

9 April 2026

[REDACTED]
Director, New Communities
Department of Transport and Planning
1 Spring Street
Melbourne Victoria 3000
Via email: [REDACTED]

EPA Reference: REQ009189

Dear [REDACTED],

**RE: PROPOSED PLANNING SCHEME AMENDMENT C109MOOR – MERRIMU
PRECINCT STRUCTURE PLAN – PUBLIC SUBMISSION TO EXHIBITED
DOCUMENTS**

Thank you for the opportunity to provide a submission to the Merrimu Precinct Structure Plan (Merrimu PSP) and associated planning scheme amendment C109moor (the Amendment). The Environment Protection Authority (EPA) was notified of the public consultation process (on engage.vic.gov.au) via e-mail on 11 March 2026.

EPA has reviewed the following documentation:

- Letter to EPA, Public Consultation on the Merrimu PSP and draft Amendment C109 to the Moorabool planning scheme dated 11 March 2026,
- Merrimu Precinct Structure Plan – draft for public consultation, VPA, dated March 2026
- Background Report, VPA dated March 2026
- Environmental Audit Overlay Maps
- Clause 37.07, Urban Growth Zone, Schedule 1 (UGZ1)
- Explanatory Report.

epa.vic.gov.au

Environment Protection Authority Victoria
GPO Box 4395, Melbourne VIC 3001
1300 372 842

Key Information

Barro, Boral and Heidelberg quarries – Deferral of dust risk assessment

EPA recommends the [Separation distance guideline](#)¹ (the Guideline) inform the Amendment, by:

- a) completing a risk assessment to justify a variation to the recommended separation distance of 500m for the quarries (as the planning controls show sensitive land uses located within this distance - effectively reducing the recommended distance without supporting evidence), however
- b) if no variation is proposed, amend the planning proposal to prohibit sensitive land uses within the 500m recommended separation distance for the quarries.

Our understanding of the Amendment

The Merrimu PSP and Amendment propose to rezone land from Farming Zone (FZ) and Rural Conservation Zone (RCZ) to UGZ1, to facilitate approximately 8,000 homes.

The land affected by the Amendment (the Precinct) comprises 907 hectares of land to the east of Bacchus Marsh bounded by Gisborne Road, the Western Freeway, Long Forest Flora and Fauna reserve and Bences Road.

The Precinct is adjacent to three sand quarries; the Boral, Heidelberg and Barro quarries are located to the north, northwest and west of the Precinct respectively. Each quarry holds a Work Authority to the properties' boundary.

EPA Previous Views

EPA has previously provided its Ministerial Direction 19 (MD19) views regarding potential environmental risks associated with the proposed Merrimu PSP and associated Amendment. This submission to the exhibited documents is intended to highlight where EPA seeks further consideration or changes with regard to the recommended separation distance to the Quarries. Based on our assessment, the currently exhibited proposed approach, which has changed since EPA provided MD19 views, requires further consideration to adequately mitigate risks of harm to human health or the environment.

¹ See EPA Publication 1949, August 2024, authorised and published by the Victorian Government.

EPA Submission

The Quarries – risk assessment

Poor air quality can affect occupants of sensitive land uses where they are located too close to a Quarry. Dust can affect occupants of sensitive land uses where they are located too close to a dust source. Breathing in dust can cause immediate impacts to human health such as allergic reactions, asthma attacks, and serious breathing problems. Long-term exposure to dust can increase people's chances of getting heart or lung diseases².

Separating incompatible land uses is important.

- a) It protects the community from human health and amenity risks associated with unintended offsite odour and dust generated by industry/activity.
- b) It protects industry/activities from inappropriate land use and development nearby that may constrain operations.

EPA developed the Guideline to support state agencies, local government, community and industry to make informed land use decisions under both the *Planning and Environment Act 1987* and the *Environment Protection Act 2017*. This guideline is referenced in the Victoria Planning Provisions. The Guideline lists recommended separation distances for activities and industrial uses that may have offsite odour and dust emissions that could impact human health and amenity. The Guideline states that it is essential to address land use compatibility early in the land use planning process to avoid potential conflicts after approvals are in place. Separation distances support decision makers to direct land use and development to the most appropriate locations based on the level of risk. It also supports planning decision makers to prevent underutilisation of land adjacent to industrial land by identifying compatible land uses within a separation distance.

