their property shown at Figure 14.



Figure 14 289, 311 and 319 Greigs Road

(ii) Evidence and submissions

The Kelemens submitted that the placement of a school and community facilities on their land unfairly reduces its development potential and that the remainder of the land would not be easily accessible. They support relocation of the primary school and community facilities further to the east and submitted that the location of the reserve, in particular, to the east of the connector road and connected to the Mount Atkinson Reserve would improve the open space connections and improve traffic flow around the school.

The proposed relocation of IT05 (as discussed in section 7.5.3) also affects the Kelemen property and the Panel understands that the Kelemens prefer the exhibited location.

The VPA responded that the Future Urban Structure (Plan 3 of the PSP) locates the school and active open space for the following reasons:

- *It locates the active open space, primary school and community facilities on a bus capable connector street.*
- *It allows the primary school and the active open space to be co-located*

- *It allows the active open space and community facilities to be adjacent so that they can share car parking and other facilities for greater efficiency and convenience to users.*
- *It places the primary school and the active open space in the centre of the neighbourhood area it will primarily service.*
- *It minimises the overlap of other primary school catchments in the Precinct*
- *It creates a 'neighbourhood hub' comprised of the primary school, active open space and Local Convenience Centre.*
- *It locates the Active Open Space in an area of minimal slope.*

In response to the issue of access to the remainder of the developable land, the VPA responded:

The provision of services to the land parcels will be provided along road reserves as properties develop. Therefore the locations of the primary school and active open space are not considered to be an impediment to development.

(iii) Discussion

The Panel accepts the VPA's reasons for retaining the location of the school and reserve as exhibited. The Panel agrees that access to remaining lots will not be impeded. As noted in section 7.5.3, the Panel supports the proposed relocation of IT05.

(iv) Conclusion

The Panel concludes that the location of the school and reserve on 289, 311 and 319 Greigs Road should be retained as exhibited.

9.4 Submission 11 (Niche Planning on behalf of Mr Cauchi – 1789 Western Highway)

(i) The issues

The issues relate to accessing this property shown at Figure 15 and the designation of various land uses.

(ii) Evidence and submissions

Niche Planning, in its written submission on behalf of Mr Cauchi raised the following issues:

- the property has been landlocked for some time with no access point to the Western Highway since the creation of the service centre
- the north south portion of the connector street on the property should be aligned with the existing Hilton Road reserve east of the eastern boundary of his property
- the proposed drainage basin should be relocated to:
 - adjoin the Public Acquisition Overlay area to the north
 - be partly positioned on the adjoining property to the east
 - better follow the natural ground levels
- the open space area on the land is poorly located and not appropriate in an industrially zoned area.

Clarification was also sought about the timeframe for the construction of the east-west connector road to the south of the property and inclusion of the road in the ICP.

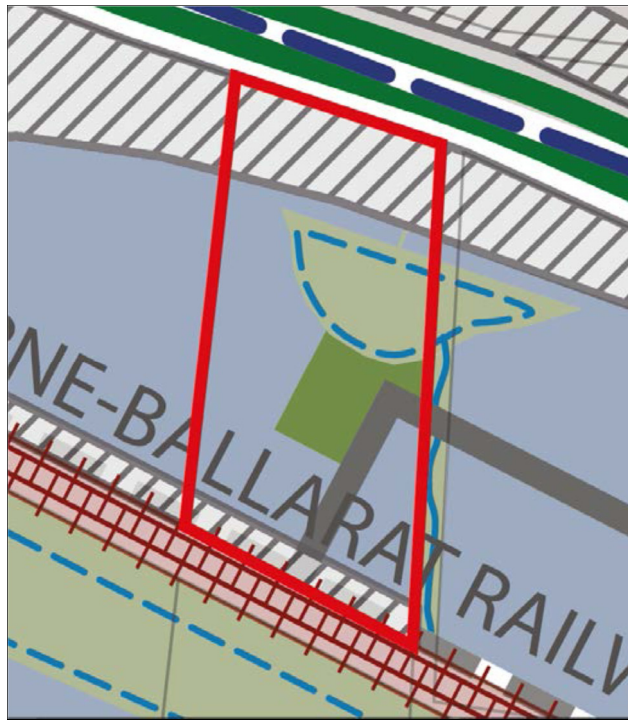


Figure 15 1789 Western Highway

The VPA responded as follows:

- The existing access issues were being pursued with VicRoads.
- It did not agree that the connector road along the southern boundary of the property should be funded in the ICP and noted that, even if it was, it would provide no greater certainty in relation to the timing of the creation of the road.
- It agreed that realignment of the north south portion of the connector road through Mr Cauchi's property was a sensible change and agreed to examine the change to the PSP.
- It referred the location of the retarding basin to Melbourne Water which responded that the location *"shown on the property is indicative only and subject to further functional and detailed design at the time of subdivision"*. The VPA agreed that there may be scope for refinement and agreed to discuss further with the affected landowners.
- It did not accept submissions in relation to there being no need for open space in the industrial area, noting that it contributes to achieving the 'standard' of approximately 2% of developable land within employment areas being identified as public open space. The VPA noted that the design of the retarding basin and open space reserve should be coordinated to get the best outcome for the amenity of the area.

(iii) Discussion

The Panel encourages Mr Cauchi to continue discussions with VicRoads to restore access to his property, but this is not an issue related to the Amendment.

The Panel agrees with the VPA that the connector road to the south of Mr Cauchi's property is not an ICP item.

The Panel notes the VPA's undertaking to review the location of the north south portion of the connector road through the property and review the design of the retarding basin and reserve location. It seems to the Panel that a better design outcome can be achieved.

(iv) Conclusions

The Panel concludes:

- The connector road to the south of Mr Cauchi's property is not an ICP item.
- The design of the connector road, retarding basin and open space reserve on Mr Cauchi's land needs further refinement.

9.5 Submission 12 (Niche Planning on behalf of Bestsize Pty Ltd – 1813-1839 Western Highway)

(i) The issues

The issue is the lack of access to this property shown on Figure 16.

(ii) Evidence and submissions

Similar to Mr Cauchi's situation, Mr Vella's land has been landlocked for some time with no access point to the Western Highway since the creation of the service centre. He sought clarification of the timeframe for the construction of the east-west connector road to the south of his property) and inclusion of the road in the ICP

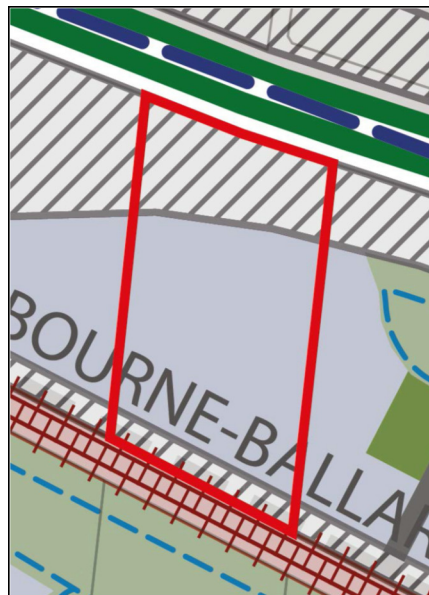


Figure 16 1813-1839 Western Highway

(iii) Discussion

This submission raised the same access issue raised by Mr Cauchi. While the Panel understands the concerns of these land owners and the access difficulties that have arisen, this issue needs to be pursued with VicRoads and is not a matter that the Panel can usefully comment on or address as part of this Amendment.

