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# AMENDMENT C241WSEA SHENSTONE PARK PSP

## EXPERT EVIDENCE STATEMENT

PAUL SHIPP, DIRECTOR, URBAN ENTERPRISE PTY LTD

BARRO GROUP

6 NOVEMBER 2020



[www.urbanenterprise.com.au](http://www.urbanenterprise.com.au)

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# 1. NAME AND QUALIFICATIONS

1. My name is Paul Shipp and I am Director of Urban Enterprise Pty Ltd, of 1/302-304 Barkly Street Brunswick, VIC 3056.
2. Urban Enterprise is a firm of urban planners, land economists and tourism planners based in Melbourne. The firm has more than 30 years' experience providing consultancy services to all levels of Government and a wide range of private sector organisations in Victoria and other states of Australia.
3. I am a qualified urban planner and economist with 15 years experience and specialise in the field of development contributions.
4. I have been involved in the preparation and review of many Development Contributions Plans, Infrastructure Contributions Plans and public open space contributions for Councils and developers across Melbourne and regional Victoria.
5. I have appeared as an expert witness on numerous occasions in respect of development contributions at Planning Panel and Advisory Committee hearings.
6. My educational qualifications and memberships of professional associations include:
  - a. Bachelor of Urban Planning and Development, University of Melbourne;
  - b. Master of Commerce, RMIT University;
  - c. Member and Registered Planner (RPIA), Planning Institute of Australia; and
  - d. Member, Victorian Planning and Environmental Law Association.

## 2. ENGAGEMENT

### 2.1. INSTRUCTIONS

7. I have been instructed by Ponte-Business Lawyers for Business on behalf of Barro Group to prepare an expert evidence statement to present at the Planning Panel hearing in relation to this matter.
8. My instructions are to consider the appropriateness of the application of the likely Infrastructure Contribution Plan/Development Contribution Plan to the 'Woody Hill Quarry' and the 'Total Access Road & Bund Area'. I was also specifically instructed to respond to the issues raised in Submissions 6, 7, 12 and 13 as they relate to the ICP.

### 2.2. INFORMATION REVIEWED

9. I have reviewed the following documents which are relevant to my instructions:
  - a. Amendment C241wsea Documentation (the **Amendment**);
  - b. Shenstone Park Precinct Structure Plan – September 2019 (the **Exhibited PSP**);
  - c. Shenstone Park Precinct Structure Plan Tracked Changes Panel Version – October 2020 (the **Panel Version PSP**);
  - d. Strategic Transport Modelling Assessment Report – GTA, October 2020 (**GTA Report**);
  - e. The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans (the **Ministerial Direction**);
  - f. Infrastructure Contribution Plan Guidelines, Department of Environment, Land Water and Planning, November 2019 (the **ICP Guidelines**);
  - g. Submissions 6, 7, 12, and 13 to the Amendment;
  - h. Donnybrook Woodstock Infrastructure Contributions Plan, April 2019;
  - i. Planning Permit 704901 (**Trade Supplies Permit**); and
  - j. Barro Group Letter of 2 October, 2020 responding to Panel directions 6 and 7 (**Barro Response to Panel Directions**).

## 3. THE AMENDMENT AND PSP

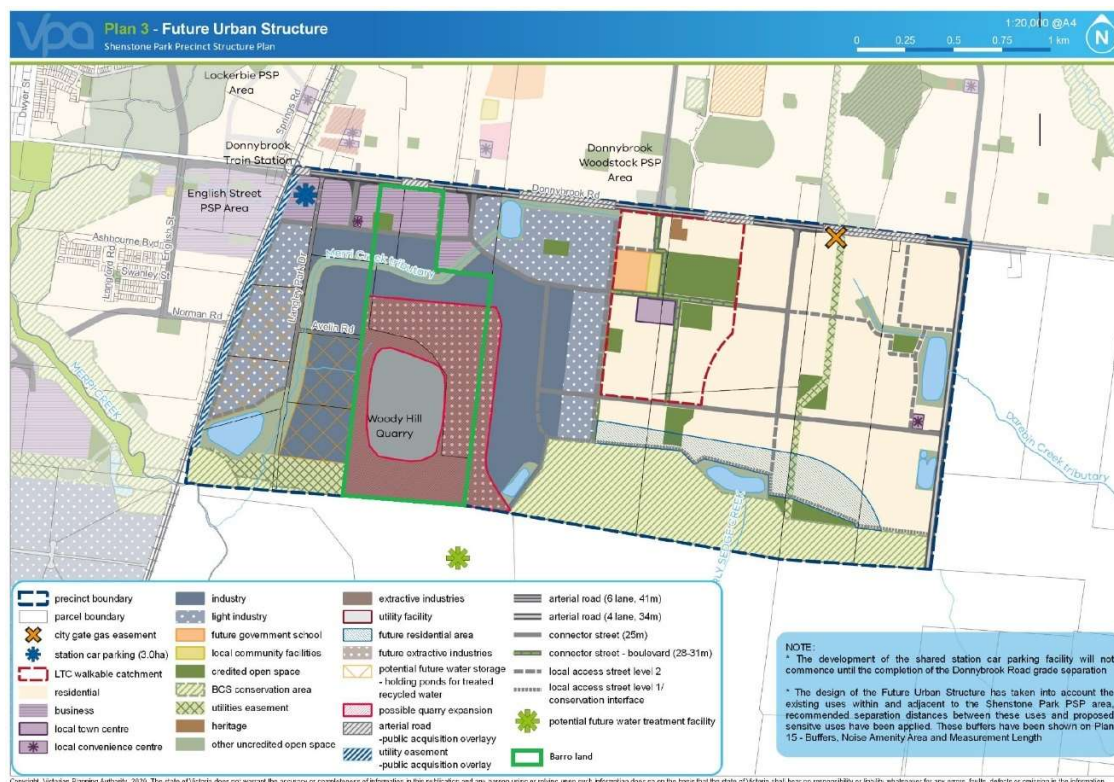
### 3.1. INTRODUCTION

10. In this section, I summarise the elements of the Amendment and the PSP that are relevant to my instructions.

### 3.2. OVERVIEW

11. The Amendment seeks to introduce the Shenstone Park PSP into the Whittlesea Planning Scheme.
12. The Amendment does not include an infrastructure Contributions Plan (ICP) or related overlay (ICPO). The Explanatory Report states that an "ICP for the Shenstone Park PSP will be incorporated into the Whittlesea Planning Scheme via a subsequent amendment" (p.5).
13. The PSP provides for a range of new urban land uses in the Precinct including residential and employment land, whilst also recognising the ongoing use and expansion of the existing Woody Hill quarry.
14. The Future Urban Structure (FUS) of the Panel Version PSP is reproduced in Figure 1, along with the extent of the land owned by Barro which I have annotated with a green border.

