

Agenda

Council Meeting

Tuesday 17 December 2024 at 6pm

You are advised that a Meeting of Council has been called by the Chief Executive Officer on Tuesday 17 December 2024 at 6pm for the transaction of the following business.

This meeting will be held in the Council Chamber at Civic Centre, 25 Ferres Boulevard, South Morang and will be [livestreamed via Council's website](#).

C Lloyd
Chief Executive Officer

Councillors

Cr Aidan McLindon, Mayor	Kirrip Ward
Cr Daniela Zinni, Deputy Mayor	Bundoora Ward
Cr Nic Brooks	Thomastown Ward
Cr Blair Colwell	Mill Park Ward
Cr Lawrie Cox	Ganbul Gulinj Ward
Cr Deb Gunn	Painted Hills Ward
Cr Stevan Kozmevski	Lalor Ward
Cr Jarrod Lappin	Mernda Ward
Cr David Lenberg	Epping Ward
Cr Christine Stow	North Ward
Cr Martin Taylor	South Morang Ward

Executive Leadership Team

Craig Lloyd	Chief Executive Officer
Emma Appleton	Director Planning & Development
Agata Chmielewski	Director Community Wellbeing
Sarah Renner	Director Customer & Corporate Services
Debbie Wood	Director Infrastructure & Environment
Janine Morgan	Executive Manager Public Affairs
Jacinta Stevens	Executive Manager Office of Council & CEO

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Note:

At the Mayor's discretion, the meeting may be closed to the public in accordance with Section 66(2)(a) of the *Local Government Act 2020*. The provision which is likely to be relied upon to enable closure is set out in each item. These reports are not available for public distribution.

Question Time:

Council will hold public question time for up to 30 minutes at each Scheduled Council Meeting to allow for public questions, petitions or joint letters from our community to be read out by the Chief Executive Officers delegate and responses will be provide by the Chief Executive Officer.

Questions are required to be submitted in writing no later than 12 noon on the day prior to a Scheduled Council Meeting.

Priority will be given to questions or statements that relate to agenda items. Any questions submitted after 12 noon the day prior will be held over to the following Council Meeting.

The Public Question form can be downloaded from Council's website. Refer:

<https://www.whittlesea.vic.gov.au/about-us/council/council-meetings/>

Council is committed to ensuring that all residents and ratepayers of the municipality may contribute to Council's democratic process and therefore, if you have special requirements, please telephone Council's Governance Team prior to any Council Meeting on (03) 9217 2170.

1 Opening

1.1 Meeting Opening and Introductions

The Mayor, Cr Aidan McLindon will open the meeting and introduce the Councillors and Chief Executive Officer:

Cr Daniela Zinni, Deputy Mayor

Cr Nic Brooks

Cr Blair Colwell

Cr Lawrie Cox

Cr Deb Gunn

Cr Stevan Kozmevski

Cr Jarrod Lappin

Cr David Lenberg

Cr Christine Stow

Cr Martin Taylor

Craig Lloyd, *Chief Executive Officer*

The Chief Executive Officer, Craig Lloyd will introduce members of the Executive Leadership Team:

Emma Appleton, *Director Planning and Development;*

Agata Chmielewski, *Director Community Wellbeing;*

Sarah Renner, *Director Corporate and Customer Services;*

Debbie Wood, *Director Infrastructure and Environment;*

Janine Morgan, *Executive Manager Public Affairs;* and

Jacinta Stevens, *Executive Manager Office of Council and CEO.*

1.2 Apologies

1.3 Acknowledgement of Traditional Owners Statement

The Mayor, Cr McLindon will read the following statement:

“On behalf of Council, I recognise the rich Aboriginal heritage of this country and acknowledge the Wurundjeri Willum Clan and Taungurung People as the Traditional Owners of lands within the City of Whittlesea.

I would also like to acknowledge Elders past, present and emerging.”

1.4 Diversity and Good Governance Statement

The Mayor, Cr McLindon will read the following statement:

“At the City of Whittlesea we are proud of our diversity and the many cultures, faiths and beliefs that make up our community. We strive to be an inclusive welcoming City that fosters active participation, wellbeing and connection to each other and this land. We commit as a Council to making informed decisions to benefit the people of the City of Whittlesea now and into the future, to support our community’s vision of A Place For All.”

1.5 Acknowledgements

2 Declarations of Conflict of Interest

3 Confirmation of Minutes of Previous Meeting/s

Recommendation

THAT the following Minutes of the preceding meetings as circulated, be confirmed:

- **Unscheduled Meeting of Council held on 17 September 2024; and**
- **Council Meeting held on 19 November 2024.**

4 Public Questions, Petitions and Joint Letters

4.1 Public Question Time

4.2 Petitions

No Petitions

4.3 Joint Letters

No Joint Letters

5 Officers' Reports

5.1 Waste to Energy Facility - 510 Summerhill Road, Wollert

Director/Executive Manager: Director Planning & Development

Report Author: Director Planning & Development

In Attendance: Manager Building & Planning
Priority Development Planner

Executive Summary

The purpose of this report is to provide Council with an update on the proposal for a Waste to Energy Facility at 510 Summerhill Road, Wollert.

A Waste to Energy Facility is land used for the combustion, treatment or bio-reaction of waste to produce energy for use off site. It includes the activities to collect, temporarily store, process or transfer waste materials for energy production.

In November 2021, the Victorian Government created the Victorian Waste to Energy Framework. The purpose of this framework is to describe how a Waste to Energy cap will be implemented and recognises the role of Waste to Energy plays in reducing waste from landfill. This is to assist in achieving Recycling Victoria's broader goal of diverting 80% of waste from landfill by 2030. The cap is intended to prevent over-reliance on thermal waste to energy. This places a one million tonne cap on the amount of waste that can be heat treated to make energy within Victoria.

Two applications were lodged to the Victorian Government by Cleanaway Operations Pty Ltd for the development of a Waste to Energy Facility:

- a planning permit application (application number PA2302243) submitted to the Department of Transport and Planning in May 2023; and
- a development licence application (application number APP024914) submitted to the Environment Protection Authority Victoria in February 2024.

The applications were open for public submissions as part of the application process. The City of Whittlesea lodged Officer submissions providing grounds of objection to both the planning permit application and development licence application. The submissions detailed matters in relation to traffic, amenity, orderly planning, and environmental and human health impacts, requesting these matters be considered by the Department of Transport and Environment Protection Authority in their assessment of the proposal.

This report provides an overview of the proposal for the Waste to Energy facility and details the submissions lodged by the City of Whittlesea to the planning permit application and development licence application.

Officers' Recommendation

THAT Council:

- 1. Endorse the Council Officer submissions lodged to the Department of Transport and Planning dated 2 April 2024 and 13 June 2024 at attachment 1 and attachment 2.**
- 2. Endorse the Council Officer submission lodged to the Environmental Protection Authority dated 19 November 2024 at attachment 3.**
- 3. Approve the Chief Executive Officer to write to the Minister for Planning, and the Minister for Environment as follows:**
 - a. Bringing to the Minister's attention Council's objection to the planning permit application PA2302243.**
 - b. Bringing to the Minister's attention Council's objection to the Environment Development Licence application APP024914.**
 - c. Request Ministers to reject both applications for the reasons detailed in the Officer's submissions at attachments 1, 2 and 3.**

Background / Key Information

Planning Permit Application

Planning Permit application PA2302243 was lodged to the Department of Transport and Planning on 23 May 2023 by Cleanaway Operations Pty Ltd. Pursuant to Clause 72.01-1 of the Whittlesea Planning Scheme, The Minister for Planning is the Responsible Authority who will make the decision on the planning permit application. The Department of Transport and Planning assess the application on behalf of the Minister for Planning. The Department of Transport and Planning considers the following in its assessment:

- Site Context.
- The Victoria Planning Provisions.
- The Whittlesea Planning Scheme.
- Referral and notice responses.
- Amenity impacts.
- Impacts on native vegetation.
- Impacts on the road network.
- Implications of any hazards.

Development Licence Application

Development Licence application APP024914 was lodged to the Environment Protection Authority on 20 February 2024. The Environmental Protection Authority will make the decision to issue a development licence. The Environmental Protection Authority considers the following in its assessment:

- Impacts to human health.
- Air and odour emissions.
- Noise emissions.
- Greenhouse gas emissions.
- Climate change.
- Waste management.
- Impacts to land and groundwater.
- Impacts to surface water.
- Compliance with the General Environmental Duty.
- Principals of environmental protection.
- Best Available Techniques and Technologies.

Cleanaway's Proposal for a Waste to Energy Facility

The proposed development is for the use and development of a Waste to Energy Facility and utility installations, floodlit business identification signage, removal of native vegetation and creation of an easement.

A Waste to Energy Facility is land used for the combustion, treatment or bio-reaction of waste to produce energy for use off site. It includes the activities to collect, temporarily store, process or transfer waste materials for energy production.

The development comprises of four main components, consisting of the following:

- The main waste processing facility, where waste is dropped off to be burned and converted to energy.
- The bottom ash processing facility, which retrieves the waste product of the main facility and refines it to be used in construction materials such as aggregate.
- A truck shed.
- An education facility.

The Waste to Energy Facility is proposed to treat up to 380,000 tonnes of waste feedstock per annum, generating approximately 46.3MW of electricity. The energy resulting from this facility has the capacity to power approximately 27,000 homes per year. The proposal would not receive waste from the City of Whittlesea.

The proposal (including all areas or works) seeks to occupy approximately 24 hectares of the overall 82 hectare site. The main waste processing facility proposes a maximum height of 55.9 metres (equivalent of an 18 storey building) with the longest frontage to the east of the building spanning 189.6 metres. The total area of the main waste processing facility is 12,129.8 square metres.

The operation of the facility will include high volumes of traffic, consisting of 106 truck deliveries, 44 staff, and visitors to travellers to the site each day, totalling an anticipated 300 movements per day.

Subject Site and Surrounds

The development is located on the northern side at 510 Summerhill Road, Wollert. Summerhill Road is currently constructed of gravel and is not sealed. The lot is irregular in shape, with a total area of approximately 82 hectares. The siting of the main facility approximately 750 metres east of the Merri Creek. The Merri Creek is the municipal border between City of Whittlesea and Hume City Council. The land is surrounded by quarries to the north (Woodyhill Quarry), south (Austral Bricks), and a future quarry to the east (Phillips Quarry). The wider surrounding area comprises of agricultural land used for grazing. The main facility is 2.5 kilometres west of the residential land in Wollert and 1.5 kilometres south of residential land in Donnybrook.