9.6 Submission 13 (Beacon Town Planning - 248-316 Troups Road)

(i) The issues

The issues are:

- whether proposed retarding basin WI-09 should be relocated
- whether the management provisions associated with the adjoining Conservation Area are appropriate
- whether the portion of the property set aside for the Outer Metropolitan Ring Road should be removed from the net developable area of the property recorded in the Land Use Budget in Appendix A of the PSP.

The area of this property (refer to Figure 17) that is within the PSP is predominantly designated as 'residential', with the area along the western PSP boundary included within the 'Public Acquisition Overlay' designation associated with the Outer Metropolitan Ring Road. The south-western corner of the site also has areas designated for a retardation basin (WI-09) and an open space area (OS26) (Neighbourhood Park).



Figure 17 248-316 Troups Road

(ii) Evidence and submissions

Ms Jones (Beacon Town Planning) and Mr Hodge (Diverscity) represented the landowners at the Hearing. They submitted that the provisions proposed for this site were generally appropriate, except for the proposed retardation basin and some of the fire related land management provisions.

They proposed that the retardation basin be located on the property abutting to the south (property no 41 - designated as Conservation Area 7) in order to “free up” developable land. The “key rationale for protection” of Conservation Area 7²³ is:

Protects high quality native grassland that contains high persistence habitat for Golden Sun Moth and Spiny Rice-flower within a practically manageable area.

Ms Jones and Mr Hodge relied on the evidence of Mr Prout and Mr Lane.

Mr Prout reviewed the drainage proposals in this area and agreed that a retardation basin is required. He also concluded that its “location is a good logical design that treats stormwater

²³ Biodiversity Conservation Strategy for Melbourne’s Growth Corridors, June 2013.

as required by the VPPs, avoids conflict with the proposed conservation area to the south and minimises the cost of drainage infrastructure that will need to cross the proposed outer Metropolitan Ring Road”.

He also found that *“from a drainage pattern perspective”* the option of locating the basin on the Conservation Area to the south was feasible and would free up land for residential development. Although Mr Prout noted that he is not a valuer, he submitted that relocating the basin to the south would save *“\$1,320,000 to \$2,220,000 depending on land value, as well as receipt of contributions from an additional 3.60 hectares of development on PSP Property 38...”*. Mr Prout did not assess any environmental costs that might be associated with the loss of part of the Conservation Area.

Mr Lane assessed the native vegetation on the subject site and the site to the south (Conservation Area 7), relying on existing documentation and his own site inspections. He did not gain access to the property to the south but was able to assess vegetation within 200 metres of its northern boundary using binoculars. He submitted that:

The extent of native vegetation in the proposed conservation reserve has been significantly over-estimated and the reserve is therefore larger than is required to protect potential remnant ecological values.

Mr Lane concluded that it would be possible to *“locate a stormwater retention and treatment wetland system on the southern property without affecting any significant native vegetation or habitat for matters of national environmental significance”*.

The VPA sought advice in relation to the location of the retardation basin from DELWP and Melbourne Water.

In relation to locating the basin within the Conservation Area, DELWP responded:

The identification of Conservation Area 7 in the Biodiversity Conservation Strategy (BCS) is based on estimated data as DELWP was not able to obtain access to undertake relevant threatened species and vegetation surveys. The BCS identifies that flora and fauna surveys are to be undertaken within Conservation Area 7 to allow for determination of its management category. DELWP has not yet been able to obtain consent from the land owner to undertake surveys. The Biodiversity Area Assessment Report undertaken for the GAA in 2009 by BIOSIS was not able to obtain access to the subject site however identified that based on reconnaissance surveys it is highly likely to comprise grassy native vegetation. Based on current biodiversity information available (in the absence of field surveys) DELWP does not support the concept of locating a retarding basin within Conservation Area 7. This use and development is considered inconsistent with the objective of the conservation area as outlined in the Biodiversity Conservation Strategy (BCS)) which is which is the 'protection of high quality native grassland that contains high persistence habitat for Golden Sun Moth and Spiny Rice-flower within a practically manageable area'. It is noted that the consultant providing advice in regard to the retarding basin concept has also not been able to access Conservation Area 7. DELWP's planning regarding future management of the conservation area and determination of suitable land uses will be based on on-

ground vegetation and species surveys conducted in accordance with DELWP's Timestamping standards.

Melbourne Water advised that the proposed location and size of the facility shown in the PSP are consistent with the retarding basin and wetland in the Dry Creek Upper Development Services Scheme.

The VPA noted the advice of DELWP and Melbourne Water and did not support locating the basin on the Conservation Area. The VPA also noted that the *"consent of DELWP and the Commonwealth would also be required to move the retarding basin on to the conservation area."*

Mr Hodge submitted that the references to 'fire breaks' in the Notes to the Concept Plan for Conservation Area 7²⁴ should require that any fire break be located within the Conservation Area. He also noted that Note 6.c (*All necessary fire breaks must be located*) was incomplete. The VPA advised that this note should read *"All necessary fire breaks must be located outside the conservation area"*.

Mr Hodge also submitted that adjoining landowners should be consulted in the development of the Fire Management Plan.

Ms Jones and Mr Hodge also submitted that the part of the property required for the Outer Metropolitan Ring Road be clarified as 'undevelopable' in the PSP, and that the State Revenue Office be notified accordingly that the Growth Area Infrastructure Contribution (GAIC) is not payable on this portion of the land.

(iii) Discussion

Stormwater function

The Panel accepts Mr Prout's evidence that locating the retardation basin on the Conservation Area would be *"feasible"*, but does not believe that this in itself is a reason to change the location. Mr Prout indicated that relocating the basin would free up developable land and potentially save money, but he did not allocate a cost to the loss of conservation land.

The Panel is guided by Melbourne Water's advice that the exhibited retardation basin site is appropriate and consistent with the Dry Creek Upper Development Services Scheme. There has been no evidence that this site is not feasible or that there is an engineering reason to choose an alternative site.

Conservation values

The identification of Conservation Areas, their conservation values and management are ultimately matters for DELWP and the Commonwealth as part of the Biodiversity Conservation Strategy and the Melbourne Strategic Assessment approved under the EPBC Act.

DELWP has advised that it does not support the location of the stormwater basin on Conservation Area 7. The Panel does not know the views of the Commonwealth.

²⁴ Page 90 of the exhibited PSP.

While Mr Lane's assessment of vegetation on the site might be correct, it does not necessarily follow that the 'key rationale' for the Conservation Area is compromised. The values of the Area need to be reviewed and determined through the further investigations foreshadowed in the PSP and it would be premature to form any views about the outcome of those investigations.

In any event, these are matters for DELWP and the Commonwealth, and are not something on which the Panel can usefully comment. If the landowners wish to pursue this proposal, they should seek the support of DELWP and the Commonwealth through the normal process.

The Panel agrees with the VPA that, as a matter of principle, firebreaks should be located outside the Conservation Area in order to maximise the habitat values of the Area. To what extent this might affect surrounding land is not known and will not be known until the Fire Management Plan for the Area is developed, in consultation with the Country Fire Authority. However, the Panel notes that Requirement R53 in the PSP provides for a 20 metre buffer around and outside Conservation Areas which must exclude buildings but can include infrastructure such as roads, paths, nature strip, public open space and drainage works. There may be scope to use this buffer as a fire management tool.