## F1. FUTURE URBAN STRUCTURE, SHENSTONE PARK



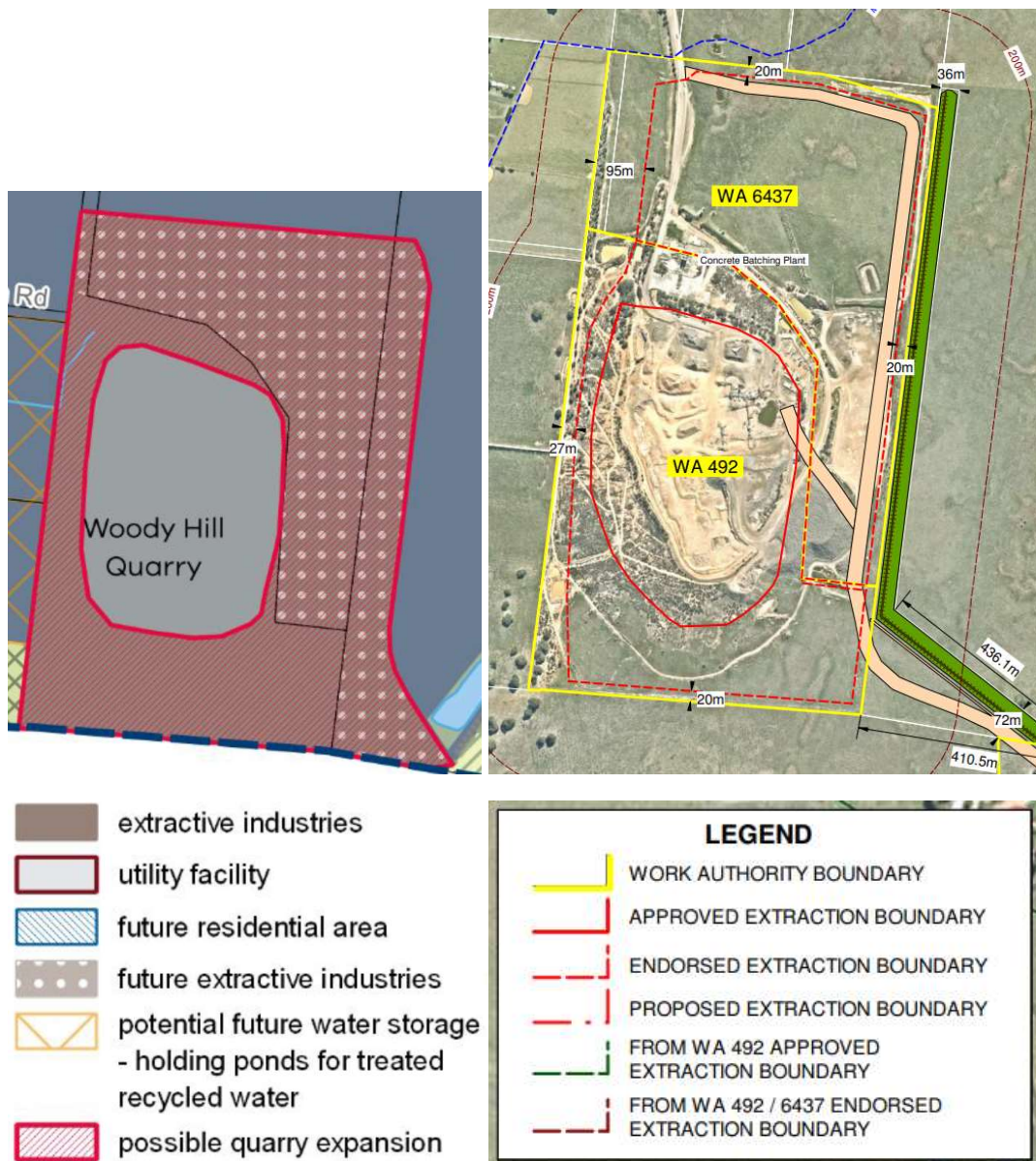
Source: Shenstone Park PSP (Panel Version), 2020

### 3.3. BARRO LAND

15. The land owned by the Barro Group (**Barro Land**) within the PSP is identified in the PSP as properties number 9 and 10. The Barro Land extends from Donnybrook Road in the north to the southern boundary of the PSP, a contiguous land holding which traverses the length of the PSP area.
16. The PSP shows that the southern and central sections of the Barro Land is designated for ongoing quarry purposes and associated expansion, while the northern section of the Barro Land is identified for a combination of "Industry", "Light Industry" and "Business" uses.
17. In respect of the Woody Hill Quarry and its surrounds, the PSP identifies the following land use designations:
  - Woody Hill Quarry, which covers the existing quarry area included in Work Authority WA492; and
  - "Extractive industries", which covers the land surrounding the existing quarry pit, all of which is also shown as "Possible Quarry Expansion", separated into the following two areas:
    - An area primarily to the south and west of the existing quarry which appears to correspond with the balance of WA492; and
    - An area to the north and east of the existing quarry shown as "Future Extractive Industries" which is similar to (but not to the same northerly extent of) the endorsed Work Plan for WA6437, plus the access road and bund area running in a north-south direction adjacent to the eastern boundary of the two Work Authority areas.
18. I provide a closer plan of the quarry land use designations in Figure 2, along with a plan showing the extent of the two Work Authority areas.
19. A 'blast buffer' is also shown in Figure 2 on the Work Authority Areas Plan as a 200m buffer around the quarry operations. This buffer is also shown in Plan 15 of the PSP as is an area in which most buildings are prohibited.
20. Also relevant to the existing use of the Barro land is the concrete batching plant which operates pursuant to Planning Permit 710157 adjacent to the existing quarry and the proposal to establish a trade supplies business at the northern end of the Barro Land fronting Donnybrook Road.