Within a broader strategic context, the land sits within the North Corridor Plan and the zone that applies to the land is the Farming Zone. The purpose of the Northern Growth Corridor Plan is to guide further strategic planning work that would typically be done for the site prior to significant development.

The purpose of the Farming Zone is to provide for the use and retention of productive agricultural land. The Northern Growth Corridor Plan nominates the land for non-urban/utility purposes, recognising the existence of the APA Gas facility at 289 Summerhill Road, large transmission lines running through the landscape and quarries. In order for the development to align with the Northern Growth Corridor Plan, this requires the preparation of a Precinct Structure Plan by the Victorian Planning Authority, and implementation of an Urban Growth Zone to replace the Farm Zone.

City of Whittlesea Submissions to Department of Transport and Planning

Council received notification of the planning permit application for the proposal in May 2023. Upon review of the application documentation, Council Officers lodged two submissions objecting to the planning permit application through a:

- Planning submission (02 April 2024); and
- Road and infrastructure submission (13 June 2024).

Planning Submission

The planning submission (attachment 1) raises the following key concerns regarding the proposal:

- Non-Alignment with North Growth Corridor Plan: The proposal for a Waste to Energy Facility does not align with the Northern Growth Corridor Plan 2012 due to its location, impact on the landscape and key views. The location of the Waste to Energy Facility within the Northern Growth Corridor Plan 2012 is designated as an "investigation area", which requires further investigation before any planning decisions can be contemplated about the best long-term uses within the precinct and to ensure it will not create any significant impacts.
- Environmental and Visual Amenity Concerns: The size and design of the proposal poses significant visual impacts due to its large building mass and visual bulk within a flat landscape. There has not been sufficient consideration of the surrounding landscape, biodiversity links and key views as identified in the Northern Growth Corridor Plan 2012. The size of the facility is approximately 18 stories in height in its largest section, with external walls spanning 189.6 metres to the east and west, and 64.9 metres to the north and south, making the building extremely prominent in the landscape. Without a Precinct Structure Plan for the area, the proposal will significantly impact the optimal development of the area, potentially precluding future uses as well as impacting on the surrounding environment.

- Inconsistency with Land Use: The proposal conflicts with the purpose of the Farming Zone and does not support the orderly planning of the area.
- Impact on Infrastructure: The proposal negatively affects the existing road network, particularly Amaroo and Summerhill Roads. The structural capacity of the Merri Creek bridge along Summerhill Road to accommodate significant truck movements is questioned (see Road and Infrastructure submission).
- Inadequate Assessments and Plans:
 - The air quality assessment is incomplete, lacking a full evaluation of odour emissions.
 - The Cultural Heritage Management Plan is pending approval.
 - Future implications of a noise barrier wall and internal traffic movement (swept paths) have not been adequately addressed.
- Traffic and Vehicle Movement: Potential impacts of eastbound heavy vehicle movements from the facility have not been adequately addressed.

Road and Infrastructure Submission

The City of Whittlesea and Hume City Council commissioned an independent review of traffic impact assessment lodged with the application. The reason for this is the City of Whittlesea and Hume City Council's transport networks are impacted by the proposal. The road and infrastructure submission (attachment 2) included the following grounds:

- Impacts on Existing Road Network: The proposed development will produce additional heavy vehicle traffic which will result in negative impacts to the existing road network, particularly along Amaroo Road and Summerhill Road.
- Bridge Capacity at Merri Creek: The Merri Creek bridge crossing is insufficient to accommodate the increased vehicle movements associated with the construction and operation of the Waste to Energy Facility. Concerns have been raised regarding the structural integrity of the bridge and its ability to cope with the proposed heavy vehicle traffic.
- Eastbound Heavy Vehicle Movements: The proposal has not adequately addressed the potential impacts of eastbound heavy vehicle travel and proposed no upgrades the eastbound roads which are currently constructed of gravel. Heavy vehicles moving eastbound would deteriorate the existing road infrastructure.
- On-Site Vehicle Movements: The internal vehicle movement arrangements within the site warrant further assessment to ensure operational efficiency and safety.
- Cultural Heritage Impacts: In the event the Merri Creek bridge infrastructure is required to be upgraded, impacts to any cultural heritage surrounding the Merri Creek must be addressed and a cultural heritage management plan must be prepared and approved prior to any works.

Council Officer Submission to Environmental Protection Authority

Council Officers lodged a submission (attachment 3) to the Environmental Protection Authority on 19 November 2024. The basis of this submission included the following matters:

- **Greenhouse Gas Emissions:** The proposed development will result in ongoing operational greenhouse gas emissions. This does not align with the Victorian Government's net zero emissions targets which is set to be achieved by 2045, it also does not align with City of Whittlesea's net zero target.
- To meet the energy needs of the community energy generation from 100% renewable sources should be fully explored ahead of any lower-carbon emitting technologies. Additionally, no renewable energy source has been proposed for this development. Providing a renewable energy source on site (e.g., Solar PVs) would be valuable in offsetting emissions.
- **Embedded Greenhouse Gas Emissions:** The proposed development does not make any commitment to the use of low emission materials within the development to reduce the overall greenhouse gases emission output.
- **Mitigation Options:** Mitigation measures to reduce greenhouse gas emissions from the incineration process have not been appropriately demonstrated.
- **Waste Management:** The proposal will not service the City of Whittlesea as it currently utilises Heidelberg Materials Facility. Therefore, this will result in an increase of net municipal emission output without any true benefit to the City of Whittlesea.
- **Impacts to water systems and water reuse:** The proposed development does not adequately respond potential impacts to waterways and makes use of bioretention systems which can be susceptible to premature failure. The proposal does not maximise the use of rainwater tanks and onsite demands for water reuse.
- **Compliance with the General Environmental Duty:** The proposal does not demonstrate it has taken all opportunities for climate mitigation, adaptation, and general environmental protection. As such, Council Officers do not consider the proposal in its current form to comply with the General Environmental Duty to minimise environmental harm.

It is noted that due to only one Waste to Energy Facility being operational in Australia, there is limited knowledge of the long-term effects of such facilities within Australia. Council calls on the Environmental Protection Authority (EPA), in its role as independent environmental regulator, to protect the health of the community and environment from pollution and waste. Council requests that the EPA provide evidence and assurance that the proposed Waste to Energy proposal does not pose human and environmental harm in its operation.

Alignment to Community Plan, Policies or Strategies

Alignment to Whittlesea 2040 and Community Plan 2021-2025:

Liveable Neighbourhoods

Our City is well-planned and beautiful, and our neighbourhoods and town centres are convenient and vibrant places to live, work and play.

Council Officer's submission to the Department of Transport and Planning and Environmental Planning Authority have advocated for the best outcomes, aligning with the Whittlesea 2040 goals to deliver Liveable Neighbourhoods.

Considerations of *Local Government Act (2020)* Principles

Financial Management

The cost is included in the current budget.

Community Consultation and Engagement

Community consultation has been managed by the Department of Transport and Planning and the Environmental Protection Authority.

Through the planning application assessed by the Department of Transport and Planning, notice under Section 52 of the Planning and Environment Act 1987.

Council Officers advocated to broaden the catchment of Notice the Department of Transport and Planning had proposed. Initially, the proposed catchment included neighbouring properties. Council Officers proposed a new catchment, capturing the broader area, future residential land and expanding to Hume City Council to improve the community's opportunity to provide feedback on the proposal.

The Environmental Protection Authority opened two submission periods where community members could lodge their concerns. In addition, two Conferences of Interested Persons were held, providing further opportunities to raise community concerns. These were held on 20 and 25 June 2024.

Other Principles for Consideration

Overarching Governance Principles and Supporting Principles

(b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

Public Transparency Principles

(c) Council information must be understandable and accessible to members of the municipal community.

Council Policy Considerations

Environmental Sustainability Considerations

As raised in Council's submission to the Environmental Protection Authority, matters relating to the compliance with General Environmental Duty must be considered to prevent harm to human health and the environment from pollution and waste.

Social, Cultural and Health

Council Officer's submission to the Department of Transport and Planning and Environmental Protection Authority have highlighted the social, cultural and health concerns associated with the development of Waste to Energy Facility.

Economic

The Council Officer's submission to the Department of Transport and Planning highlights the economic implications of inadequate strategic planning and out-of-sequence development in the area. Without a Precinct Structure Plan, the proposal risks hindering optimal development and increased infrastructure costs

Legal, Resource and Strategic Risk Implications

Council Officer's submission to the Department of Transport and Planning has detailed the strategic risks associated with the proposed facility due to inability to receive development contributions.

Implementation Strategy

Communication

This report recommends that Council writes to the Minister for Planning and Minister for Environment, supporting the submissions lodged by Officers on 02 April 2024, 13 June 2024, and 19 November 2024.

Critical Dates

- May 2023 – Planning application PA2302243 for the Use and development of a waste to energy facility lodged by Cleanaway Operations Pty Ltd to the Department of Transport and Planning.
- February 2024 – Development Licence Application lodged by Cleanaway Operations Pty Ltd to the Environmental Protection Authority.
- May 2024 – Planning Application was put on Public Notice by the Department of Transport and Planning.
- April 2024 – Council lodged the first objection to the proposal.
- June 2024 – Council lodged the second objection to the proposal, with the support of traffic consultant advice and reports.
- June 2024 – Two conferences of interested persons were held for the Development Licence Application by the EPA.

- November 2024 – Council Officers lodged a submission to the Environmental Protection Authority with high level concerns of the proposal.

Declaration of Conflict of Interest

Under Section 130 of the *Local Government Act 2020* officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.

The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

Attachments

1. Submission to Department of Transport & Planning (2 April 2024) [5.1.1 - 12 pages]
2. Submission to Department Transport & Planning (13 June 2024) [5.1.2 - 8 pages]
3. Submission to Environmental Protection Authority (19 November 2024) [5.1.3 - 7 pages]



2 April 2024

Hannah Wright
Senior Planner
Department of Transport & Planning
GPO Box 2392
Melbourne, VIC 3001

Dear Hannah,

Thank you for your correspondence under Section 52 of the Planning and Environment Act 1987, dated 20 February 2024 (received 21 February 2024) referring to the application for a Waste to Energy facility, named the Melbourne Energy Resource Centre (MERC) at 510 Summerhill Road, Wollert in the City of Whittlesea.