GAIC is assessed by the State Revenue Office in accordance with Part 9B of the Act. GAIC is assessed on the basis of the total area of the land, not the net developable area. PSPs are not a document that the State Revenue Office has regard to when assessing the amount of GAIC payable. This is not a matter on which the Panel can usefully comment further.

(iv) Conclusions

The Panel concludes:

- The proposed site of retarding basin WI-09 in the exhibited PSP is appropriate.
- Any changes to the configuration or intended use of Conservation Area 7 would need to be agreed by DELWP and the Commonwealth.
- Fire breaks for Conservation Area 7 should be located outside the Area and should be to the satisfaction of the Country Fire Authority.

9.7 Submission 14 (Marantali Pty Ltd – 343-357 Greigs Road)

(i) Evidence and submissions

Tract, on behalf of Marantali Pty Ltd provided expert evidence from Mr Panozzo that concluded that the PSP satisfies the requirement for providing an active open space reserve within 1 kilometre of 95 percent of all dwellings, as recommended by Clause 56.05-2 of the Melton Planning Scheme. He added, however, that *"relocating the north west community infrastructure hub further east does not compromise this distribution outcome"*.

In a letter to the Panel dated 21 September 2016 (Document 54), Tract advised that Marantali supports the PSP as exhibited including the location of the north-west primary school and reserve in the location as exhibited.

The Panel understands that Marantali supports the relocation of intersection IT05.

(ii) Discussion and conclusion

The changes to the Marantali submission were not made clear. The Panel was not provided with any basis on which to relocate the north west community infrastructure hub, and concludes that no changes to the PSP are required arising from the submission.

9.8 Submission 20 (Mr Antoniou - 343-357 Greigs Road)

(i) The issues

Mr Antoniou raised issues in relation to open space OS14 and the location of IT05 in relation to his property shown at Figure 18.

(ii) Submissions

Mr Antoniou submitted that local park OS14 is not centrally located within the relevant catchment area. He submitted that *“OS14 doesn't optimise accessibility to open space and heavily burdens Property 31”*. He proposed the park be relocated further east on the neighbouring property (32). He submitted that this would provide a better distribution of open space and Property 32 forms part of a larger development site, ameliorating the impacts on Net Developable Area.

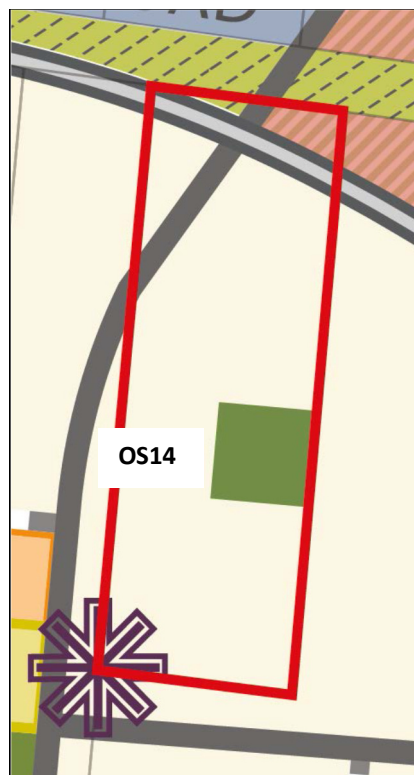


Figure 18 343-357 Greigs Road

The VPA responded that local park OS14 is located to give consideration to the open space provision of the Mt Atkinson Volcanic Reserve. The VPA submitted that the volcanic reserve will provide active open space and a local park facility in the northern part of the reserve, and moving the park to the south east would result in an overlap of local park provision between OS14 and the Mount Atkinson Volcanic Cone Reserve.

Mr Antoniou requested that intersection IT05 be realigned to intersect with the current alignment of Greigs Road. The VPA agreed to this request, as discussed in section 7.5.3.

(iii) Discussion

The Panel accepts the VPA's advice that the Mount Atkinson Volcanic Cone Reserve should be considered as having a local park role as well as a regional role. The Panel is satisfied that local park OS14 is appropriately located as exhibited.

As noted in section 7.5.3, the Panel supports the proposed relocation of intersection IT05.

(iv) Conclusions

The Panel concludes:

- Local park OS14 is appropriately located as exhibited.
- The proposed relocation of intersection IT05 is supported.

9.9 Dry Stone Walls

(i) Discussion

The submissions from Joyce Xuereb (Submission 4) and MSA Properties (Submission 6) raised issues about references to dry stone walls in the PSP, including which walls should be protected and what provisions should apply.

The PSP requires that dry stone walls be retained (unless otherwise agreed by the responsible authority) and includes comprehensive provisions about how they are to be protected.

The Panel supports these provisions and the minor revisions proposed by the VPA (included in Document 1) in response to its consideration of submissions. The provisions provide a comprehensive basis on which to manage the protection of these heritage assets, while providing the responsible authority with discretion about which should be retained.

(ii) Conclusion

The Panel concludes that no further changes to PSP provisions relating to dry stone walls are required.

9.10 Habitat links (new)

(i) Discussion

The Victorian National Parks Association (VNPA) (Submission 16) submitted that the PSP should include two habitat links:

- East West Grassland Corridor
- Skeleton Creek Headwaters.

The VNPA submitted that these links would enable the *"dispersal of a range of native species"* and *"maintain grassland health and diversity at a landscape level"*. It also submitted that targeted surveys for Striped Legless Lizards should be *"immediately"* undertaken *"in suitable habitat within the precinct"*.

The two Conservation Areas within the Precinct were determined through the *Biodiversity Conservation Strategy for Melbourne's Growth Corridors* process, and have been agreed by the State and Commonwealth governments. This limits the scope for changing these elements of the PSP and formally identifying additional land for conservation purposes to create habitat links as sought by the VNPA.

Nevertheless, the exhibited PSP recognises the importance of habitat links and includes the following Guideline:

G44 Any existing vegetation, including grassland, that can be viably maintained should be protected and enhanced through open space networks which facilitate habitat and movement corridors for species found within the region (and) the precinct.

Although this does not provide the level of certainty sought by the VNPA, the Panel is satisfied that it is the most suitable approach under the circumstances.

(ii) Conclusion

The Panel concludes that no further changes to the PSP provisions to specify habitat links are required.

9.11 Water and sewerage infrastructure

(i) Discussion

Water and sewerage providers (Melbourne Water, Western Water and City West Water) identified various PSP infrastructure references (including maps and plans) that inaccurately reflect current and proposed infrastructure.

These submissions (and references) should be reviewed by the VPA in finalising the PSP and Amendment.