## F2. QUARRY LAND USE DESIGNATIONS IN THE PSP AND WORK AUTHORITY AREAS

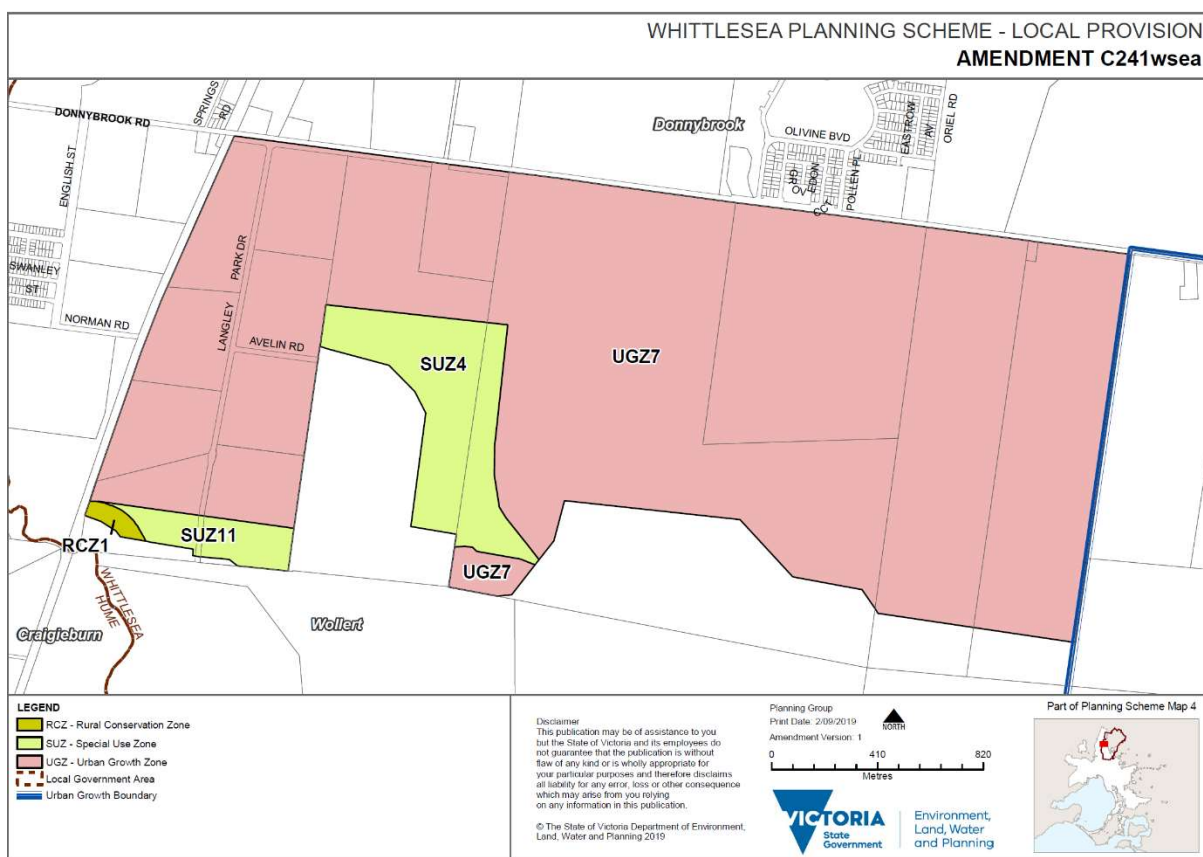


Source: VPA, Panel Version of PSP Plan 3; Barro Group, Site Visit / Aerial Photography, October 15 2020 (Plan 3).

### 3.4. PLANNING ZONES

21. In respect of the quarry and surrounds, the Amendment proposes to rezone the area of the PSP designated for “future extractive industries” from the Farming Zone to Special Use Zone (SUZ4) to enable part of the proposed expansion of the Woody Hill Quarry.
22. The existing quarry is already within the SUZ4, meaning that the Amendment would extend the existing SUZ4 to cover part of the potential quarry expansion as shown in Figure 3. I note that Figure 3 is taken from the exhibited amendment documentation and that the Panel Version of the PSP includes changes to the boundaries of the quarry expansion area that I expect will translate into changes to the SUZ4 boundary (see Figure 4).
23. The new SUZ4 area would apply to both the Barro Land (for the proposed quarry expansion) and the neighbouring property at 960 Donnybrook Road. The October 2020 FUSP appears to more closely correspond with the bund area and access road proposed to connect the Woody Hill and Phillips Quarries.

### F3. PROPOSED PSP ZONES



Source: DELWP, 2019, C241 Amendment Documentation.