Objection

The City of Whittlesea objects to the grant of a permit for the use and development of land for a waste to energy facility, floodlit business identification signage, removal of native vegetation and creation of an easement based on the following grounds.

The proposal has significant impacts on the future planning and the amenity of the area.

Our objection is based on the proposal:

- Not being aligned with the strategic direction of the Northern Growth Corridor Plan 2012 (NGCP) as it will impact on the landscape and key views due to the size of the facility and the subject site is within an 'investigation area' within the NGCP which requires further investigation before any planning decisions can be contemplated about the best long-term use or uses within this Precinct.
- Being inconsistent with the purpose of the Farming Zone.
- Being out of sequence with the orderly planning of the area, as the Northern Quarries Precinct Structure Plan is not progressed, and Growth Area Infrastructure Contribution and developer contributions have been set for the area.

Council Offices

25 Ferres Boulevard, South Morang VIC 3752
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- Having negative effects on the existing road network, particularly Amaroo Road and Summerhill Road.

In addition:

- The bridge crossing at the Merri Creek is not adequate to accommodate the proposed vehicle movements associated with the construction and operation of the facility. There are concerns that the structural integrity of the bridge, and its capacity to carry the proposed heavy vehicle movements is not adequate.
- The impacts of eastbound heavy vehicle travel have not been adequately considered as part of the proposal.
- The proposal presents a poor interface to future biodiversity link to the north of the site. This link has been identified in the Northern Growth Corridor Plan.
- The significant size and bulk of the facility will have a significant visual impact in its context. The proposal appears to have had little consideration of its presentation in the landscape.
- An air quality assessment has not considered all areas within the subject site where odour can be emitted.
- The Cultural Heritage Management Plan has not been approved.
- Future impacts of the noise barrier wall along Summerhill Road have not been considered with regard to the ultimate construction of Summerhill Road.
- Internal swept paths within the development are not adequate.

Northern Growth Corridor Plan (NGCP)

The NGCP is a high-level strategic planning document that guides land use and development in Melbourne north. With the NGCP, the subject site is nominated for 'utility/non-urban' purposes and within an investigation area. The proposed use generally aligns with the utility/non-urban purposes. However, the future planning for the area, including the Northern Quarries Precinct Structure Plan is currently not completed for the area. Without a strategic plan for the area being in place, there is concern that this proposal will preclude future optimal development of the area. These include:

1. The appropriate long-term land uses or uses within this Precinct.
2. The proposal's impact on the future alignment of Summerhill Road. The NGCP recognises Summerhill Road as a future arterial road. It is expected that the cross section of this road must ultimately align with Wollert PSP and the Craigieburn North

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PSP to secure a safe and sufficient road network. The proposal must ensure that there are sufficient setbacks to allow for appropriate widening to ensure Summerhill Road can be appropriately delivered in its ultimate form and alignment.

3. No ability to trigger a payment for Growth Area Infrastructure Contributions
4. No ability to future proof infrastructure as there is no infrastructure contributions plan.

Not compatible with the Farming Zone

The subject site is located within the Farming Zone. Pursuant to Clause 35.07-1 and 35.07-4, a Planning Permit is required for the use and development of a Waste to Energy Facility.

The purpose of the Farming Zone is to:

- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

The proposal is inconsistent with the purpose of the Farming Zone and with the intent of orderly planning. The proposal will remove the ability to use the land for agricultural activities and the nature of the proposal will impact on surrounding agricultural activities within the surrounding area. To note, the application material has not provided an assessment which details on the current and potential agricultural use of the subject site and the impacts of the proposal on the surrounding agricultural land uses.

Future Northern Quarries Precinct Structure Plan

The land is within the future Northern Quarries Precinct Structure Plan (PSP) which is unprogrammed at this time, therefore it is considered the proposal is out of sequence. Without a strategic plan for the area, there is concern that the proposed use may impact

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the future optimal development of the area or compromise the current and future use of the land.

Orderly planning would require the preparation of a Precinct Structure Plan, Infrastructure Contribution Plan, and require a GAIC payment to support the essential infrastructure requirements for development within the area. Without a strategic plan and infrastructure contribution plans in place, delivery of required infrastructure within the area will not occur and future development opportunity will be compromised. Therefore, the current proposal is premature, out of sequence and not consistent with the principles of orderly planning.

Without the ability for Council to obtain infrastructure contributions, Council will be burdened with costs to upgrade any future infrastructure. Similarly, without the State’s ability to collect a GAIC payment, the burden will be on the Department of Transport and Planning to pay for the ultimate design of Summerhill Road if the proposal is approved.

It is expected that the infrastructure contribution plan will be resolved as part of the future planning process for the area. This plan must consider any implications for the broader Northern Quarries PSP area and surrounding precincts. City of Whittlesea’s expectation is that any land developed as part of this project must not prejudice future development or the ability to collect GAIC and infrastructure contributions from the developed land.

A review of the potential contributions which would be obtained otherwise are as follows:

	Land Area		
Property Area (ha)	82.170		
Encumbered Area (ha)	1.1		
Total Developable area (ha)	81.0700		
Stage 1 Developable area (ha)	28.0000		
	Levy Rate	Total Site Area	Development Area
GAIC rate \$2023/24	\$122,660	\$10,649,355.2	n/a
ICP Transport Levy \$2023/24	\$129,862	\$11,439,553.4	\$3,950,999.1

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Summerhill Road and Bridge Crossing Merri Creek

The proposal will have significant impacts on the surrounding existing road network, particularly Amaroo Road and Summerhill Road.

Summerhill Road is identified in the North Growth Corridor Plan as a future arterial road. Any development of the subject site needs to accommodate the required future widening of Summerhill Road. Development along this road must protect the potential for an additional 14 metres to provide a total 34 metre road reserve for the future arterial road. The option to widen the road to the north and south of the current road alignment must be preserved at this time to ensure Summerhill Road can be delivered to its ultimate layout and alignment.

The bridge crossing at the Merri Creek is not adequate to accommodate increased traffic flows and heavy vehicles. The bridge is a single lane bridge and was constructed to accommodate rural traffic. The City of Whittlesea, in conjunction with Hume City Council has engaged an independent review of the bridge infrastructure and anticipated traffic associated with the construction and operation of the facility. This will ascertain what upgrades to the bridge would be required for the operation of the facility. The advice received from this review will be submitted in due course and form part of the objection.



Image from google.com, taken March 2023

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Image from Level 3 Bridge Inspection, Pitt & Sherry, 13 October 2022

If the State Government progress the application, the proposal must provide sufficient upgrades to future proof the road network, including the bridge. In the absence of Precinct Structure Plan, Infrastructure Contributions Plan and GAIC, it is reasonable that a contribution in the form of upgrades to the existing road network and bridge infrastructure be imposed to adequately service the proposal and ensure the road network can be delivered in the ultimate.

To deliver an adequate road network in the interim, if a planning permit were to issue, it is required that the following be formed into conditions on the planning permit to ensure Summerhill Road can be delivered in the ultimate and the bridge can cater for two-way traffic. It is assumed that the Department of Transport and Planning will determine the ultimate design of Summerhill as it will be an arterial road and will be the delivery agent.

Conditions for interim road network and bridge:

1. Minimum 6.5 metre carriageway width, i.e., 3.2 metre traffic lanes with accommodation of line marking is required.

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2. 1.0 metre shoulders are to be provided appropriately (ensuring pavement stability, verge area for a vehicle to partially use if needing to pull over and for potential bike riding).
3. Table drain on both sides to drain the road.
4. Depending on requirements, a potential footpath from the Wollert and Craigieburn North Employment Area PSP's to activate pedestrian movements from the nearby developments (along the northern verge only). This would marry in with the interim arrangement for Hume City Council.
5. Bridge shall accommodate two-way traffic movements simultaneously and have appropriate design loading for the AADT and design vehicles. The recommendations of a 10km/h speed limit for heavy vehicles, more frequent monitoring of the bridge, and weighbridge certificates for A-doubles as suggested in the Pitt & Sherry Level 3 Bridge Inspection Report are not desirable outcomes, the onus will be on City of Whittlesea and Hume City Council to increase maintenance obligations and potentially have to reconstruct/improve the bridge at their cost.
6. The bridge must be constructed as though it were for the future interim design, i.e., 7.0m carriageway with some additional buffer area to the path and bridge barriers, a footpath on the northern side and provision for future shared path on southern side to future-proof the bridge. The arrangement should demonstrate how it feeds/transitions appropriately into Hume and their requirements for the road upgrade.

Built Form

Urban Design

The Visual Impact Assessment prepared by Arup dated March 2023 does not acknowledge future areas of development as proposed by the Wollert, Shenstone and English Street PSP. Specifically, there are sensitive areas of residential development that will be impacted by the proposal due to its height and scale. In this regard, additional viewpoints and impact assessments must be considered to ensure the proposal does not cause an unreasonable visual impact. Key visual impact viewpoints are shown below that are considered under the current proposal.