(ii) Recommendation

The Panel makes the following recommendation:

- 44. Review the Precinct Structure Plan to correct any inaccurate references to water and sewerage infrastructure.**

Appendix A Submitters to the Amendment

No.	Submitter	Referred to Panel
1	Stop the tip. 388 duplicates of a submission	No (supports the PSP)
2	Edmund Rice Community Partnerships	No (supports the PSP)
3	Edmund Rice Education Australia	No (supports the PSP)
4	Galea & Xuereb Family	Yes
5	Irena & Joe Nesci	Yes
6	MSA Properties Pty Ltd	Yes
7	Lilian Funes de Murga and Mario Murga	Yes
8	Sandor and Verona Kelemen	Yes
9	Australian Council of Concerned Residents	Yes
9	WHIP Group	Yes
10	APA Group	Yes
11	Ray Cauchi	Yes
12	Niche Planning on behalf of Bestsize Pty Ltd	Yes
13	Beacon Town Planning on behalf of the landowners of 248-316 Troups Road	Yes
14	Marantali Pty Ltd (Property 26)	No
15	Metropolitan Waste and Resource Recovery Group	Yes
16	Victorian National Parks Association	Yes
17	VicRoads	Yes
18	Boral Construction Materials	Yes
19	Public Transport Victoria	No
20	Marantali Pty Ltd (Property 31)	Yes
21	Landfill Operations Pty Ltd	Yes
22	Mt Atkinson Holdings Pty Ltd	Yes
23	DELWP - Heritage Victoria	No
24	DELWP - Regulatory Strategy and Design (Biodiversity)	Yes
25	Department Economic Development Jobs Transport and Resources	Yes
26	Western Water	Yes
27	City West Water	Yes
28	Catholic Education Office Melbourne	Yes
29	Sustainability Victoria	Yes
30	Melbourne Water	Yes
31	Environment Protection Agency	Yes
32	VicTrack	Yes
33	Melton City Council	Yes

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Victorian Planning Authority	Stuart Morris SC and Adele Patterson of Counsel, who called expert evidence from: <ul style="list-style-type: none"> Ken Mival (EHS Support) in Landfill gas migration Chris Butler (Cardno) in Traffic and transport John Richardson (Jacobs) in Traffic and transport
Melton City Council	Greg Tobin of Harwood Andrews, who called expert evidence from: <ul style="list-style-type: none"> Stephen Pelosi (Movendo) in Traffic
EPA Victoria	Tim Eaton
Sustainability Victoria	Karen Wilson
Metropolitan Waste and Resource Recovery Group	Michelle Lee
VicRoads	Frank Deserio
Bestsize Pty Ltd	Wayne Vella
Ray Cauchi	
Boral Construction Materials	Jane Sharp of Counsel, who called expert evidence from: <ul style="list-style-type: none"> Adrian Moore (Terrock) in Airblast/vibration Andrew Clarke (Matrix) in Planning Christophe Delaire (Marshall Day Acoustics) in Acoustics
Mt Atkinson Holdings Pty Ltd	Jeremy Gobbo QC and Nicola Collingwood of Counsel instructed by Rhodie Anderson of Rigby Cooke Lawyers, calling expert evidence from: <ul style="list-style-type: none"> Mark Woodland (Echelon Planning) in Planning David Crowder (Ratio) in Planning Hillary Marshall (Ratio) in Traffic engineering Phil Mulvey (Environmental Earth Sciences) in Buffers Jim Antonopoulos (SLR) in Acoustics
MSA Properties Pty Ltd	John Cicero of Best Hooper Pty Ltd, who called expert evidence from: <ul style="list-style-type: none"> Andrew Clarke (Matrix) in Planning Donald Robertson (Traffix Group) in traffic
Sandor and Verona Kelemen	Attila Kelemen

Submitter	Represented by
Landfill Operations Pty Ltd	Chris Canavan SC and Emily Porter of Counsel instructed by Norton Rose Fulbright, calling expert evidence from: <ul style="list-style-type: none">• Michael Barlow (Urbis) in Planning• Tony Kortegast (Tonkin & Taylor) in Environment
APA Group	Liam Dunstan (via telephone link)
Landowners of 248-316 Troups Road	Jennie Jones of Beacon Town Planning and David Hodge of Diverscity, who called expert evidence from: <ul style="list-style-type: none">• Andrew Prout, Engeny Water Management in Engineering drainage design• Brett Lane, Brett Lane & Associates Pty Ltd in Ecology

Appendix C Document list

No.	Date	Description	Presented by
1	12/9/16	List of agreed changes	Adele Patterson
2	12/9/16	EHS Support landfill gas conclave minutes	Adele Patterson
3	12/9/16	Strategic transport modelling conclave minutes	Adele Patterson
4	12/9/16	Traffic conclave minutes	Adele Patterson
5	12/9/16	Part A submissions	Adele Patterson
6	12/9/16	Recommended Separation Distances for Industrial Residual Air Emissions EPA Publication 1518	Stuart Morris
7	12/9/16	MRL works approval application	Chris Canavan
8	12/9/16	Summary of MRL permit and works approval applications	Chris Canavan
9	12/9/16	VPA Part B submission	Stuart Morris
10	12/9/16	BP EM	Stuart Morris
11	12/9/16	Waste Management Policy – Siting, Design and Management of Landfills)	Stuart Morris
12	12/9/16	EPA draft Guideline, Assessing Planning Proposals Near Landfills	Stuart Morris
13	13/9/16	Extract from Ombudsman’s report for Brookland Greens Estate	Greg Tobin
14	13/9/16	US report on performance of geo membrane liners	Chris Canavan
15	13/9/16	RRL DDO schedule	Ben Hawkins
16	13/9/16	Melton City Council written submission	Greg Tobin
17	13/9/16	Melton City Council Panel Hearing folder	Greg Tobin
18	13/9/16	Melton City Council proposed drafting changes to DCPO9	Greg Tobin
19	14/9/16	Extracts from Wollert PSP panel report	Greg Tobin
20	14/9/16	Illustration of RGZ application – version 1	Greg Tobin
21	14/9/16	Illustration of RGZ application – version 2	Greg Tobin
22	14/9/16	EPA PowerPoint presentation	Tim Eaton
23	14/9/16	EPA written submission	Tim Eaton
24	14/9/16	Sustainability Victoria written submission	Karen Wilson
25	14/9/16	MWRRG PowerPoint presentation	Michelle Lee
26	14/9/16	Draft Metropolitan Waste and Resource Recovery Implementation Plan	Michelle Lee

No.	Date	Description	Presented by
27	14/9/16	Regional Waste Management Plan 1996	Michelle Lee
28	14/9/16	Melbourne @ 5,000,000	Michelle Lee
29	14/9/16	Melbourne @ 5,000,000 extract	Michelle Lee
30	14/9/16	VicRoads written submission	Frank Deserio
31	15/9/16	Photographs	Ray Cauchi
32	15/9/16	Boral written submission Part A	Jane Sharp
33	15/9/16	Planning permit PA2001/249 (quarry)	Jane Sharp
34	15/9/16	Variation of Work Authority Number 97 (quarry)	Jane Sharp
35	15/9/16	WA97 – Schedule of site specific work plan conditions	Jane Sharp
36	15/9/16	Package of planning scheme provisions	Jane Sharp
37	15/9/16	Extract from work authority 97 dealing with blasting	Jane Sharp
38	15/9/16	Emails between A Moore and I Macleod regarding separation distances between commercial/industrial buildings and quarry blasting	Stuart Morris
39	15/9/16	Extract from notes prepared by Terrock Engineering	Stuart Morris
40	15/9/16	Extract from Canadian study, Yang and Pratt April 2011	Stuart Morris
41	15/9/16	Boral written submission Part B	Jane Sharp
42	19/9/16	Summary of submissions on treatment of landfill buffers	Adele Patterson
43	19/9/16	Mt Atkinson marketing booklet	Jeremy Gobbo
44	15/9/16	Jacobs traffic modelling 2026	VPA
45	19/9/16	PowerPoint presentation Mark Woodland, Echelon Planning	Jeremy Gobbo
46	19/9/16	Clause 19 SPPF	Chris Canavan
47	19/9/16	Plan Melbourne extract	Chris Canavan
48	20/9/16	Mt Atkinson Holdings written submission	Jeremy Gobbo
49	20/9/16	Mt Atkinson Holdings folder of materials	Jeremy Gobbo
50	21/9/16	MSA written submission	John Cicero
50A	21/9/16	Attachment A to MSA written submission – permit for concrete batching plant and landscape gardening facility	John Cicero
50B	21/9/16	Attachment B to MSA written submission – proposed alternative wording for p30 PSP	John Cicero