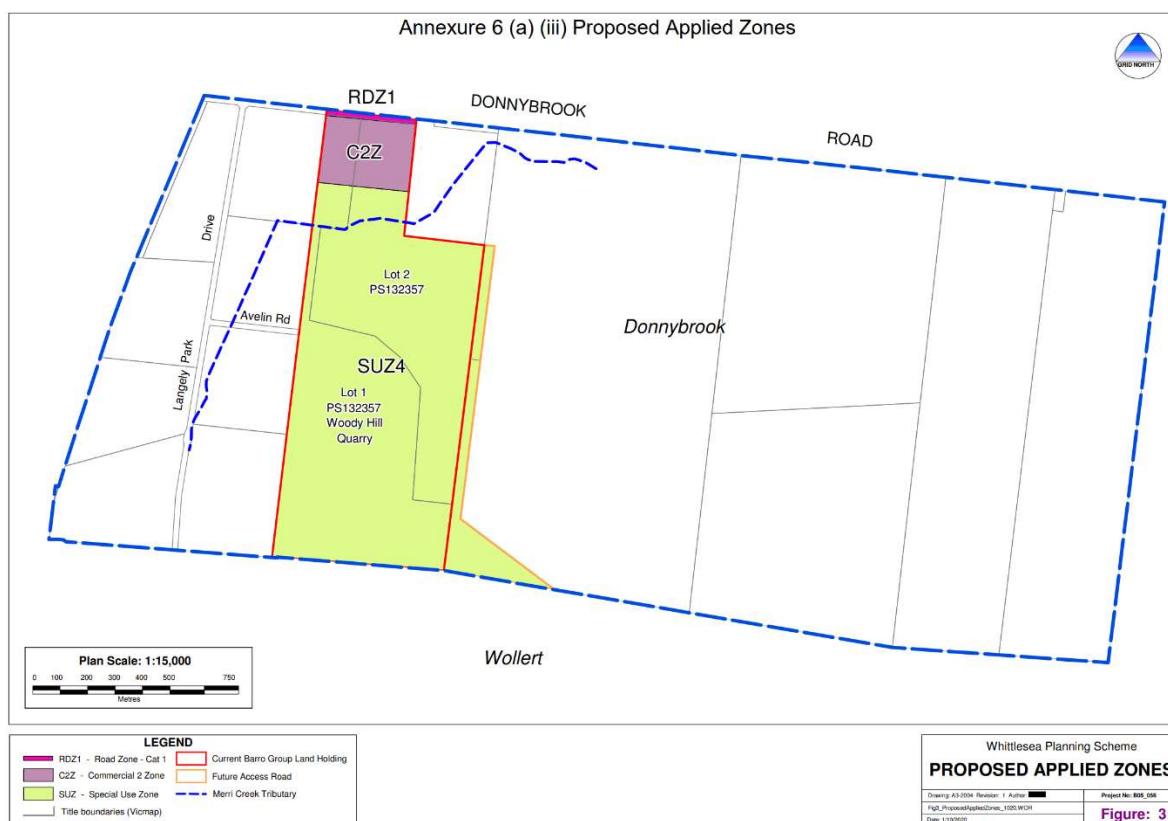
#### F4. PROPOSED AMENDED QUARRY EXTENT



Source: Shennstone Park PSP (Panel Version), 2020

24. The Barro Group has submitted a proposed zoning arrangement for the extent of the SUZ4 and the zoning of the northern section of their land holding, shown in Figure 5.
25. This proposed zoning seeks to extend the SUZ4 further north than shown in both the exhibited amendment and the Panel Version PSP to also include land identified in the FUS for industry use within the Barro land. Additionally, less land is proposed to be zoned SUZ4 at the eastern boundary of Quarry, reflecting the need for less land associated with a future road link connecting the Woody Hill Quarry and the proposed Phillips Quarry.
26. The northernmost area of the Barro land, which is identified in the FUS for 'business' use, is proposed by Barro to have an applied zoning of the Commercial 2 Zone to reflect the permitted trade supplies use.

## F5. BARRO PROPOSED APPLIED ZONES



Source: Barro Response to Panel Directions, 2 October 2020.

27. The Amendment does not propose changes to Schedule 4 to the Special Use Zone. SUZ4 applies to all extractive areas within City of Whittlesea and has the stated purposes:
- “To recognise or provide for the use and development of land for earth and energy resources industry.”
  - “To encourage interim use of the land compatible with the use and development of nearby land.”
  - “To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.”
28. The Amendment also applies Schedule 9 to the Incorporated Plan Overlay (IPO9) to the quarry land. The Schedule requires that “A permit granted must be generally in accordance with the incorporated Shenstone Park Precinct Structure Plan as it applies to the land.” This requires the land to be used for extractive resource purposes and prohibits buildings in the 200m blast buffer.
29. Taken together, the PSP, IPO9 and SUZ4 clearly protect the ongoing and future use of the existing and parts of the proposed extension to the Woody Hill Quarry (and associated bund area and access roads) for extractive industry purposes and prevent any alternative or urban use and development.

## PSP LAND BUDGET

30. The Panel Version of the PSP includes a land budget which shows that there is a total of 628.22 hectares of land in the PSP area, 369.59 hectares of which is defined as Net Developable Area (NDA). 196.84 ha of the NDA is for Residential purposes, while the remaining 172.75 ha is for Employment purposes.
31. The land budget (reproduced in Figure 6) shows that the “existing and future Quarry” has an area of 75.35 ha, and that this area is not included in the NDA. This indicates that the existing and future quarry areas is not proposed to be developed for urban purposes.

## F6. PSP LAND BUDGET

Description	PSP Shenstone Park		
	HECTARES	% OF TOTAL	% OF NDA
<b>TOTAL PRECINCT AREA (ha)</b>	<b>628.22</b>		
<b>Transport</b>			
Arterial Road - Existing Road Reserve	5.68	0.90%	1.54%
Arterial Road - Public Acquisition Overlay	6.22	0.99%	1.68%
Arterial Road - New / Widening / Intersection Flaring (ICP land)	10.93	1.74%	2.96%
Non-Arterial Road - Retained Existing Road Reserve	1.35	0.21%	0.36%
<b>Sub-total Transport</b>	<b>24.17</b>	<b>3.8%</b>	<b>6.54%</b>
<b>Community &amp; Education</b>			
Government School	3.50	0.56%	0.95%
Local Community Facility (ICP land)	1.20	0.19%	0.32%
<b>Sub-total Education</b>	<b>4.70</b>	<b>0.7%</b>	<b>1.3%</b>
<b>Open Space</b>			
<b>Uncredited Open Space</b>			
Conservation Reserve	70.75	11.26%	19.14%
Waterway and Drainage Reserve	42.05	6.69%	11.38%
Heritage Reserve - Post Contact	0.88	0.14%	0.24%
Utilities Easements	14.22	2.26%	3.85%
Utilities Easements - Public Acquisition Overlay	3.86	0.61%	1.05%
<b>Sub-total Service Open Space</b>	<b>131.76</b>	<b>20.97%</b>	<b>35.65%</b>
<b>Credited Open Space</b>			
Local Sports Reserve (ICP land)	8.45	1.3%	2.29%
Local Network Park (ICP land)	14.14	2.3%	3.83%
<b>Sub-total Credited Open Space</b>	<b>22.59</b>	<b>3.6%</b>	<b>6.11%</b>
<b>Total All Open Space</b>	<b>154.35</b>	<b>24.6%</b>	<b>41.76%</b>
<b>Other</b>			
Quarry (including existing and expanded area)	75.35	11.99%	20.39%
Utilities Sub-stations / facilities (acquired by relevant authority)	0.05	0.01%	0.01%
<b>Sub-total</b>	<b>75.40</b>	<b>12.00%</b>	<b>20.40%</b>
<b>TOTAL NET DEVELOPABLE AREA - (NDA) Ha</b>	<b>369.59</b>	<b>58.83%</b>	
<b>NET DEVELOPABLE AREA - RESIDENTIAL (NDAR) Ha</b>	<b>196.84</b>	<b>31.33%</b>	
<b>NET DEVELOPABLE AREA - EMPLOYMENT (NDAE) Ha</b>	<b>172.75</b>	<b>27.50%</b>	
Description	PSP Shenstone Park		
	Hectares	% of NDAR	
<b>Residential Local Open Space (expressed as % of NDAR)</b>			
Local Sports Reserve (ICP land)	8.45	4.29%	
Local Network Park (ICP land)	11.24	5.71%	
<b>Sub-total</b>	<b>19.69</b>	<b>10.00%</b>	
<b>Employment Local Open Space (expressed as % of NDAE)</b>			
Local Network Park (ICP land)	2.90	1.68%	
<b>Sub-total</b>	<b>2.90</b>	<b>1.68%</b>	

Source: Shenstone Park PSP (Panel Version), 2020.