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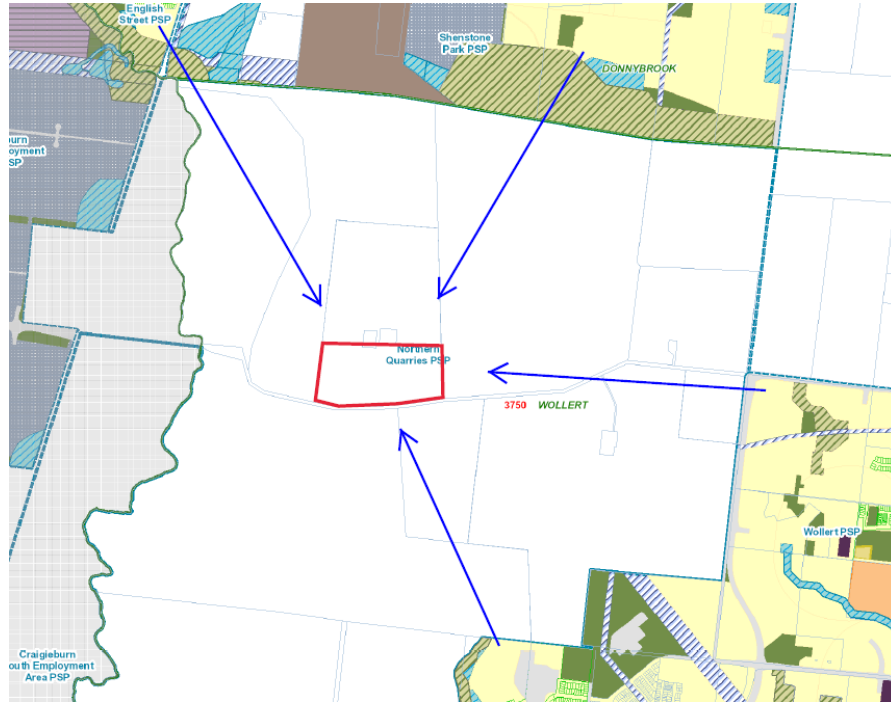
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Built form and landscape comments:

1. An overall architectural and landscape design strategy is required for the facility to address its dominance and visual bulk in the landscape. While a utility building, it must contribute positively to its context and landscape, and consider all view corridors. At 55 metres in height (equivalent to 15 storeys) and with its longest elevation being approximately 190 metres, the design approach must be deliberate and expertly considered – either sitting proud in the landscape as an enduring architectural marker or adopting integrated landscape and architectural strategies to reduce the impact of the building in its context. The current proposal is not currently acceptable in design terms.
2. Due to the significant scale and impact of the proposal to the surrounding area, and its potential to set a precedent in Victoria, City of Whittlesea recommend that the

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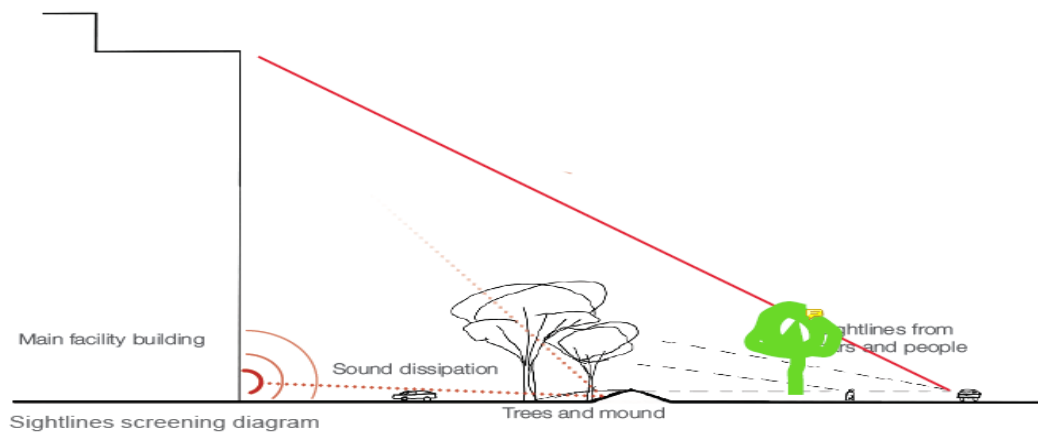
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proposal is reviewed by the Office of the Victorian Government's Victorian Design Review Panel, to ensure a high quality and integrated development proposal.

3. The facility should integrate green roofs to improve building performance and benefits to biodiversity and the environment.
4. The site plan for the facility should reduce hardstand areas and increase permeable surfaces for the inclusion of landscaped areas. These should include structure planting, which in turn and in time will reduce the visual impact of the facility and create amenity on site for workers and visitors to the education centre.
5. As part of an overall landscape strategy and plan, vegetation screening must be provided closer to road to minimise impact of building from Summerhill Road. Screening closer to the road helps screen views from those travelling along the road, see below:



Example of proposed tree screening adjacent to the road

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Further screening along road edge to better screen visual impact from road

Location of further mature tree planting to screen the building from the road

Summerhill Road Eastbound

While it is proposed that all heavy vehicles will travel westbound from the site, City of Whittlesea expects eastbound heavy vehicle movements. It is required the proponent would cover the costs of any upgrades or maintenance required to Summerhill Road and the wider road network. For example, in the instance the bridge no longer can be used due to a traffic accident, a vehicle going to the subject site from the west will have to be diverted to use the eastern route. Therefore, the use of the eastern bound route to the subject site requires upgrades to allow for safe and adequate vehicle movements to the subject site.

Internal swept paths

The submitted swept path diagrams within the submitted Traffic Report indicate that some internal accessways will require widening to accommodate vehicle movements. Plans must be revised to reflect adequate swept paths. In addition, swept paths have not

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been shown for bus traffic accessing the education centre and this must be considered to ensure safe vehicle movements within the subject site

Crossovers

Details of crossovers have not been provided. Crossovers must be designed to Council Standard EDCM503 or the satisfaction of the Department of Transport and Planning.

Rural and Environmental Planning

The Northern Growth Corridor Plan indicates that there is potential for a Biodiversity link along the northern section of the site. The proposal must allow for this to be considered in the future.

Cultural Heritage Plan

The advertised Town Planning report acknowledges that a Cultural Heritage Management Plan is currently being prepared (Pg. 10). A permit cannot be issued until a Cultural Heritage Management Plan has been approved.

Air quality assessment

The air quality report seems only to consider odour sources from waste within the tipping hall. A-double trucks will be leaving waste in the decoupling bay until the waste is ready to be processed, therefore the waste within the decoupling bay is considered to be a source of odour. The air quality assessment is required to assess odour within this area to ensure the air quality is acceptable and not impact on the surrounding area.

Noise Barrier

The proposal includes a noise barrier along the southern boundary of the lot that is fronting Summerhill Road. While this wall is currently setback approximately 20 metres, this setback will be diminished, and the landscaping removed at the time of the ultimate construction of Summerhill Road. If Summerhill Road is constructed in its ultimate, this will leave a 7 – 8.5 metre high wall along the front boundary, resulting in a poor interface to the streetscape which is not supported. Further consideration in regard to the location

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and materials used for this interface is required to ensure it will not cause any negative impacts.

As Council will become the Responsible Authority if a planning permit is to be issued, we request the opportunity to review the draft conditions to ensure the conditions are to Council's satisfaction and can be implemented.

If you have any questions, please contact Daniel Lendvai at daniel.lendvai@whittlesea.vic.gov.au or 9217 2170.

Regards

A handwritten signature in black ink, appearing to read "Ricardo Ramos".

Ricardo Ramos
Manager Building and Planning

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13 June 2024

Hannah Wright
Senior Planner
Department of Transport & Planning
GPO Box 2392
Melbourne, VIC 3001

Dear Hannah,

Thank you for your correspondence under Section 52 of the Planning and Environment Act 1987, dated 20 February 2024 (received 21 February 2024) referring to the application for a Waste to Energy facility, named the Melbourne Energy Resource Centre (MERC) at 510 Summerhill Road, Wollert in the City of Whittlesea.

As foreshadowed in Council's submission dated 02 April 2024, please find the City of Whittlesea's substantive objection following an independent review of the proponent's Transport Impact Assessment. The independent review (Transport Impact Review Report prepared by O'Brien Traffic Pty Ltd) of the proponent's Transport Impact Assessment is also enclosed and forms part of Council's submission.

In addition, it is acknowledged that Hume City Council has lodged a further submission based on the findings of the above-mentioned O'Brien Traffic Report. The City of Whittlesea support Hume's submission with regard to the matters they have raised in their municipality including transport network impacts, impacts to the Craigieburn North Employment Area (PSP/DCP), potential enforcement issues, infrastructure impacts and cultural heritage matters.

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Objection

Council Officers affirm the objection submitted on 02 April 2024. The grounds comprise of the following:

- *The proposal is not aligned with the strategic direction of the Northern Growth Corridor Plan 2012 (NGCP) as it will impact on the landscape and key views due to the size of the facility and the subject site is within an 'investigation area' within the NGCP which requires further investigation before any planning decisions can be contemplated about the best long-term use or uses within this Precinct.*
- *Being inconsistent with the purpose of the Farming Zone.*
- *Being out of sequence with the orderly planning of the area, as the Northern Quarries Precinct Structure Plan is not progressed, and Growth Area Infrastructure Contribution and developer contributions have been set for the area.*
- *Having negative effects on the existing road network, particularly Amaroo Road and Summerhill Road.*

In addition:

- *The bridge crossing at the Merri Creek is not adequate to accommodate the proposed vehicle movements associated with the construction and operation of the facility. There are concerns that the structural integrity of the bridge, and its capacity to carry the proposed heavy vehicle movements is not adequate.*
- *The impacts of eastbound heavy vehicle travel have not been adequately considered as part of the proposal.*
- *The proposal presents a poor interface to future biodiversity link to the north of the site. This link has been identified in the Northern Growth Corridor Plan.*
- *The significant size and bulk of the facility will have a significant visual impact in its context. The proposal appears to have had little consideration of its presentation in the landscape.*
- *An air quality assessment has not considered all areas within the subject site where odour can be emitted.*

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- *The Cultural Heritage Management Plan has not been approved.*
- *Future impacts of the noise barrier wall along Summerhill Road have not been considered with regard to the ultimate construction of Summerhill Road.*
- *Internal swept paths within the development are not adequate.*

O'Brien Traffic Report Findings

As discussed in Council's initial submission, the City of Whittlesea has engaged an independent review of the proponent's response to traffic and infrastructure matters. Based on the findings of this review, Council Officers expand on our initial objection with the following comments:

1. ***Having negative effects on the existing road network, particularly Amaroo Road and Summerhill Road.***

The City of Whittlesea acknowledges a number of issues associated with the proposed A-Double movements through the local road networks within the Hume Municipality.

Access to the site for larger vehicles requires a National Heavy Vehicle Regulator (NHVR) access permit. This has not been obtained by the proponent. In order to obtain a NHVR access permit, larger vehicles such as A-doubles require Performance Based Standard approval to operate. The location of the site is problematic, given it is approximately 4.5km from the Hume Highway and no viable provision for the aforementioned A-double truck movements.