No.	Date	Description	Presented by
51	21/9/16	Written submission from Kelemens	Attila Kelemen
52	21/9/16	Letter Tract to Kelemens dated 2 Sept attaching Panozzo report	Attila Kelemen
53	21/9/16	Panozzo report dated 2 September 2016	Attila Kelemen
54	21/9/16	Letter Tract to Panel dated 21/9/16 withdrawing from the hearing	Greg Wood
55	22/9/16	Boral additional submission on staging	Jane Sharp
56	22/9/16	Landfill Operations written submission and folder of docs	Chris Canavan
57	22/9/16	Information regarding expenditure at MRL re legacy issues	Chris Canavan
58	23/9/16	Melton C162 – written questions for APA Group	Greg Tobin
59	26/9/16	Meeting file note regarding traffic issues, 21 September 2016	Adele Patterson
60	26/9/16	Written submission on behalf of owners of Property 38	David Hodge
61	26/9/16	GAIC certificate (61A) and attachment detailing net developable areas (61B)	David Hodge
62	26/9/16	Guidance Note on Melbourne Strategic Assessment	David Hodge
63	26/9/16	VPA closing submission	Adele Patterson
64	26/9/16	Melton City Council closing submissions including five attachments: PPN54, three intersection functional layout plans, Council's preferred wording of housing	Greg Tobin
65	26/9/16	Landfill Ops preferred version of UGZ9 including two attachments: Explanatory notes, Plan	Chris Canavan
66	26/9/16	Boral preferred version of UGZ9	Jane Sharp
67	26/9/16	MAH closing submissions including one attachment: MAH preferred wording for Clause 7.0 of UGZ9 – decision guidelines re: town centre	Jeremy Gobbo
68	26/9/16	Minutes of meeting re: TPI Western Landfill on 5 May 2015	Chris Canavan
69	26/9/16	Functional layout diagrams for four intersections	Ben Hawkins
70	26/9/16	Diagram of revised layout for IT-05	Ben Hawkins
71	5/10/16	Response to Traffic Engineering expert evidence	Ben Hawkins
72	7/10/16	APA response to questions	Phillip McCutcheon

No.	Date	Description	Presented by
73	12/10/16	Revised plan to accompany Landfill Ops' proposed UGZ schedule (updated document 65)	Landfill Operations
74	14/10/16	Supplementary closing submission	Melton CC
75	14/10/16	Proposed UGZ9	Melton CC
76	14/10/16	Letter re APA response	Norton Rose for Landfill Ops
77	14/10/16	Letter re UGZ9	Rigby Cooke for Mt Atkinson Holdings
78	14/10/16	Proposed UGZ9	Rigby Cooke for Mt Atkinson Holdings
79	14/10/16	Table showing modified housing objectives	VPA
80	14/10/16	Functional layout plans for Hopkins Road	VPA
81	14/10/16	Functional layout plans for Hopkins Road	VPA
82	14/10/16	Functional layout plans for Hopkins Road	VPA
83	14/10/16	Functional layout plans for Hopkins Road	VPA
84	14/10/16	Revised dwelling density table	VPA
85	14/10/16	Revised PSP Plan 3	VPA
86	14/10/16	Proposed UGZ9	VPA
87	14/10/16	Emails from VPA and Council re power line easement SUZ	VPA
88	20/10/16	Email from VPA re SUZ11	VPA
89	20/10/16	Letter on behalf of Council re SUZ11	Harwood Andrews

Appendix D VPA's final version of the UGZ9

SCHEDULE 9 TO THE URBAN GROWTH ZONE

DD/MM/YYYY
Proposed
C162

Shown on the planning scheme map as **UGZ9**.

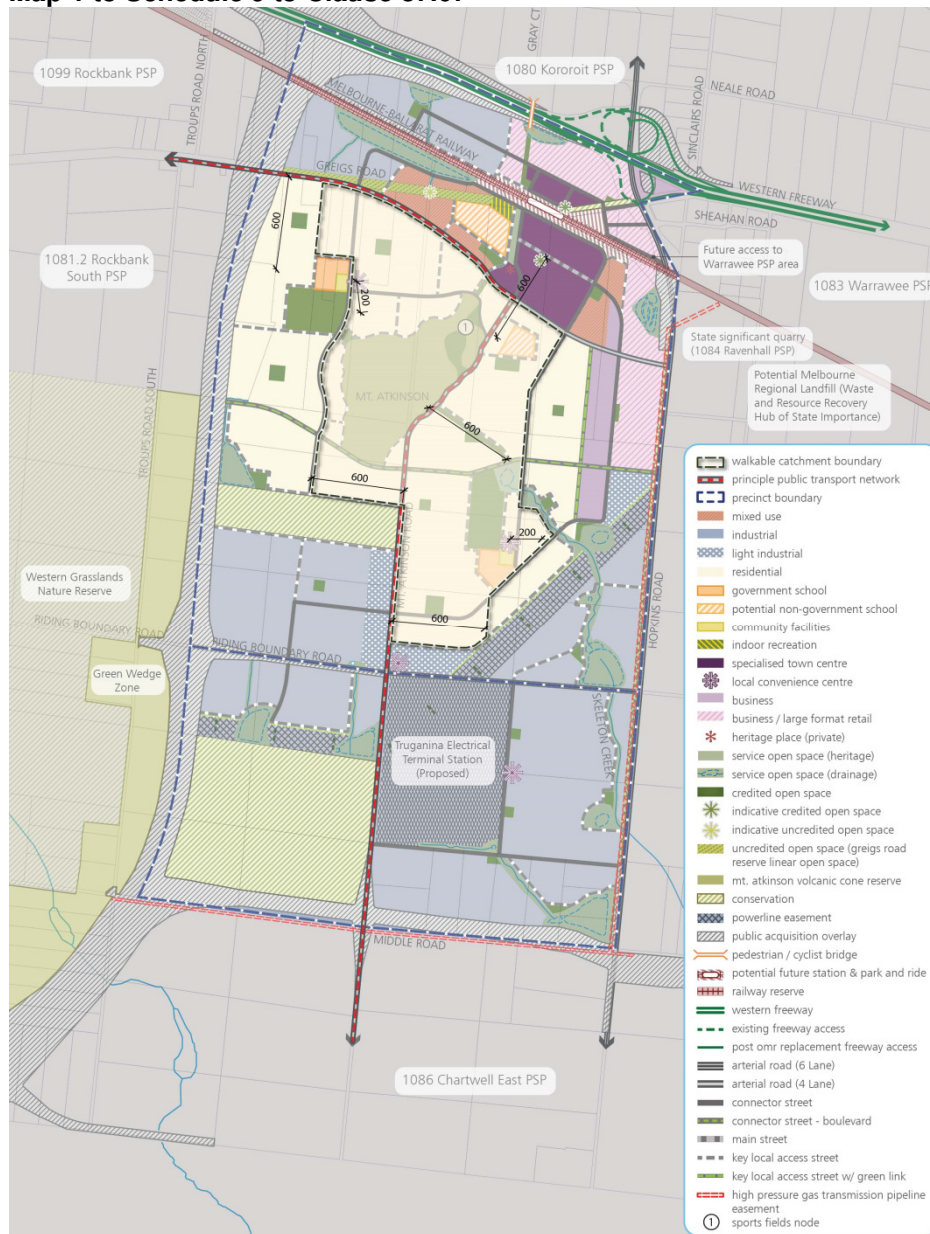
Mt. Atkinson & Tarneit Plains Precinct Structure Plan