## PRECINCT INFRASTRUCTURE PLAN

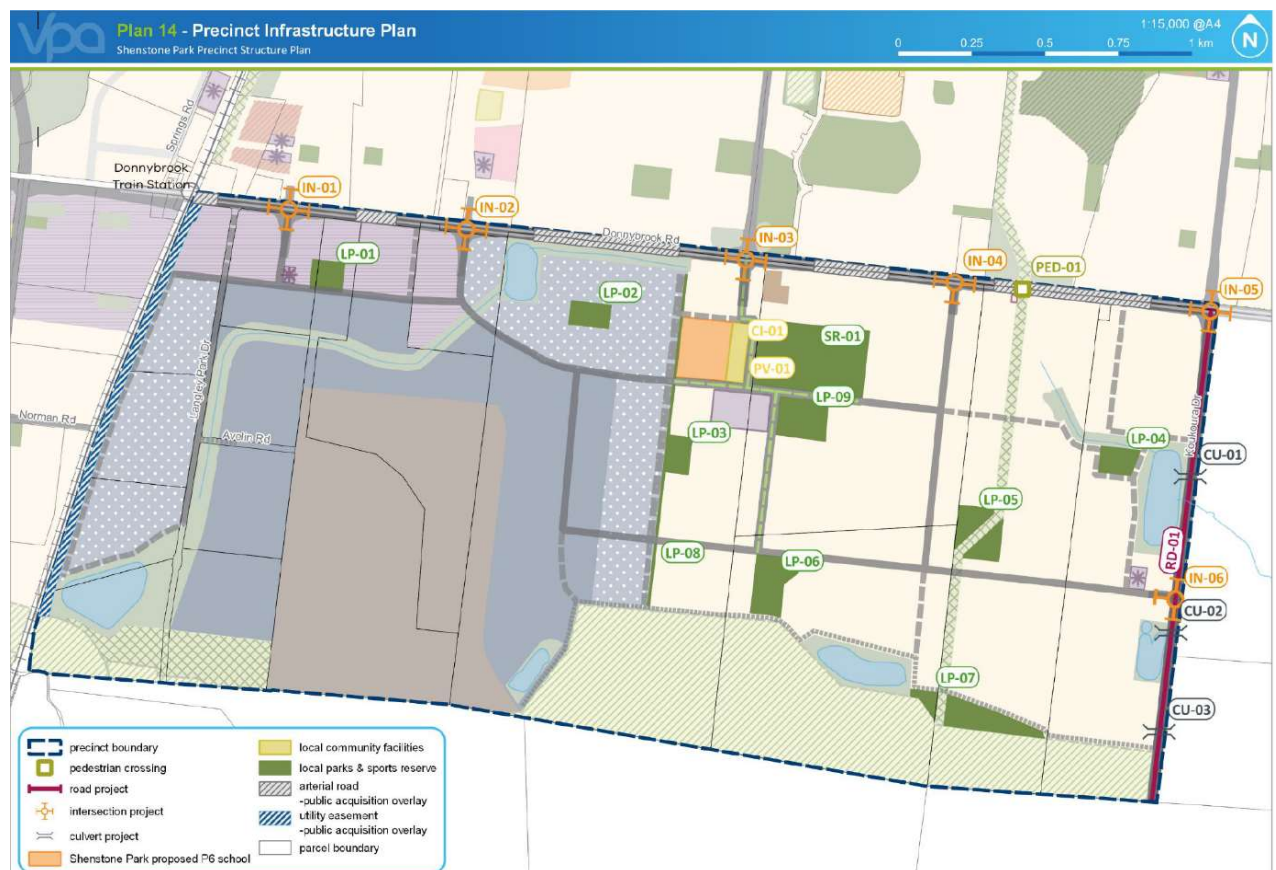
32. The PSP includes a Precinct Infrastructure Plan (PIP) which identifies the major infrastructure items to service the development of the PSP area.

33. The PIP contains the following items:

- One secondary arterial road (RD-01 Koukoura Drive, the eastern boundary of the PSP);
- Six intersections, including:
  - The southern leg of four 4-way intersections along Donnybrook Road, the northern boundary of the PSP (IN-01, IN-02, IN-04 and IN-05); and
  - Two 3-way intersections (IN-03 and IN-06);
- Three culverts along Koukoura Drive;
- Pedestrian signals across Donnybrook Road;
- A Community Centre;
- A sports reserve and pavilion; and
- Local parks.

34. A map showing the location of these infrastructure items is provided in Figure 7.

## F7. SHENSTONE PARK PRECINCT INFRASTRUCTURE PLAN



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Source: Shenstone Park Panel PSP, 2020.

35. All infrastructure items shown in the PIP have an “internal apportionment” of 100% with the exception of pedestrian crossing item (PED-01) which is apportioned 50% to Shenstone Park PSP and 50% to the Donnybrook Woodstock PSP. This indicates that almost all of the cost of delivering the items shown in the PIP will be funded through the future ICP.
36. No infrastructure items are shown in the vicinity of the quarry land or proposed quarry expansion. No connector or arterial roads are shown within, adjacent to or leading to the quarry areas.

## 4. APPLICATION OF THE ICP TO QUARRY

### 4.1. INTRODUCTION

37. In this section I provide my view on how the proposed infrastructure Contributions Plan would apply to the Woody Hill Quarry and Access Road and Bund Area.

### 4.2. THE FUTURE ICP

38. As noted earlier in my statement, the Amendment does not include a proposed ICP. The Explanatory Report indicates that an “ICP for the Shenstone Park PSP will be incorporated into the Whittlesea Planning Scheme via a subsequent amendment” (p.5).
39. I am instructed that the VPA’s position is that:
- a. The current infrastructure costs will fall within the Standard ICP Levy; and
  - b. The ICP will be prepared after the completion of Shenstone Park PSP. Given the expectation that a standard levy will be sufficient to fund the required community, recreation and transport construction projects, the ICP amendment will likely be processed under section 20(4) of the Act.
40. If this is the case, then no Supplementary Levy will be required to fund the infrastructure shown in the PIP.
41. Based on the information provided in the Amendment material - particularly the absence of cost estimates for infrastructure items - it is not possible for me to comment on whether or not a supplementary levy will be required.
42. If the future ICP is ultimately a ‘standard levy’ ICP, then the “subsequent amendment” referred to in the Explanatory Report can proceed under Section 20 Part A of the Planning and Environment Act 1987 in accordance with the following section of the ICP Guidelines:

*“If the ICP does not include a supplementary levy, the amendment may be prepared by the Minister under section 20A of the PE Act provided an amendment to the planning scheme has been approved to incorporate a precinct structure plan or strategic plan to which the ICP relates.*

*The public exhibition and notice requirements of the PE Act do not apply to an amendment prepared under section 20A.” (ICP Guidelines, p.47)*