It is acknowledged that Council's submission recommends a 6.5-metre-wide carriage way for Summerhill Road. However, the O'Brien Report indicates that a width of 6.5 metres for Summerhill Road will be insufficient to accommodate A-double truck movement and will not meet the requirements of the Road Design Note 40-01 Heavy Vehicle Network Access Considerations, July 2019. Summerhill Road will also not adequately accommodate two-way simultaneous travel for A-doubles. Considering the above information, Council

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affirms that the minimum width of Summerhill Road and Amaroo Road pavement should be 7 metres, consistent with the interim pavement requirements in the abutting Precinct Structure Plans.

Section 4.13 of the O'Brien Report also identifies the need for a structural performance pavement to support the weight of the proposed A-Double Trucks. The road being sealed alone will not be adequate for the weight associated with the truck movements and will result in more frequent damage to the road infrastructure which Council will need to maintain. Therefore, Council requires the pavement of the road to be sufficient to adequately withstand the weight of A-Double Trucks.

2. *The bridge crossing at the Merri Creek is not adequate to accommodate the proposed vehicle movements associated with the construction and operation of the facility. There are concerns that the structural integrity of the bridge, and its capacity to carry the proposed heavy vehicle movements is not adequate.*

The O'Brien Report highlights several concerns with the existing road and bridge infrastructure.

The Applicant's TIAR indicates that A-doubles should be limited to a speed of 10km/h speed along the bridge crossing the Merri Creek. Council's position is that this will be difficult to operate, manage and enforce for the existing downgrades on both approaches to the Merri Creek Bridge. The current slope is in the order of 8% which is undesirable and must be minimised. This is of particular concern given the default speed of Summerhill Road east of the Merri Creek ridge is 100 km/h. Heavy Vehicles slowing down on the approach to the bridge poses issues.

In addition, as mentioned in Council's initial submission, the O'Brien Report also concludes that the single lane carriageway of the bridge presents safety concerns for driver sight lines, combined with the curved horizontal alignment of Summerhill Road and existing vegetation.

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In particular, concerns are raised regarding the high number of reported casualty crashes near the subject site on the surrounding road network. As highlighted in section 4.4 of the O'Brien Report, 9 out of the 14 crashes between July 2018 and June 2023 were run-off-road incidents. The proposal seeks to provide an additional 212 truck movements per day (106 in and 106 out), of which 42 are A-double vehicles. As such, the surrounding network must be designed to allow for simultaneous two-way access. Council is concerned that the curved horizontal alignment of Summerhill Road limits drive sight distance particularly for eastbound travel from the Whittlesea City Council side. Should the number of vehicles that traverse this road increase, the number of crashes will also increase.

The O'Brien Report notes that the curved horizontal alignment of Summerhill Road limits driver sight distance and Austroads requirements for minimum sight distances are unlikely to be met from either approach to the Merri Creek bridge (pg. 4). The O'Brien Report goes on to reference the VicRoads alignment plans which were prepared in 2017 for Summerhill Road. The above-mentioned alignment plans address matters of sightlines and grades. Please refer to Figure 10 and Appendix A of the O'Brien Report which suggests the realignment of Summerhill Road will move through part of the site in proximity to the proposed facility. As such, the siting of the facility itself will impact any future realignment of Summerhill Road. The Department of Transport and Planning must be consulted regarding this matter as it has significant implications for the proposed siting of the facility and future planning for the area

3. *The impacts of eastbound heavy vehicle travel have not been adequately considered as part of the proposal.*

The proposed plan indicates that there is left in and left out access to the site, assuming vehicles will move eastbound (shown in figure 24 of the O'Brien Report). In addition, Section 5.5 of the O'Brien Report highlights the information shown in the proponent's Planning Report (dated December 2023) which proposes that the waste traveling to the site via A-doubles will be from a third-party. It must be demonstrated how third parties

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accessing the site will properly adhere to the correct travel direction. Furthermore, the proponent's TIAR has not considered possible A-Double traffic to and from the north of the site via Donnybrook Road or other alternative routes.

In light of the above, there is a level of uncertainty regarding the assumptions of trip numbers, and the direction these vehicles will take to get to the site. As Summerhill Road to the east of the site is not proposed to be developed, Council would not support heavy vehicle travel to or from the east. Council maintains that the proponent is required to cover the costs of any upgrades or maintenance required to Summerhill Road and the wider road network.

Further Matters

Traffic (External and Internal Movements)

An independent review of the swept paths has been conducted and the results of which can be viewed at Figure 26 of the attached O'Brien Report. Concerns are raised regarding the movement of A-double trucks. Given the number of A-doubles to enter and exit the premises each day (42 A-doubles), it is more than likely they will need to cross paths. The swept paths shown in Figure 26 indicate there will be a conflict should vehicles need to pass each other. The internal access must be designed to allow for two-way travel. Furthermore, the proponent's TIAR does not include trips generated by the Education Facility at the front of the site. Should the site cater for events such as school excursions or tourism, it must consider the additional bus/car trips within its overall assessment. Provision for pedestrian movement throughout the site for both visitors and staff must be included in the design.

The proponent's TIAR also does not consider the practical elements of the 24-hour operation. On a broader scale, the TIAR simplifies the generated traffic by assuming it will have an even distribution in the AM (one trip every 86 seconds) and PM (one trip every 129 seconds).

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For staff, the subject TIAR also applies a 50% reduction to the arrivals and departures, 17 in the AM and 17 in the PM peak times. However, with 34 staff proposed for the site, and therefore this number would be much higher. It also does not consider the likely shift changes and handover for staff.

Cultural Heritage

As expressed earlier in this submission, the proposed development will require upgrades to the Merri Creek bridge to appropriately cater for the anticipated traffic. As a result of these upgrades, further investigation of potential impacts to cultural heritage in proximity to the bridge must be undertaken. Therefore, it is understood that works to the bridge will require a Cultural Heritage Management Plan.

Conclusion

In light of the above, Council affirms the findings of the O'Brien Report and concludes that the traffic arrangements for the proposed waste to energy facility are insufficient for the following reasons:

- The site is located approximately 4.5 km from the Hume Highway with no viable provision for A-double trucks under current or future conditions. From a transport perspective it would be best if the subject site was located on the existing High Productivity Freight Vehicle Network which allows for as-of-right A-double access.
- The single route proposed in the TIAR for access to/from the Hume Freeway is not suitable as:
 - The existing road construction does not meet the relevant standards for access for vehicles greater than General Access Vehicles.
 - The existing road width is not sufficient to facilitate simultaneous travel of A-double vehicles.
 - The 8 to 9% grade approaches to the Merri Creek bridge are not appropriate for regular travel of vehicles greater than General Access Vehicles.

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- The Merri Creek bridge is not structurally suitable for A-double access and the proposed mitigation of speed restriction to 10 km/h is considered impractical to operate, manage, and enforce.
 - The single lane carriageway of Merri Creek bridge presents a safety concern with limitations for driver sight lines and additional traffic generated by the development.
 - Vehicles longer than 26 metres are currently not approved to cross the existing three track level crossing.
- The subject site is located between two PSP areas which pose challenges as:
 - They are currently undergoing development and are likely to continue to be developed with more intensive uses in the future.
 - The Development Contribution Plans include funding and design for roads and intersection that do not accommodate A-double trucks.

Sequencing of road works and intersection upgrades in the surrounding area is likely to lead to unnecessary removal or disruption to accommodate the needs of this application.

As raised in Council's initial submission, the City of Whittlesea will become the Responsible Authority if a planning permit is to be issued, we therefore request the opportunity to review the draft conditions to ensure they are to Council's satisfaction and can be implemented.

If you have any questions, please contact Daniel Lendvai at daniel.lendvai@whittlesea.vic.gov.au or 9217 2170.

Regards

A handwritten signature in black ink, appearing to read "Ricardo Ramos", written over a faint circular stamp.

Ricardo Ramos
Manager Building and Planning

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19 November 2024

Environmental Protection Authority
200 Victoria Street, Carlton
Vic 3053

To the Assessing Officer,

Council refers to the Development Licence Application APP024914 by Cleanaway Operations Pty Ltd to construct the Waste to Energy (WtE) facility located at 510 Summerhill Road, Wollert VIC 3750. As part of the assessment of this licence, it is understood the following matters will be considered:

1. Impacts to human health
2. Air and odour emissions
3. Noise emissions
4. Greenhouse gas emissions
5. Climate change
6. Waste management
7. Impacts to land and groundwater
8. Impacts to surface water
9. Compliance with the General Environmental Duty
10. Principals of environmental protection
11. Best Available Techniques and Technologies

The City of Whittlesea requests that the EPA consider the following matters.

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Greenhouse Gas Emissions

In the City of Whittlesea's Sustainable Environment Strategy Council has committed to net zero emissions for the city by 2036 to achieve the goals of the Paris agreement.

To achieve this Council's priorities are to:

- support the community to reduce energy consumption, improve energy efficiency, and adopt renewable energy,
- promote zero emissions buildings
- reduce transport emissions
- reduce methane emissions from the waste sector
- Support climate resilient communities

Operational Greenhouse Gas Emissions

The greenhouse gas assessment identifies the avoided greenhouse gas (GHG) emissions of the facility by identifying that the emissions intensity is 0.5-0.8 tCO₂-e/MWh less than Victorian coal-fired power stations. This demonstrates that there will be an ongoing operational GHG emission impact for the duration of its 30-year lifespan. This does not align with Victorian Government's net zero emissions targets which is set to be achieved by 2045, it also does not align with City of Whittlesea's net zero target. To meet the energy needs of the community energy generation from 100% renewable sources should be fully explored ahead of any lower-carbon emitting technologies.

Additionally, no renewable energy source has been proposed for this development. Providing a renewable energy source on site (e.g., Solar PVs) would be valuable in offsetting scope 2 emissions from electricity use throughout the facility's operational years.

Avoided emissions

This proposal argues the emissions from the waste to energy facility would produce relatively lower emissions than what would have otherwise resulted from the decomposition of organic waste. Despite acknowledging as stated within the submitted documents, "*total emissions*

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are projected to decrease as the waste stream changes from 60% C&I and 40% MSW to 40% C&I and 60% MSW over time. This is due to a reduction in the proportion of non-organic material in the waste such as soft plastics. However, changes in Government policy requiring food organic and garden organic (FOGO) waste to be diverted from the MSW stream may also have a balancing effect” the expected reduction in FOGO waste has not been properly accounted for in the project’s projected scope 1 and 2 emissions.