1.0 The plan

DD/MM/YYYY
Proposed
C162

Map 1 below shows the future urban structure proposed in the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*. It is a reproduction of Plan 3 in the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*.

Map 1 to Schedule 9 to Clause 37.07



2.0 Use and development

DD/MM/YYYY
Proposed
C162

The land

DD/MM/YYYY
Proposed
C162

The use and development provisions specified in this schedule apply to the land as shown within the 'precinct boundary' on Map 1 of this schedule and shown as UGZ9 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
C162

The use, subdivision, construction of a building and construction and carrying out of works provisions of the following zones in this scheme apply as set out in Table 1.

Table 1: Applied Zone Provisions

Land use/development (carried out or proposed) generally in accordance with the precinct structure plan applying to the land	Applied zone provisions
Arterial Road	Clause 36.04 – Road Zone
Business Business/Large Format Retail	Clause 34.02 – Commercial 2 Zone
Connector Street Connector Street/Boulevard	Clause 36.04 – Road Zone
Industrial	Clause 33.01 – Industrial 1 Zone
Light Industrial	Clause 33.03 – Industrial 3 Zone
Mixed Use	Clause 32.04 – Mixed Use Zone
Specialised Town Centre Local Convenience Centre	Clause 34.01 – Commercial 1 Zone
Residential within Walkable Catchment	Clause 32.07 – Residential Growth Zone 1
All other land	Clause 32.07 – General Residential Zone

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

DD/MM/YYYY
Proposed
C162

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 Commercial 2 Zone specifies 'Shop' as a Section 1 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 provision – Use of land

DD/MM/YYYY
Proposed
C162

The following provisions apply to the use of land.

Table 2: Use

Use	Requirement
Dwelling	The use of land for a Dwelling on land shown north of the Melton Rail Corridor in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> is prohibited until a pedestrian bridge or underpass connecting the northern and southern parts of the Specialised Town Centre is constructed and operational.
Shop where the applied zone is Commercial 1 Zone	<p>A permit is required to use land for a Shop if the combined leasable floor area of all shops exceeds:</p> <ul style="list-style-type: none"> 23,500 square metres for land shown as Specialised Town Centre south of the Melton Rail Corridor in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>. 2,500 square metres for land shown as Specialised Town Centre north of the Melton Rail Corridor in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>. 1,500 square metres for land shown as Western Local Convenience Centre and Eastern Local Convenience Centre in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>. 1,000 square metres for land shown as Southern Local Convenience Centre in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>.
Restricted retail premises where the applied zone is Commercial 2 Zone	<p>A permit is required to use land for Restricted retail premises on land shown as 'Business' in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>.</p> <p>A permit is required to use land for Restricted retail premises on land shown as 'Business/Large Format Retail' in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> if the combined leasable floor area of all restricted retail premises exceeds 40,000 square metres.</p>
Primary school	<p>A permit is not required to use land for a Primary school on land shown as Potential Non Government Primary School in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>.</p> <p>A permit is not required to use land for a Primary</p>

	school on land shown as Potential Non Government P-12 School in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> .
Secondary school	<p>A permit is not required to use land for a Secondary school on land shown as Potential Non Government Secondary School in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>.</p> <p>A permit is not required to use land for a Secondary school on land shown as Potential Non Government P-12 School in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>.</p>
Car wash Dry cleaner Panel beating Research and development centre	A permit is required to use land for Car wash, Dry cleaner, Panel beating and Research and development centre on land shown within the Quarry Sensitive Use Buffer on Plan 2 in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> .
Dry cleaning agent Laundromat Supermarket	<p>A permit is required to use land for Dry cleaning agent, Laundromat and Supermarket on land shown as 'Business' and 'Business/Large Format Retail' within the Quarry Sensitive Use Buffer on Plan 2 in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i>.</p> <p>The use of land for Dry cleaning agent, Laundromat and Supermarket on land shown as 'Light Industrial' within the Quarry Sensitive Use Buffer on Plan 2 in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> is prohibited.</p>
Accommodation Child care centre Education centre (other than Business college, Employment training centre or Tertiary institution)	The use of land for Accommodation, Child care centre and Education centre (other than Business college, Employment training centre or Tertiary institution), on land shown within the Quarry Sensitive Use Buffer on Plan 2 in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> is prohibited.
Business college Employment training centre Tertiary institution	A permit is required to use land for a Business college, Employment training centre and Tertiary institution on land shown within the Quarry Sensitive Use Buffer on Plan 2 in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> .
Child care centre Cinema based entertainment facility Corrective institution Dependant persons unit Education centre Hospital Place of assembly Residential aged care facility Service station	A permit is required to use land for a Child care centre, Cinema based entertainment facility, Corrective institution, Dependant persons unit, Education Centre, Hospital, Place of assembly, Residential aged care facility and Service station in the 'high pressure gas transmission pipeline measurement length' on Plan 12 in the <i>Mt Atkinson & Tarneit Plains Precinct Structure Plan</i> .

2.5 Specific provision – Buildings and works for a school

DD/MM/YYYY
Proposed
C162

A permit is required to construct a building or construct or carry out works associated with a Primary school or Secondary school on land shown as a 'Potential non- government school' unless exempt under Clauses 62.02-1 and 62.02-2.

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

DD/MM/YYYY
Proposed
C162

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 Melton Planning Scheme.

2.7 Specific provision – construction management plan required whether or not a permit is required

DD/MM/YYYY
Proposed
C162

Prior to the commencement of any works, including demolition, within 50 metres of any high pressure gas transmission pipeline easement on Plan 3- Future Urban Structure in the Incorporated *Mt Atkinson and Tarneit Plains Precinct Structure Plan*, a construction management plan must be submitted to and approved by the responsible authority. The plan must:

- Prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the owner/operator of the high pressure gas pipeline;
- Be endorsed by the owner/operator of the high pressure gas transmission pipeline where the works are within, crossing or in close proximity to the relevant gas transmission easement; and
- Include any other relevant matter to the satisfaction of the responsible authority.

The construction management plan must be implemented to the satisfaction of the responsible authority.

The construction management plan may be amended to the satisfaction of the responsible authority.