### 4.3. POTENTIAL ICP CONTENT AND APPLICATION

43. Although the ICP has not been exhibited, the content of the PSP generally forms the basis of an ICP relating to the area, particularly:
- The land budget; and
  - The Public Infrastructure Plan, including the proposed apportionment of costs.
44. In my experience, it is standard practice for an ICP to adopt the PSP Land Budget and to use the Net Developable Area shown in the PSP to calculate and collect levies. In this case, it is my view that the PSP Land Budget should reflect the proposed zoning arrangement shown in the Barro Response to Panel Directions (see my Figure 5), and that the resulting areas should flow through to the future ICP.
45. As noted earlier in my evidence, the NDA excludes the existing and future quarry area, an area which aligns with the existing and proposed SUZ4 area. On this basis, it is my expectation that ICP levies will not be payable in respect of the use and development of land in the SUZ4.
46. In my view, this approach would be appropriate because land in the SUZ4 will not be developable for urban purposes so long as quarrying activity is occurring. Therefore, the quarry land, access road and bund area are in my opinion appropriately defined as "encumbered land" and not NDA. This approach is consistent with the following definitions used for PSPs:

*"Encumbered land is defined as "land that is constrained for development purposes. Includes easements for power/ transmission lines, sewers, gas, waterways/ drainage; retarding basins/ wetlands; landfill; conservation and heritage areas. "*

*NDA is defined as "land within a precinct available for development. This excludes encumbered land, arterial roads, railway corridors, schools and community facilities and open space."*  
(PSP Guidelines, p.54)

## 5. SUBMISSIONS

### 5.1. INTRODUCTION

47. In this section I respond to the issues raised in submissions relevant to infrastructure contributions.
48. The following four submissions to the Amendment raise issues relevant to my instructions:
- Submission 6;
  - Submission 7;
  - Submission 12; and
  - Submission 13.
49. Other submissions raise general issues relating to the ICP, however these submissions seek clarification from the VPA which I am not in a position to respond to. For example:
- Submission 4 “seeks confirmation on the following in relation to the Shenstone ICP: Is a supplementary levy proposed or will the Standard levy apply. Will the ICP be gazetted at the same time as the PSP.” (p.5)
  - Submissions 7, 10 and 12 argue that “The draft ICP should be made publicly available via this amendment process and incorporated at the same time as the PSP into the Whittlesea Planning Scheme, or the PSP be held back until the ICP is able to be applied.” (p.5)
  - Submission 32 by Whittlesea City Council requests that the ICP and PSP are exhibited concurrently.

### 5.2. ISSUES

50. Each of submissions 6, 7, 12 and 13 were prepared by the same organisation on behalf of separate landowners and include identical content relating to infrastructure contributions as follows:

*“The Woody Hill Quarry is also deducted from the land budget and a portion of the Quarry is proposed to be rezoned from Farming Zone to the Special Use Zone, which would also exempt the Quarry from ICP charges being applied to the land.*

*This would appear unreasonable as the Quarry would expect to use and benefit from facilities such as IN01 and IN02 heading north and IN06 and RD-01 Koukoura Drive east (which then provides further north/south arterial function).*

*The Quarry land should also be apportioned as development land for industrial purposes and attributed to ICP contributions so that when it is further developed following conclusion of the Quarry use, it can fairly contribute to infrastructure identified in the PSP.*

*Under the new Work Authority WA006437, the Quarry will most likely cease to operate for quarry purposes within the life of the PSP and ICP and likely be developed for industrial purposes. It is therefore recommended that the PSP include an alternative Future Urban Structure (Plan 3) on how the road network and layout of the area would occur subject to the future closure of the Quarry, and that traffic analysis etc be reviewed based on that revised layout so as to inform the ultimate land use of the PSP area."*

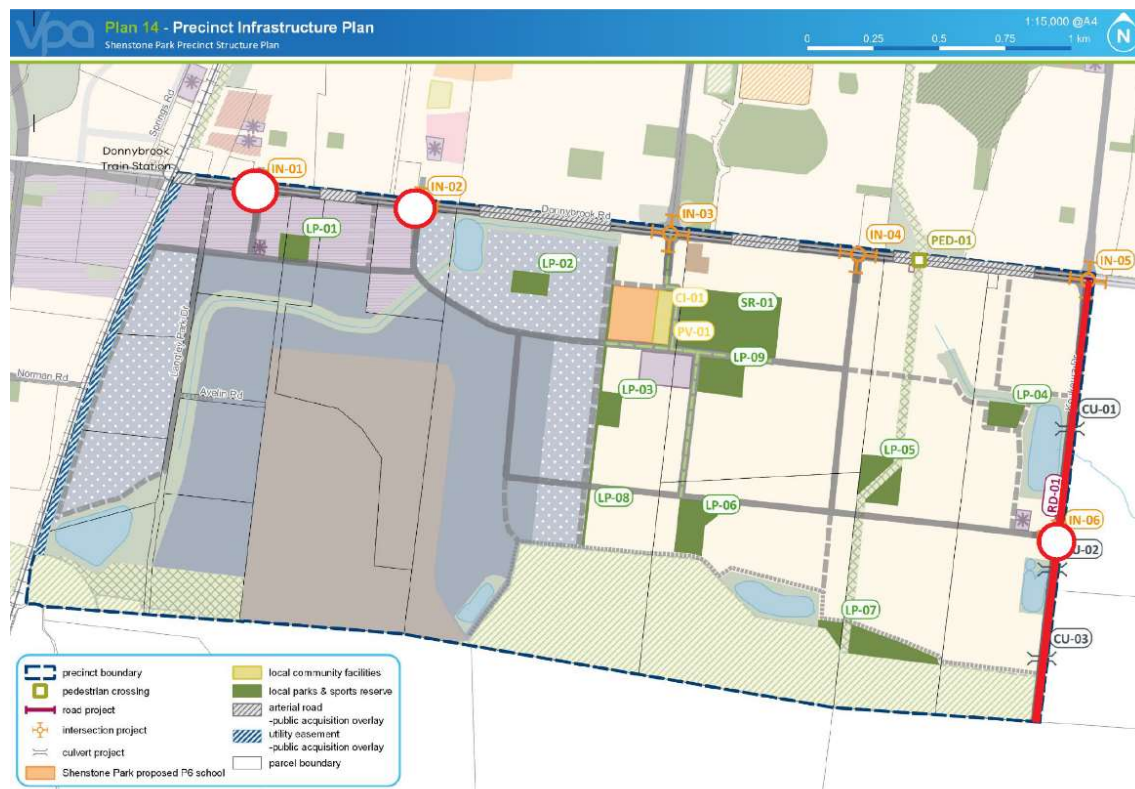
51. I have distilled the issues into the following two questions which I then provide my responses to:

- Should the existing and proposed quarry operations and land be exempt from contributions?
- Is it appropriate to require infrastructure contributions from future urban land uses on quarry land following the conclusion of quarry activities?