Methane emissions from landfill

The applicants submission notes that it will be *“Diverting organic material from landfill and potentially avoiding ~50,000–450,000 tCO₂-e/y of methane production from anaerobic decomposition”*

Methane emissions from Hanson landfill are currently being captured for renewable energy production. This proposal does not account for existing technology for GHG emissions reduction in operational landfills across Victoria which significantly cuts down GHG emissions from landfill. Given this reality, the expectation would be that the avoided methane emissions stated in the proposal is likely overstated.

Embedded Greenhouse Gasses

The applicants submission states that it will provide *“Low emissions concrete which substitutes cement with alternative binders such as coal ash, biochar, and new polymers, can have the same or superior structural characteristics and have significantly fewer embodied emissions.”*

The greenhouse gas assessment acknowledges the embodied emission reduction effects of using cement alternatives, but no commitment was made to the effect. To reduce the GHG emissions for this project and align with the City of Whittlesea’s and Victorian Government’s net zero emissions targets, there should be a demonstrated commitment to the use of materials with low embodied energy and this should be reflected in the emissions calculations.

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Mitigation options

The proposal seeks to “*prescribe design engineering tolerances to cope with extreme heat, wind, and/or rainfall to the level of acceptable risk.*” The climate change assessment clearly highlights the climate change risks to the proposed waste to energy facility, however, more details on mitigation and adaptation measures during construction and operation of the facility would be useful to clearly understand mitigation options. Given that climate change poses a risk of increased frequency of bushfires with the project site being in a bushfire prone area as well as a site of historical fire, measures to mitigate bushfire risks need to be included in the proposed mitigation options.

More specific mitigation and adaptation measures as they relate to operations within the facility also need to be discussed. For instance, more information is required on waste storage within the facility and impacts of extreme high temperatures on GHG emissions from FOGO waste as well as mitigative measures that would be put in place.

Waste Management

A key objective in State Government and City of Whittlesea strategies, is to reduce the amount of waste generated by improving recycling and reuse, to move towards a Circular Economy. The City of Whittlesea’s Sustainable Environment Strategy further outlines Council’s waste priorities, these are to:

- Work with the Community to avoid waste generation in the first place
- Value and recover waste for repair and reuse
- Support businesses to move towards a circular economy.
- Protect our environment and health from the impact of waste

Overall, these strategies will result in the reduction of waste generated at a local and statewide scale.

The City of Whittlesea currently utilises Heidelberg Materials facility (formally named Hansons Wollert Landfill) located within the municipality for garbage disposal. This landfill uses a Landfill Gas Capture System - to operate a renewable energy facility on site. In the 2024/25

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financial year it produced enough energy to power 11,039 homes. The landfill is sustainably managed and has a comprehensive road map to deliver a 40% reduction in emissions by 2030. The current estimated remaining volume of the site is dependent on the quarry's extraction depths, however, at current projections there is 100+ years of life for the Landfill.

This facility currently meets the needs of our existing capacity, and it is unlikely that the community will require another facility given diversion activities and waste reduction targets. This proposal will not benefit the City of Whittlesea, especially as it is not replacing the current landfill but operating as well, increasing our municipal emissions as it receives waste generated from other municipalities and transported to this facility. The approval of this facility will result in a negative benefit for the community with little to no waste benefit.

Impacts to Land, Groundwater and Surface Water

In response to the submitted *Hydrology and Flood Risk Technical Report* by ARUP, Council Officers provide the following comments:

- Under the legislation, policy and guidelines section of the report (2023) the EPA's most significant publication 1739.1: Urban stormwater management guidance (2021) has been disregarded and not referenced to.
- The site sits outside Healthy waterways priority stormwater catchment, however, the development should still aim for 27% harvesting and 9% infiltration of stormwater in accordance with the EPA best practice guideline.
- Rainwater tanks should be utilised to maximize roof water capture for operations (primarily) and for passive leak to landscaping (secondarily). For example, the boiler hall requires a lot of cooling water which can be sourced from rainwater. Even though the cooling demand far exceeds the roof water supply, it is a good opportunity to reduce runoff volume from the site.
- Hardstand areas could be drained towards landscaping (trees) via suitable trench grate alignments, with overflow provisions to the minor drainage system.

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- The proposal is sited within two flood corridors in the 1% AEP storm event, which likely requires alteration of the waterway corridor.
- Bioretention basins seem to be the go-to water quality treatment asset (as proposed in this development), however, Council's experience (as an asset owner) has shown that these assets fail prematurely and are not a preferred option. They do not achieve much flow reduction, but rather turnover, and their volume reduction achievements has not been demonstrated in the report.
- The proposed bioretention basins of this magnitude usually include substantial sedimentation forebays (even ponds) to handle the silt loads. The proposal does not feature this and instead relies on gross pollutant traps (GPT). These, however, won't be able to safeguard the filter material from gradual clogging. The proposal must demonstrate how they will ensure that these privately owned proprietary systems and bioretention assets will be maintained to the high standard / frequent attention regime they require.
- In the report there appear to be no details on on-site water demands for rainwater reuse, no details on adopted tank sizes either. The modelling assumptions should be provided for review. There are no further details provided on GPT systems, brands and models, especially for those claiming to achieve oil separators. The MUSIC model must also take into account external catchments for hydraulic loading.
- The submitted Streamology report suggests a formalisation of the tributary 4545, however, the subsequent stormwater report does not highlight any further detail of what this might look like with the proposed development (e.g., alignment, typical section, HEC-RAS model).

Compliance with the General Environmental Duty

The current climate change has been largely attributed to anthropogenic activities, hence, the need for reduction in greenhouse gas emissions. Climate change poses significant risks to human health and lives as well as the environment and mitigating these risks is a priority for City of Whittlesea and the Victorian Government. There are a few missed opportunities for

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climate change mitigation, adaptation, and general environmental protection in this proposal. This proposal will fulfil its general environmental duty if it uses available technology to further cut its GHG emissions (e.g., incorporating renewable energy production for operational uses, using carbon capture technology to cut down emissions), uses sustainable and materials with low embodied energy for the construction of the facility and in the treatment of its residual materials (APCr), and sets out clear environmental protection measures for the development.

Considering the above, Council Officers wish to ensure the best outcome for the community which adequately address the Principles of Environmental Protection. Please consider the matters raised in this submission as part of your review of the subject application.

If you have any questions, please contact Daniel Lendvai at daniel.lendvai@whittlesea.vic.gov.au or 9217 2170.

Regards,

A handwritten signature in black ink, appearing to read "Ricardo Ramos".

Ricardo Ramos
Manager Building and Planning

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5.2 Planning Scheme Amendment C269: Rezoning of 149 McKimmies Road, Bundoora: Planning Panel Outcomes and Adoption

Director/Executive Manager: Director Planning & Development

Report Author: Strategic Planner

In Attendance: Manager Strategic Futures
Unit Manager Strategic Planning

Executive Summary

This report relates to the rezoning of land at 149 McKimmies Road, Bundoora, to allow for development of a residential neighbourhood. The site is a former quarry and cleanfill landfill which, in accordance with EPA advice and oversight, is undergoing environmental and geotechnical rehabilitation and remediation to enable future reuse of the land.

An amendment to the Whittlesea Planning Scheme (Amendment C269wsea) is required to rezone the site for its proposed residential use. An extensive process has been undertaken to date to ensure the appropriate EPA approvals have been granted to the proponent and agreements have been reached with Council on a range of matters such as Developer Contributions, Social and Affordable Housing and Infrastructure Delivery. The Planning Scheme Amendment was exhibited to government agencies and surrounding residents in late 2023. A Planning Panel was convened by the Minister for Planning in April and May this year to consider the submissions received to the Amendment. The Panel has now released its report and associated recommendations.

The purpose of this report is to consider the outcomes of the Panel Report and the recommended next steps in respect to the Planning Scheme Amendment.

The Amendment applies to 36.4ha of land at 149 McKimmies Road, Bundoora, (shown on Attachment 1), currently zoned for industrial use.

The Amendment proposes to change the Whittlesea Planning Scheme to facilitate the development of the subject land for residential purposes which will support approximately 730 new homes, of which 5% will be social housing and 10% affordable housing as per the executed Section 173 Agreement between Council and the proponent.

The site is well located to support new housing being in an established residential area close to existing services and facilities. The Amendment will also facilitate the creation of a reserve along the Darebin Creek and provide new open space for the future community.

The Amendment seeks to make the following changes to the Whittlesea Planning Scheme:

- rezone part of the subject site from Industrial 1 Zone to the General Residential Zone (new schedule GRZ6),
- apply the Development Plan Overlay (DPO) to the rezoned land (new schedule DPO40); and
- amend the Land Subject to Inundation Overlay (LSIO) to accord with Melbourne Water's updated flood mapping.

The Amendment was proposed on behalf of the site owner (the proponent). Council resolved at its 19 September 2022 meeting to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C269 to the Whittlesea Planning Scheme.

During the public exhibition of the Amendment, 14 September - 15 October 2023, Council received nine submissions. Council considered the submissions at its 20 February 2024 meeting and resolved to request the Minister for Planning to appoint an independent Planning Panel to consider all submissions received during exhibition.

The key issues considered and discussed during the Panel hearing were:

- Site access and intersection treatment of Laurie Collins Drive and McKimmies Road.
- Managing noise and amenity impacts from the adjoining bus depot for future residents.
- Assessments required to inform the preparation of a Development Plan.
- The extent of the waterway reserve along the Darebin Creek corridor.
- Interface treatments to the waterway reserve, E6 road reserve and bus depot.
- Implementation of the Statement of Environmental Audit.

Parties to the hearing included Council, the proponent and Dyson, the adjoining landowner and bus depot operator.

Following the hearing, the Panel have prepared and released their report (refer to Attachment 2). The independent Panel found the Amendment is well founded, strategically justified and should be adopted subject to the recommendations contained in the report. These recommendations have informed their final DPO40 Schedule which is the primary control to guide future development of the site.

This report recommends that Council support all the Panel's recommendations except for two which are partially supported.

The first relates to the final drafting of the requirements for the transport strategy (refer to Attachment 6). The officer response proposes further minor changes to the planning control to ensure that the Development Plan clearly outlines the potential additional land requirements and triggers for upgrade of the intersection of Laurie Collins Drive and McKimmies Road. The second relates to general updates made by Panels in its recommended version of DPO40. The majority of these are acceptable however there are a small number which appear to be errors or are not supported by Council officers. This is discussed in more detail in this report.