2.8 Specific provision – Urban Design Framework – Mt Atkinson Specialised Town Centre, Western Freeway Commercial Area and Hopkins Road Business Precinct Commercial Areas

DD/MM/YYYY
Proposed
C162

Except with the consent of the responsible authority and the Growth Areas Authority, a permit may not be granted to use or subdivide land, or construct a building and carry out works on land identified as 'Mt Atkinson Specialised Town Centre', 'Western Freeway Commercial Area Urban Design Framework Extent' or 'Hopkins Road Business Precinct Commercial Areas Urban Design Framework Extent' on Plan 6 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*, until an urban design framework for the area has been prepared to the satisfaction of the responsible authority and the Growth Areas Authority.

An urban design framework approved under this schedule must be generally in accordance with the precinct structure plan applying to the land.

An application for use and/or development on land identified as 'Mt Atkinson Specialised Town Centre', 'Western Freeway Commercial Area Urban Design Framework Extent' or 'Hopkins Road Business Precinct Commercial Areas Urban Design Framework Extent' on Plan 6 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan* must be consistent with any urban design framework approved under this schedule.

A permit may be granted to subdivide land or to construct a building or construct and carry out works prior to the approval of an urban design framework if, in the opinion of the responsible authority, the permit is consistent with the requirements for the urban design framework and the permit implements the relevant objectives in the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*.

The responsible authority may allow an urban design framework to be prepared in stages.

The urban design framework may be amended to the satisfaction of the responsible authority and the Growth Areas Authority.

2.9 Specific provision – Referral of applications for Mt Atkinson Specialised Town Centre

DD/MM/YYYY
Proposed
C162

An application to subdivide land, or construct a building or carry out works (where the value of those works is in excess of \$500,000) on land identified as 'Mt Atkinson Specialised Town Centre' on Plan 6 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan* must be referred in accordance with section 55 of the *Planning and Environment Act 1987* to the **Growth Areas Authority**.

2.10 Specific provision – No buildings within Quarry Blast Buffer

DD/MM/YYYY
Proposed
C162

The construction of a building (but not including a temporary building, a building associated with a minor utility installation or telecommunication facility, a structure, a fence and other appurtenances of a building) on land shown within the quarry blast buffer on Plan 2 of the *Mt Atkinson and Tarneit Plains Precinct Structure Plan* is prohibited.

2.11 Specific provision – Referral of applications – Ravenhall Quarry

DD/MM/YYYY
Proposed
C162

An application to construct a building on land identified within the 'Quarry Sensitive Use Buffer' shown on Plan 2 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan* must be referred in accordance with Section 55 of the *Planning and Environment Act 1987* to the Secretary of the Department administering the *Mineral Resources (Sustainable Development) Act 1990*.

3.0 Application requirements

DD/MM/YYYY
Proposed
C162

If in the opinion of the responsible authority an application requirement listed below 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
C161

In addition to the requirements of Clause 56.01-2, a Subdivision Design Response for a residential subdivision of less than 60 lots must show the proposed use and development of each part of the land, and the staging of the development for all land in contiguous ownership with the land under application.

An application for a residential subdivision of 10 lots or more must be accompanied by:

- A written statement that sets out how the subdivision implements the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan*.
- Subdivision and Housing Design Guidelines, prepared to the satisfaction of the responsible authority, in accordance with the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan*.
- A table setting out the amount of land allocated to the proposed uses and expected population, dwelling and employment yields.
- A Traffic Impact Assessment Report to the satisfaction of the relevant road management authority.
- A hydrogeological assessment of the groundwater conditions on the site and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater on the development and the impact of the development on groundwater.
- A preliminary site assessment of the potential for contaminated land as a result of previous land uses, carried out by a suitably qualified person.

3.2 Public Infrastructure Plan

DD/MM/YYYY
Proposed
C161

An application for subdivision and/or use and development of land 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 road works internal and external to the land consistent with any relevant traffic report or assessment;
- What, if any, infrastructure set out in the infrastructure contributions plan applying to the land 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
C162

An application that proposes to create or change access to a six lane or four lane 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 the relevant road management authority (Roads Corporation or City of Melton), as required.

3.4 Railway noise attenuation

DD/MM/YYYY
Proposed
C161

An application for use or development within the 'railway noise amenity area' on Plan 10 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan* must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- The acoustic assessment report must demonstrate compliance with 'Section 14 – Connector Street – Railway Interface' cross-section in the PSP.
- The acoustic assessment report must also include (as appropriate to the particular use or development):
 - An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line.
 - Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LAeq,8h for the night period from 10pm to 6am.
 - Recommendations for limiting the impact of railway noise on future buildings within the proposed subdivision.
 - A design response that addresses the recommendations of the acoustic assessment including all necessary architectural noise attenuation treatments.

All to the satisfaction of the responsible authority and Public Transport Victoria.

3.5 Subdivide, use or develop land for a sensitive purpose - Environmental Site Assessment

DD/MM/YYYY
Proposed
C162

An application to subdivide land or use or develop land as identified in Table 3 of this schedule, for a sensitive use (residential use, child care centre or primary school) must be accompanied by an Environmental Site Assessment by a suitably qualified environmental professional to the satisfaction of the responsible authority which takes account of the report titled '*PSP 1082 Mt Atkinson & PSP 1085 Tarneit Plains, Land Capability Assessment* (Jacobs, 2 July 2015) and provides information including:

- Further detailed assessment of potential contaminants on the relevant land;

- 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 *Potentially Contaminated Land General Practice Note June 2005, DSE*;
- Further detailed assessment of surface and subsurface water conditions and geotechnical characteristics (including soil and groundwater sampling) on the relevant land and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater conditions and geology on the development and the impact of the development on surface and subsurface water; and
- Recommended remediation actions for any potentially contaminated land.

Table 3: Environmental Site Assessment

Address	Legal Description
2-50 Meskos Road, Rockbank (rock crushing & concrete batching plant)	Lot 3/PS448579
671-737 Troups Road South Mount Cottrell (Nevas Chicken Farm)	Allot. 5 Sec. 6 Parish of Pywheijtjorkk

4.0 Conditions and requirements for permits

DD/MM/YYYY
Proposed
C162

4.1 Conditions for subdivision permits that allow the creation of a lot less than 300 square metres

DD/MM/YYYY
Proposed
C162

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 to and approved by 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 Melton 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.

4.2 Conditions for subdivision or buildings and works permits where land is required for community facilities, public open space and road widening

DD/MM/YYYY
Proposed
C162

Land required for community facilities or public open space shown as 'credited open space' as set out in Table 7 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan* or the *Mt Atkinson & Tarneit Plains Infrastructure Contributions Plan* must be transferred to or vested in Council at no cost to Council unless the land is funded by the *Mt Atkinson & Tarneit Plains Infrastructure Contributions Plan*.

Land required for road widening including right of way flaring for the ultimate design of any intersection with an existing or proposed arterial road must be transferred to or vested in Council or VicRoads at no cost to the acquiring agency unless funded by the *Mt Atkinson & Tarneit Plains Infrastructure Contributions Plan*.

Land required for community facilities, road or public open space must be shown as a reserve on a Plan of Subdivision submitted for Certification in favour of Melton City Council or the relevant agency.

4.3 Management of bushfire risk during subdivisional works

DD/MM/YYYY
Proposed
C161

A permit for subdivision that contains a condition requiring a construction management or site management plan must ensure that the relevant plan addresses any potential bushfire risks arising from the land during construction and must include a statement from a suitably qualified professional that the proposed bushfire risk management measures are appropriate.