### **5.3. SHOULD THE QUARRY LAND BE EXEMPT FROM CONTRIBUTIONS?**

52. The submissions argue that it is unreasonable to exempt the Quarry from ICP charges as the quarry would "use and benefit from" certain road and intersection items, specifically IN01, IN02, IN06 and RD01.
53. The PIP identifies each of these items and indicates that 100% of the cost of these items is to be funded by the future Shenstone Park ICP.
54. The location of these items is shown in Figure 8. RD01 and RD02 are intersections at the western end of Donnybrook Road; RD01 is the construction of Koukoura Drive at the eastern boundary of the Precinct and IN06 is an access intersection off Koukoura Drive.

## F8. SUBJECT INFRASTRUCTURE ITEMS



Source: Shenstone Park Panel PSP, 2020; Urban Enterprise.

55. As noted in earlier in my statement, in my view the SUZ4 land is appropriately defined as encumbered land and therefore excluded from the NDA and infrastructure contributions.

56. Notwithstanding this view, it is also relevant that:

- The quarry is an existing land use with existing access arrangements, meaning that there is no nexus between the quarry and the infrastructure items in question; and
- The estimated traffic generated by the quarry is negligible when compared with the traffic generated by the future urban land uses planned within the Precinct.

### EXISTING ACCESS

57. The Woody Hill Quarry currently takes access from Donnybrook Road via an access road which is entirely within the Barro Land. I am instructed that Barro intends to continue to use this road to access:

- The existing quarry, concrete batching plant and weighbridge (existing use rights and planning permit issued);
- The proposed Trade Supplies development (planning permit issued);
- The proposed Phillips Quarry (planning permit issued); and
- The proposed expansion of the Woody Hill quarry operations (permit applications proposed).



58. A map showing the access road and the various quarry and related uses that will continue to utilise the road is shown in Figure 9.

## F9. EXISTING QUARRY ACCESS ARRANGEMENTS



Source: Barro.

59. Barro intends to construct an extension to the existing access road to provide access from Donnybrook Road to the Phillips Quarry via the Woody Hill Quarry.
60. The Planning Permit for the proposed trade supplies development (715902) requires the construction of a new intersection at Donnybrook Road, as shown in Figure 10. Barro intends to use this intersection and realigned access road to access the Woody Hill Quarry and subsequently the Phillips Quarry.

#### F10. NEW ACCESS ROAD



Source: Barro.

61. These circumstances indicate that both quarries are directly accessible from Donnybrook Road using the access road and the intersection that will be constructed as part of the trade supplies permit.
62. The quarry operations therefore do not require any new access points or signalised intersections to Donnybrook Road, such as RD01 and RD02. In other words, if the PSP were not proposed, the Quarry would not require any of the various road or intersection works to continue operating.
63. As a result, it is my view that the tests of need and nexus are not met in relation to the quarry activities and any road or intersection items expected to be included in the ICP.



## USAGE

64. In the event that the quarry activities do utilise the roads and intersections proposed to be funded by the future ICP, I have considered the scale of traffic generated by the quarries against that generated by urban uses in the precinct. This provides an indication of the likely 'share of usage' of ICP items generated by the quarry activities (again, only if the current access arrangements change).
65. The PSP is supported by traffic modelling undertaken by GTA, which includes an estimate of the traffic generated by each element and land use of the PSP area.
66. The GTA Modelling is based on the assumptions that the PSP area (at full development) will contain 11,340 residents, 3,660 dwellings, 4,570 jobs and 480 students in the 'urban' or 'developable' areas. This results in a traffic generation of between 39,730 and 53,700 daily trips (p.11).
67. The GTA Report also estimated the traffic generated by the Woody Hill Quarry as the equivalent of 35 daily car trips (p.11). Vehicle modelling for the Quarry was "assumed to travel from the quarry to the Hume Freeway / Donnybrook Road Freeway Entrance, to access metropolitan Melbourne is the quickest time". (p.11) That is, quarry traffic would travel to and from the site via Donnybrook Road and to the west of the precinct.
68. The GTA Report concluded that "the proposed Shenstone Park PSP's internal road network is minimally impacted by the trip generation of Woody Hill Quarry" (p.21). I calculate that the traffic movements generated by the existing quarry are modelled by GTA to comprise between 0.07% and 0.09% of the 'urban' traffic movements generated across the PSP area.
69. I am instructed that Barro Group estimates that the total daily traffic movements when both quarries are concurrently operating will be in the order of 260 movements and that the Concrete Batching Plant will generate a further 260 daily trips at full operation. The full concurrent operation of the quarries and Concrete Batching Plant would therefore result in approximately 520 daily trips.
70. As a proportion of overall trip generation, the full and concurrent operations of the quarries and Concrete Batching Plant would represent only 0.97-1.31% of daily trips from the PSP area, a similarly negligible proportion to that modelled in the GTA Report.
71. In my view, the existing and future quarry activities are expected to generate a negligible and inconsequential proportion of the overall traffic expected to be generated by the PSP at full development. In any case, separate access is available to facilitate these movements and there is no 'need' for the ICP transport projects generated by the activities on Barro land.

## CONCLUSION

72. Based on the considerations set out above, it is my view that it is not appropriate for any infrastructure contributions to be payable in respect of the quarry activities and therefore I do not agree with the submissions to the contrary.

### 5.4. IS IT APPROPRIATE TO REQUIRE CONTRIBUTIONS FROM FUTURE URBAN USES FOLLOWING THE CONCLUSION OF QUARRY ACTIVITIES?