In summary, the Amendment will facilitate a new residential neighbourhood and much needed housing, including the provision of social and affordable housing, in an established suburb which is amenity rich and well located. Therefore, and in line with the Planning Scheme Amendment process, it is recommended that Council resolve to adopt Amendment C269, in the form of the revised planning documents provided at Attachment 4, incorporating Council officer recommended changes, and to support the submission of the adopted Amendment to the Minister for Planning for consideration and approval.

Officers' Recommendation

THAT Council:

- 1. Note the Panel Report at Attachment 2 and the recommended officer response to the Panel's recommendations at Attachment 6.**
- 2. Adopt Planning Scheme Amendment C269wsea to the Whittlesea Planning Scheme in the form of the revised Amendment documents at Attachment 4.**
- 3. Submit Amendment C269wsea, as per point 2 above, to the Minister for Planning for approval.**
- 4. Advise the proponent and submitters to Amendment C269wsea of the above.**

Background / Key Information

Background

The Whittlesea Planning Scheme is the primary statutory document that sets out objectives, policies and provisions relating to the use, development, protection and conservation of land in the City of Whittlesea.

To change the Whittlesea Planning Scheme, Council must undertake a Planning Scheme Amendment in accordance with the process outlined in the *Planning and Environment Act, 1987* (see Attachment 5).

This report relates to a Planning Scheme Amendment, referred to as Amendment C269wsea (the Amendment), which applies to a site at 149 McKimmies Road, Bundoora, and proposes to rezone part of the site from an industrial zone to a residential zone to facilitate the development of the land for housing. The Amendment is a 'proponent led' Amendment meaning it was proposed by the landowner however, Council maintains the responsibility as the 'planning authority' to process the Amendment.

The Amendment has already progressed through the following steps of the process:

- Council decision to seek authorisation from the Minister for Planning to prepare the Amendment, 19 September 2022.
- Authorisation granted by the Minister for Planning to prepare and exhibit the Amendment, 24 July 2023.
- Public exhibition of the Amendment, 14 September 2023 – 15 October 2023.
- Consideration of submissions received during exhibition.
- Council decision to request a Planning Panel to consider unresolved submissions, 20 February 2024.
- Independent Planning Panel Hearing, April and May 2024.

The Amendment is in the final stages of the Amendment process where Council is considering the outcomes of the Planning Panel and its report and resolving whether or not to adopt the final Amendment. If adopted, the Minister for Planning will be requested to approve the Amendment as the final decision in the process.

Subject Site

The site subject to the Amendment is 149 McKimmies Road, Bundoora, which is 36.4ha in area and a former basalt quarry (refer to Attachment 1). The site is bordered by the Darebin Creek to the east and south, land owned by Yarra Valley Water and the Metropolitan Ring Road to the south, the future E6 road reserve to the east and McKimmies Road and Dyson Bus Depot to the north.

The quarry on the site was operational from 1964 to 1992. Since 2000, the former quarry has been operated as a landfill accepting clean fill material (mixed clay, silt, sand, gravel and boulders). The site has not accepted any household or putrescible waste. With the quarry ceasing operation and the site in the process of being rehabilitated, the owners initiated a rezoning process to provide for future residential use of the site.

Council's Thomastown Industrial Area Plan (endorsed 2018) investigated the future use of the site. It was found the site was not expected to support industrial development in the long term given the isolated nature of the site (separated from other industrial precincts in the Thomastown Industrial area), surrounding residential context, connectivity issues and the availability of better located employment land elsewhere in the municipality. The plan supported alternate uses for the site to be explored such as residential or mixed use. The plan notes that any alternate use would require further assessments of issues including access arrangements, impacts of the bus depot, environmental implications, geotechnical considerations and the risk of potentially contaminated land. The plan also notes that any mixed use or residential development would need to incorporate elements of social and affordable housing. These assessments have been prepared as part of the Amendment process.

Planning Scheme Amendment Details

In November 2021 the landowner submitted a proposal to Council to commence a Planning Scheme Amendment to rezone the land to facilitate residential redevelopment of the site.

The proposal was supported by a range of background reports and technical assessments, which included:

- Transport Impact Assessment.
- Geotechnical Strategy.
- Environmental Assessment.
- Stormwater Management Strategy.
- Engineering Servicing Report.
- Cultural Heritage due diligence.
- Native Vegetation Assessment.
- Fauna assessments.
- Social and Affordable housing proposal.

These responded to the need for further assessment of the site when considering a non-industrial use as detailed in the Thomastown Industrial Area Plan.

Council resolved at its meeting on 19 September 2022 to commence the Planning Scheme Amendment process to rezone the site.

The Amendment seeks to implement planning controls to enable the redevelopment of part the subject site for residential use. Specifically, the Amendment proposes to:

- apply the General Residential Zone Schedule 6 to part of the site;
- implement the new GRZ Schedule 6 to the Whittlesea Planning Scheme;
- apply the Development Plan Overlay (DPO) Schedule 40 to the rezoned part of the site;
- implement the new DPO Schedule 40 to the Whittlesea Planning Scheme Amendment;
- amend the extent of the Land Subject to Inundation Overlay (LSIO); and
- amend the Framework Plans (showing the implementation of Strategic Directions) at Clause 2 of the Whittlesea Planning Scheme to reflect the above changes.

Extensive negotiations have been undertaken with the proponent as part of the Amendment process and review of Amendment documentation. This has resulted in the following key outcomes being realised by the Amendment:

- A new supply and an appropriate mix of housing consistent with Councils' Housing Diversity Strategy, adopted 2013.
- Provision of 15 per cent affordable housing including 5 per cent social housing and 10 per cent affordable housing in accordance with Council's Social and Affordable Housing policy.
- Rehabilitation, embellishment and protection of the Darebin Creek corridor.
- Provision of 30 per cent tree canopy coverage in the public realm and additional tree planting opportunities on private lots consistent with Council's Greening Whittlesea City Forest Strategy 2020-2040.
- Local infrastructure required to support the new housing such as two new local parks, new shared paths connecting to existing recreation areas, a new pedestrian bridge over the Creek, local road network and service connections.
- Site rehabilitation through remediation of contaminated land and geotechnical response to quarry fill.

Environmental and Geotechnical Site Conditions

Due to its former use as a quarry and subsequent filling, and in accordance with the advice of the Environmental Protection Agency (EPA), the site has undergone an Environmental Audit process concurrent with the Planning Scheme Amendment. An Environmental Audit is a comprehensive assessment of the suitability of a site for an alternate use (ie. housing or open space) and is overseen by an independent Environmental Auditor appointed by the EPA. Council resolved at its September 2022 meeting that the Audit must be completed prior to adoption of the Amendment.

The audit has been completed and a Statement of Environmental Audit was issued by the independent Auditor on 6 January 2023 (refer to Attachment 7).

This concluded that the site is suitable for the proposed uses, including residential, subject to conditions which will need to be implemented as part of the remediation and development of the site. The conditions require mitigation measures to respond to the low concentrations of soil, groundwater and ground gas contaminants. These were caused by the low levels of organic matter (leaves, roots, branches) being found in the fill. The conditions include restrictions on groundwater extraction and the installation of a ground gas mitigation system over parts of the former quarry holes.

A detailed geotechnical response has also been developed. This will see the land above the former quarry holes temporarily overloaded with a layer of fill to surcharge compaction before a final layer of engineered fill is used to cap the compacted fill.

The rehabilitation works and installation of the ground gas mitigation system is well advanced on the site and are scheduled to be completed prior to development of the site. It is anticipated that due to the only low levels of ground gas that the gas mitigation system will be decommissioned prior to development.

Public Exhibition

The Amendment was publicly exhibited between 14 September and 15 October 2023. Council notified owners and occupiers of 92 neighbouring properties, affected agencies and prescribed Ministers. Council officers also held a community information session on 2 October 2023 at a nearby community centre, where 13 residents attended to discuss the project and share their feedback.

Council received nine submissions during the exhibition period. Three submissions were received from residents, four were from agencies, one from the landowner and operator of the immediately adjoining bus depot to the north (Dysons) and one from the proponent.

In considering the submissions, Council endorsed an amended planning control including an updated 'DPO40 Schedule'. However, a number of issues contained in the submissions remained unresolved.

In accordance with Section 23 of the *Planning and Environment Act 1987*, Council resolved at its 20 February 2024 meeting to request the Minister for Planning appoint an independent Planning Panel to consider all submissions and make recommendations on the Amendment.

Planning Panel

A Planning Panel is a standard part of a Planning Scheme Amendment process whereby submissions received during the exhibition period are referred to the Planning Panel for their review.

A Planning Panel is convened by the Minister for Planning and comprises independent members appointed by the Minister. The role of the Panel is to give submitters an opportunity to be heard in an informal and non-judicial manner on the Amendment. The Planning Panel for the Amendment was appointed by the Minister for Planning on 22 February 2024 and the hearing was conducted over seven days in April and May 2024. In addition to the hearing, two conclaves were conducted with the technical experts providing evidence in respect to traffic and noise impacts. The conclave is an opportunity for the experts to meet before the hearing and determine what matters they can all agree on and what matters remain in dispute.

The key matters discussed at the Panel hearing included:

- Strategic justification for the Amendment.
- Traffic and road network matters.
- Darebin Creek waterway reserve and interface treatment.
- Bus depot interface issues including zoning, noise, air quality and light spill.
- Standards to be achieved in supporting technical assessments.
- Form, content and drafting of the 'DPO40 Schedule'.

In the lead up to the final day of hearing, each party produced a final version of the 'DPO40 Schedule', the primary planning control under debate, which provided their preferred response to the issues raised during the Hearing. These were considered by Panel as part of making its recommendation.

Panel Report

The Panel Report was issued on 20 June 2024 (refer to Attachment 2). The report concluded that:

"The Amendment is:

- *supported by, and implements, the relevant sections of the Planning Policy Framework;*
- *generally consistent with the relevant Ministerial Directions and Practice Notes;*
- *well founded and strategically justified.*

The Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters."

The report then goes on to detail the more specific issues raised in submissions and its recommendations. The list of recommendations and recommended officer response is included at Attachment 6.