² Refer to 'About airborne dust': <https://www.epa.vic.gov.au/for-community/environmental-information/environmental-public-health/airborne-dust-and-your-health>

The Amendment proposes to rezone land, which would allow sensitive land uses to establish within this recommended separation distance. As land is being rezoned to allow sensitive land uses within the recommended separation distance for the quarries, EPA understands the Planning Authority (DTP – New Communities) is the agent of change for this PSP. The Guideline recommends that the agent of change has the responsibility to:

- a) Avoid land use conflict, and
- b) Ensure potential impacts on nearby land uses are appropriately mitigated and managed.

The agent of change should demonstrate that the proposed land use will not be at risk of harm from incompatible land uses. The decision-making process recommended by EPA in Figure 4 of the Guideline sets out the steps a planning authority should follow to vary a recommended separation distance. This includes preparing a risk assessment to inform whether a variation is appropriate. Completing a risk assessment will ensure the planning authority can make an informed decision based on the risks to the proposed sensitive uses. Without a risk assessment to inform a separation distance different to the recommended separation distance, it cannot be demonstrated that the potential impacts on sensitive uses allowed by the Amendment have been evaluated, and whether risks of harm to human health and the environment have been minimised so far as reasonably practicable.

A requirement within the UGZ1 for an Air Pollution and Nuisance Dust Risk Assessment to be undertaken at the planning permit application stage does not provide early evidence to a strategic planning decision maker or relevant stakeholders that the variation proposed by this amendment is appropriate. The primary mitigation against dust impacts is to spatially separate sensitive land uses from the dust source. Deferral of the risk assessment to the planning permit application stage, means that this primary mitigation is no longer available. After rezoning, mitigations/controls are limited at the sensitive use and may result in increased likelihood of adverse impacts. EPA recommends the Guideline informs the Amendment, by:

- a) completing a risk assessment to justify a variation to the recommended separation distance of 500m for the quarries (as the planning controls show sensitive land uses located within this distance - effectively reducing the recommended distance without supporting evidence), however

- b) if no variation is proposed, amend the planning proposal to prohibit sensitive land uses within the 500m recommended separation distance for the quarries.

Exemptions from consideration of Section 60(1)(e) of the Planning and Environment Act 1987

EPA notes that recent amendments such as VC267 now exempt a responsible authority from considering any significant effects a use or development may have on the environment or the environment may have on a use or development. Consideration of the planning policy framework is also exempt. The effect of these exemptions should be considered where there is a reliance on the permit application processes to manage environmental risks within the amendment area and surrounding areas.

Closing

EPA provides its written submission as Victoria's environmental regulator. It does so with the understanding that responsibility for the outcomes remain with the planning authority and the Minister for Planning and that the decision to approve the amendment ultimately rests with the Minister for Planning.

EPA acknowledges that a planning authority may need to consider other factors beyond the views of the EPA. Planning authorities are required to implement a range of objectives under Section 12(1)(a) of the *Planning and Environment Act 1987* (P&E Act), including facilitating development alongside economic, social, and environmental priorities. When balancing the range of often competing priorities, a planning authority must undertake its own assessment of significant effects on the environment under Section 12(2)(b) of the P&E Act and may elect to proceed with a planning scheme amendment without adhering to EPA's written views.

Planning authorities should, however, understand the effect planning decisions may have on the ability of those with a duty to meet obligations under the EP Act, including the general environmental duty, when discharging their decision-making functions under the P&E Act.

Should the planning authority require further information or clarification on the matters outlined in this letter, we request it contact EPA by contacting [REDACTED], [REDACTED] on 1300 EPA VIC (1300 372 842), or at [REDACTED]

Yours sincerely,

[Redacted signature]

[Redacted signature]

Environment Protection Authority Victoria