73. The submissions argue that the quarry will most likely cease to operate within the life of the PSP and ICP and is likely to be developed for industrial purposes, warranting the payment of infrastructure contributions if and when this urban development occurs.
74. It is also argued that an alternative Future Urban Structure should be prepared, including subsequent revision of traffic analysis, to take into account the prospect of urban development on the quarry area.
75. As noted earlier in my statement, the entire Woody Hill Quarry and its proposed expansion is designated for ongoing quarry use and not urban use or development. Therefore, this Amendment does not make any provision for urban uses on the land and there is no certainty as to when quarrying activities might conclude.
76. I note submission 27 (by the Department of Jobs, Precincts and Regions) which states that for both the Woody Hill and Phillips Quarries:

*"These quarrying areas are considered by the Resources Branch as significant extractive resource supplies for the long term with greater than 20 years supply available at each of the two sites (assuming current applications are approved)." (p.7)*

77. The Barro Response to Panel Directions identifies the anticipated lifespan for each quarry under current approvals and proposed extensions as follows:

*"The potential extraction life of WA 492 is expected to be more than 30 years."*

*"The potential extraction life of WA 6437 is expected to be more than 25 years."*

*"The potential extraction life of WA 6852 is expected to be in excess of 50 years." (p.4)*

78. Through the extensive PSP process, the VPA has determined to protect not only the existing operations, but the future expansion of the quarries. There is no indication that the conclusion of quarrying activities is imminent and Barro expects to undertake quarrying activity for at least the next 25 years. Considering the timeframes associated with concluding quarrying activities, remediating land and repurposing for any alternative or urban use, alternative or urban use is not a realistic planning consideration in the short or medium terms.
79. Two relevant principles of infrastructure contributions planning are:

- “Timely and orderly provision of infrastructure: Planning authorities should plan for the timely provision of new infrastructure that they can reasonably foresee will be needed by new communities.”
  - “Certainty: There is certainty about the infrastructure contributions imposed, the infrastructure that can be funded, indexation methods, the level of strategic justification required and the contents of an ICP.” (ICP Guidelines, p.9).
80. In my view, the planning authority can not “reasonably foresee” when or how the quarry land might ultimately be used for alternative purposes, and therefore is not in a position to plan the infrastructure requirements of those alternatives with any certainty. It would therefore be both premature and inconsistent with the principles of infrastructure contributions planning to designate the quarry land for infrastructure contributions at this stage.
81. If and when alternative uses are possible within the quarry land, a subsequent planning scheme amendment would be required to allow urban uses on the site. At that point, any additional infrastructure demand generated by those uses could be assessed and quantified, and appropriate infrastructure contributions could be arranged if necessary.

## **CONCLUSION**

82. In my opinion it is premature to consider potential infrastructure requirements and infrastructure contributions associated with any alternative use of the quarry areas. Therefore I do not agree with the submissions on this issue.

## 6. CONCLUSIONS

83. My conclusions in respect of this matter are as follows:

- a. The Amendment seeks to protect the ongoing and future use of the existing and proposed extension to the Woody Hill Quarry (and associated bund area and access roads) for extractive industry purposes and prevent any alternative or urban use and development.
- b. Based on the planning controls proposed and the content of the PSP, it is my expectation that ICP levies will not be payable in respect of the use and development of land in the SUZ4, which should include all land necessary for the existing and proposed quarry areas and the access road and bund areas. The exclusion of the quarry areas and the access road and bund area from ICP contributions is appropriate given that the land is encumbered and not available for development in the foreseeable future.
- c. I do not agree with submissions that the quarry area should be required to contribute to road and intersection items for the reasons that:
  - i. Separate access is available to the existing and proposed uses; and
  - ii. There is no need generated by the activities for new infrastructure; and in any case
  - iii. The traffic generated by quarry activities is negligible compared with urban uses.
- d. I do not agree with submissions that the infrastructure requirements of potential alternative land uses on the quarry area should be planned for and infrastructure contributions foreshadowed as part of this Amendment. In my view, this would be premature and inconsistent with the principles of the ICP system.

### DECLARATION

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



Paul Shipp

Director, Urban Enterprise Pty Ltd

BUPD, MCom, MPIA, RPIA

# APPENDICES

## **APPENDIX A REQUIREMENTS OF PLANNING PANELS VICTORIA**

### **NAME**

Paul Shipp, Director, Urban Enterprise Pty Ltd.

### **ADDRESS**

Level 1/302-304 Barkly Street, Brunswick, Vic 3056.

### **QUALIFICATIONS**

- Bachelor of Urban Planning and Development, University of Melbourne;
- Master of Commerce, RMIT University.

### **PROFESSIONAL AFFILIATIONS**

- Registered Planner, Planning Institute of Australia;
- Member, Victorian Planning and Environmental Law Association.

### **EXPERIENCE**

I have 15 years experience as a planner and urban economist and specialise in the fields of development contributions and urban economics.

Urban Enterprise has a track record of successfully preparing Development Contributions Plans for Councils as well as negotiating development contribution arrangements with Councils on behalf of developers.

I have been involved in the preparation and review of many Development Contributions Plans, Infrastructure Contributions Plans and public open space contributions for Councils and developers across Melbourne and regional Victoria.

I have appeared as an expert witness on numerous occasions in respect of development contributions at Planning Panel and Advisory Committee hearings.

### **AREAS OF EXPERTISE**

Areas of expertise include strategic urban planning, development contributions and urban economics.

### **EXPERTISE TO PREPARE THIS REPORT**

My experience in urban planning and urban economics over the past 15 years has provided the tools to develop a specialisation in development contributions. I have prepared numerous Development Contributions Plans and have provided advice to public and private sectors in regards to development contributions.

I am therefore qualified to prepare this report and expert witness statement.



## INSTRUCTIONS

My instructions are to consider the appropriateness of the application of the likely Infrastructure Contribution Plan/Development Contribution Plan to the 'Woody Hill Quarry' and the 'Total Access Road & Bund Area'. I was also specifically instructed to respond to the issues raised in Submissions 6, 7, 12 and 13 as they relate to the ICP.

## FACTS, MATTERS AND ASSUMPTIONS RELIED UPON

I have relied on the following for my assessment:

- Amendment C241wsea Documentation (the **Amendment**);
- Shenstone Park Precinct Structure Plan – September 2019 (**the Exhibited PSP**);
- Shenstone Park Precinct Structure Plan Tracked Changes Panel Version – October 2020 (**the Panel Version PSP**);
- Strategic Transport Modelling Assessment Report – GTA, October 2020 (**GTA Report**);
- The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans (the **Ministerial Direction**);
- Infrastructure Contribution Plan Guidelines, Department of Environment, Land Water and Planning, November 2019 (the **ICP Guidelines**);
- Submissions 6, 7, 12, and 13 to the Amendment;
- Donnybrook Woodstock Infrastructure Contributions Plan, April 2019;
- Planning Permit 704901 (**Trade Supplies Permit**);
- Barro Group Letter of 2 October, 2020 responding to Panel directions 6 and 7 (**Barro Response to Panel Directions**).
- My familiarity with the site and the surrounding area; and
- Relevant experience.

## DOCUMENTS TAKEN INTO ACCOUNT

See above.

## IDENTITY OF PERSONS UNDERTAKING THE WORK

Paul A. Shipp, assisted by Brett Hannah (Consultant).

## SUMMARY OF OPINIONS

Refer to Section 6: Conclusions.