4.4 Conditions – Kangaroo Management

DD/MM/YYYY
Proposed
C162

A permit granted for subdivision of land must include the following conditions:

- Before the certification of the Plan of Subdivision, a Kangaroo Management Plan must be approved by the Secretary of 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

4.5 Requirement - Salvage and Translocation

D/MM/YYYY
Proposed
C162

Salvage and translocation of threatened flora and fauna species and ecological communities must be undertaken in the carrying out of development to the satisfaction of the Secretary of the Department of Environment, Land, Water and Planning.

4.6 Condition – Environmental Management Plan

D/MM/YYYY
Proposed
C162

A planning permit for subdivision, buildings or works on land shown as a conservation area in the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan* must include the following condition:

- The subdivision, buildings or works must not commence until an Environmental Management Plan for the relevant works has been approved to the satisfaction of the Secretary of the Department of Environment, Land, Water and Planning unless otherwise agreed by the Department of Environment, Land, Water and Planning.

4.7 Requirement - Protection of conservation areas and native vegetation during construction

D/MM/YYYY
Proposed
C162

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, on land including or abutting a conservation area or patch of native vegetation or scattered tree identified for retention in the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan* 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.

4.8

Requirement – Land Management Co-operative Agreement

D/MM/YYYY
Proposed
C162

A permit to subdivide land shown in the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan* as including a conservation area must ensure that, before the commencement of works for the last stage of the subdivision, the owner of the land:

- Enters into an agreement with the Secretary of 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 *Mt Atkinson & Tarneit Plains 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 of 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 the subject of an agreement with the Secretary of the Department of Environment, Land, Water and Planning to transfer or gift that land to:
 - the Secretary of the Department of Environment, Land, Water and Planning;
 - the Minister for Environment and Climate Change; or
 - another statutory authority.

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

4.9

Condition for public transport

DD/MM/YYYY
Proposed
C162

Unless otherwise agreed to by Public Transport Victoria, prior to the issue of a statement of compliance for any subdivision stage, bus stops must be constructed, at full cost to the permit holder as follows:

- Generally in the location identified by Public Transport Victoria
- In accordance with the Public Transport *Guidelines for Land Use and Development* with a concrete hard stand area, and in activity centres a shelter must also be constructed
- Be compliant with the *Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002*; and
- Be provided with direct and safe pedestrian access to a pedestrian path.
- All to the satisfaction of Public Transport Victoria and the responsible authority.

4.10

Railway noise attenuation area

DD/MM/YYYY
Proposed
C161

Any permit for the use or development of land, within the 'railway noise amenity area' on Plan 10 of the *Mt Atkinson & Tarneit Plains Precinct Structure Plan* must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures.

All to the satisfaction of the responsible authority and Public Transport Victoria.

4.11 Requirement - Environmental Site AssessmentDD/MM/YYYY
Proposed
C162**Use and development of land listed in Table 3 of this schedule, for a sensitive use (residential use, child care centre or primary school)**

Prior to the commencement of a sensitive use, or the commencement of development associated with a sensitive use, or the certification of a Plan of Subdivision, or a stage of subdivision, under the *Subdivision Act 1988* associated with a sensitive use, the recommendations of the Environmental Site Assessment lodged with the application, must be carried out to the satisfaction of the responsible authority along with any further requirements made by the responsible authority after having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005* (DSE). The use or development must not commence, or the plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

5.0 Advertising SignsDD/MM/YYYY
Proposed
C162

Land is in the category specified in the applied zone.

5.1 Land and home sales signsDD/MM/YYYY
Proposed
C162

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

If the sign does not meet all of the requirements listed above, it must comply with the provisions of Clause 52.05.

5.2 Education / community promotion signsDD/MM/YYYY
Proposed
C161

Despite the provisions of Clause 52.05, a permit may be granted, for a period of not more than 5 years, to display an advertising sign greater than two square metres in area that promotes a community facility or education centre on the land identified as community facilities, potential government school, potential non-government school and credited open space on Map 1 to this schedule.

6.0 Notice to gas transmission pipeline owner and operatorDD/MM/YYYY
Proposed
C162

Notice must be given to the person or body listed in the Schedule to Clause 66.06 of an application to use land for any of the following within the 'high pressure gas transmission pipeline measurement length' shown on *Plan 12 Utilities* in the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan*

- Child care centre
- Cinema based entertainment facility
- Corrective institution
- Dependant persons unit

- Education centre
- Hospital
- Place of assembly
- Residential aged care facility
- Service station

Notice must be given to the person or body listed in the Schedule to Clause 66.06 of an application for a residential development of four or more storeys within the 'high pressure gas transmission pipeline measurement length' shown on *Plan 12 Utilities* in the incorporated *Mt Atkinson & Tarneit Plains Precinct Structure Plan*

6.1 Exemption from notice and review not to apply to certain applications

DD/MM/YYYY
Proposed
C162

An application to use land for a use listed in Section 2 of the General Residential Zone and Residential Growth Zone on land where the applied zone listed at Table 1 of this schedule is General Residential Zone or Residential Growth Zone 1 is not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

7.0 Decision Guidelines

DD/MM/YYYY
Proposed
C162

Mt Atkinson Town Centre – Use of land for a Shop

Before deciding on an application to use land for a shop on land identified within the 'Mt Atkinson Specialised Town Centre, in addition to the decision guidelines at Clause 37.07-14, the responsible authority must consider, as appropriate:

- The local catchment and PSP catchment demand for the additional floor area; and
- The effect on existing and future major town centres within the City of Melton

Ravenhall Quarry Sensitive Use Buffer

- Before deciding on an application to use land within the Quarry Sensitive Use Buffer, in addition to the decision guidelines in Clause 37.07-14, the responsible authority must consider the effect that emissions of noise, vibration, odour, dust and grit from the nearby Ravenhall Quarry (located east of Hopkins Road) may have on the proposed use.

Appendix E Proposed changes to Clause 4.0 of DCPO9 – VPA preferred version

Schedule 9 to the DCPO – proposed drafting changes to clause 4.0

A permit may be granted to subdivide land, construct a building or construct or carry out works before a precinct wide contributions plan has been prepared to the satisfaction of the responsible authority if any of the following apply:

- An agreement under section 173 of the *Planning and Environment Act 1987* has been entered into with the responsible authority that makes provision for the delivery of items listed in the Precinct Infrastructure Plan within the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*, incorporated document.
- The permit contains a condition requiring an agreement under section 173 of the *Planning and Environment Act 1987* that makes provision for contributions to items listed in the Precinct Infrastructure Plan within the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*, incorporated document with the agreement being required to be entered into before the issue of any Statement of Compliance. At the discretion of the responsible authority, the agreement may make provision for works in kind to be carried out having regard to the infrastructure projects set out in the Precinct Infrastructure Plan contained in the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*.
- The responsible authority considers that the permit does not compromise the orderly planning of the precinct for the construction of a building or construction or carrying out of works associated with:
 - Additions or alterations to a single dwelling or development ancillary to the use of land for a single dwelling.
 - An existing use of land provided the gross floor area of the existing use is not increased by more than 1000 square metres.
 - A sign.
 - A permit that only allows the consolidation of land or a boundary realignment.