Response to Panel Recommendations

Council officers have reviewed the Panel report and the Panel's recommended version of DPO40 Schedule. Council officers fully support all but the two of the Panel's 18 recommendations. The two recommendations which are only partially supported are discussed below. For these two items, revised wording is recommended to be adopted which is outlined in tracked changes at Attachment 3 and discussed below. This version is also in Attachment 4 which includes a "clean copy" of the final Amendment documents and is the recommended version for adoption.

1. Transport Strategy (intersection treatment)

Panel Recommendation: "revise the Transport Strategy requirements, including the Traffic Impact Assessment Report, to assess potential impacts on access at 121 and 149 McKimmies Road, Bundoora".

A key threshold issue raised during the Amendment process was the capacity and upgrade of the intersection at Laurie Collins Drive and McKimmies Road. This intersection will be the single point of access to the subject site and existing bus depot.

As part of the Panel process, Council engaged a traffic engineer to provide and present independent expert evidence on Council's behalf. As part of the evidence, Council's expert made recommended changes to the requirements for a Transport Strategy in the draft DPO40 Schedule. This included the requirement for the intersection to include "an additional lane for right turning motorists on the west approach to the intersection and a separate left and right turning lane on the southern approach to the intersection."

Dyson (bus depot operators) and the proponent similarly engaged traffic experts. Evidence from all three experts was shared prior to the hearing, and all had included an indicative concept design for the upgrade of the Laurie Collins Drive and McKimmies Road intersection. Whilst the designs differed to some degree, all required some additional land from outside the existing road reserve to deliver an intersection that could satisfactorily service the site at full development.

In considering this matter, the Panel concluded that:

"it would be premature to specify the ultimate intersection's final design through DPO40, though it should specify parameters the design should achieve. This includes having regard to Austroads standards and it being to the satisfaction of the responsible authority."

In the Panel's recommended DPO Schedule, references to design specifications for the intersection such as number of lanes at each approach was deleted, and the requirement to secure land for the intersection upgrade was also deleted. The Panel formed the view that this detail could be determined through the Development Plan process.

The revised wording proposed by the Panel is generally supported. However, officers consider that the drafting does not clearly specify the need for the Development Plan to outline the additional land requirements for the intersection and the trigger and mechanism for securing the land and delivering the intersection upgrade.

These are important strategic issues which the Development Plan must provide clear guidance. Therefore, additional wording is recommended to be included in the DPO40 section to the requirements of the Transport Strategy and the Precinct Infrastructure Plan to clearly specify these as requirements to be addressed at the Development Plan stage (refer to the DPO40 Schedule track changes version at Attachment 3).

2. Form and Content drafting

Panel Recommendation: "make drafting changes to provisions that clarify and improve their operation."

The Panel also made a number of more specific changes to the 'DPO40 Schedule' included at Attachment C of the Panel Report which were not specifically outlined in its recommendations.

A number of these changes were informed by the *Practitioner's Guide to Victoria's Planning Schemes* which guides that a provision must not duplicate other legislation, instruments or planning scheme provisions.

Council officers have identified a number of minor changes which are not supported. Some of these appear to be errors and are outlined below.

2a. Section 173 Agreement – Geotechnical works and Council Infrastructure

The DPO40 Schedule includes a requirement for a section 173 agreement to deal with the issue of geotechnical works and potential impact on Council infrastructure.

The Panel's recommended version deleted a paragraph that provided details on the timing and cost liability for the agreement. Extract included below:

- *The section 173 agreement must be executed and registered on the title of the relevant land prior to certification of the plan of subdivision.*

- *The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority. The agreement may provide for the agreement to be ended and removed from the title upon the grant of a statement of compliance issued in respect to lots created for the purposes of construction of a dwelling or dwellings.*

The removal of this detail from the Panel's DPO appears to be an oversight as it is retained for the requirements of other section 173 Agreements included in DPO40 such as those relating to affordable housing provision and acoustic attenuation measures. It should be noted, this matter was not raised in submissions or discussed in the Panel Hearings as an issue. It is recommended that this detail be included in final DPO40 schedule adopted by Council.

2b. Design Guidelines

Council's version of DPO40 Schedule included a requirement that the Built Form Analysis Plan include "design guidelines relating to lot densities, street layout, siting and orientation of lots and built form." The Panel's recommended version DPO40 Schedule omitted this requirement. The Panel Report does not detail the reason for this omission. It is recommended that this requirement be included in final DPO40 schedule adopted by Council.

The design guidelines will ensure consistent and high-quality built form is achieved throughout the development that maximises environmental and amenity outcomes.

2c. Reference to Native vegetation assessment

The exhibited version of DPO40 Schedule included two references to the submitted *Native Vegetation Assessment 149 McKimmies Road, Bundoora Report No. 20196.2 (1.1) (Nature Advisory, November 2021)*. These references were included to ensure that the retention of native vegetation identified in this report was implemented through DPO40. However, the Department of Energy, Environment and Climate Action (DEECA), submitted that the reference should be removed as the assessment did not meet the standards required and a new assessment should be prepared. In its consideration of submissions, Council supported this request. Both references were removed from Council's preferred DPO40 Schedule.

In what appears to be an oversight, the Panel's recommended DPO40 has deleted only one of the references to that assessment. The Panel report found that the assessments and plans concerning the waterway reserve and native vegetation did not provide enough detail to enable decision making at this stage. This supports DEECA's position on the *Native Vegetation Assessment*, so it appears the non-deletion is merely an oversight.

It is recommended reference to the *Native Vegetation Assessment* be removed in line with DEECA's submission in the final DPO40 Schedule adopted by Council.

With the changes outlined above, it is recommended that Amendment C269wsea be adopted in the form of the final Amendment documents at Attachment 4. This will constitute Council's formal position on the Amendment to be forwarded to the Minister for Planning for approval. The final DPO40 Schedule will guide the preparation of a future Development Plan that will ensure that future residents are provided with a liveable residential neighbourhood and that responds to the housing needs of the community.

Alignment to Community Plan, Policies or Strategies

Alignment to Whittlesea 2040 and Community Plan 2021-2025:

Liveable Neighbourhoods

Our City is well-planned and beautiful, and our neighbourhoods and town centres are convenient and vibrant places to live, work and play.

The proposed Amendment will implement planning controls on the new residential land to guide and deliver a well-planned residential development, with a mix of dwelling sizes and vital increase in canopy tree cover, making it a quality place to live with high levels of amenity.

Considerations of *Local Government Act (2020)* Principles

Financial Management

The fee for submitting the Amendment to the Minister for Planning for approval is included in the current operational budget (\$530.70).

The cost of conducting the Panel Hearing was borne by the proponent. In accordance with the *Planning and Environment Act 1987*, the proponent is also paid Council a fee to assist with the resources required to consider submissions and adoption of an Amendment. Council was responsible for covering the cost of representation and expert evidence which came from its operational budget.

A s173 agreement has been executed with the proponent which ensures the delivery of essential transport infrastructure and a contribution to community and recreation infrastructure.

Community Consultation and Engagement

The Planning Scheme Amendment was publicly exhibited from 14 September to 15 October 2023. Owners and occupiers from 92 neighbouring properties were notified along with the prescribed Ministers and agencies. Exhibition included a community drop-in session hosted by Council which was attended by 13 community members.

Nine submissions were received during exhibition. Further conversations took place with Council officers and submitters, though not all submissions were able to be resolved. The submissions were then referred to a Planning Panel, providing another opportunity for submitters to engage in the Amendment process.

Other Principles for Consideration

Overarching Governance Principles and Supporting Principles

- (a) Council decisions are to be made and actions taken in accordance with the relevant law.
- (b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

Public Transparency Principles

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of the *Local Government Act* or any other Act.

Council Policy Considerations

Environmental Sustainability Considerations

The Amendment includes controls to protect and enhance the Darebin Creek corridor including protection of fauna using the environs for habitat. The Amendment implements Council's Greening Whittlesea Strategy delivering 30% canopy tree coverage in the public realm.

A Statement of Environmental Audit has been issued which confirms the land is suitable for the intended uses subject to conditions which will be implemented as part of the remediation and development of the site.

Social, Cultural and Health

The Amendment proposal considers social, cultural and health implications including delivery of social and affordable housing, protection of cultural heritage and implementation of the Environmental Audit conducted for the site.

Economic

The development will have a positive economic impact through the development of the site for housing.

Legal, Resource and Strategic Risk Implications

The Amendment satisfactorily manages the risk of contaminated land through the implementation of the Statement of Environmental Audit and is consistent with the advice of the EPA.

Implementation Strategy

Communication

Should Council resolve to adopt the Amendment, officers will submit the Amendment to the Minister for Planning for consideration. Officers will notify the proponent and submitters when this has occurred.

Critical Dates

- Council Resolution to seek Authorisation to prepare and exhibit Planning Scheme Amendment: 19 September 2022.
- Authorisation granted by Minister for Planning: 24 July 2023.
- Exhibition of Planning Scheme Amendment: 14 September 2023 – 15 October 2023.
- Council Resolution to request a Planning Panel be Appointed: 20 February 2024.
- Directions hearing: 21 March 2024.
- Panel Hearing: 10-12, 15, 16, 18 April and 10 May 2024.
- Panel Report: 20 June 2024.

Policy, Strategy and Legislation

Planning and Environment Act 1987

The Planning and Environment Act 1987 (the Act) is the primary legislation guiding planning in the State of Victoria. The Act outlines the process for amending a Planning Scheme.

The Amendment implements the objectives of the Act which is detailed in the Explanatory Report included in the Amendment documents at Attachment 4.

Ministerial Directions

The Amendment considers and complies with the following ministerial directions:

- Ministerial Direction: The Form and Content of Planning Schemes.
- Ministerial Direction 1 – Potentially Contaminated Land.
- Ministerial direction No 9. Metropolitan Strategy.
- Direction No. 11: Strategic Assessment of Amendments.
- Ministerial Direction 19 – on the preparation and content of Amendments that may significantly impact the environment, amenity and human health.

Planning Practice Notes

The Amendment considers and implements the following practice notes:

- Planning Practice note 12 – Applying the flood provisions in the planning scheme.
- Planning Practice note 23 – Applying the Incorporated Plan and Development Plan Overlay.
- Planning Practice note 30 – Potentially contaminated land.
- Planning Practice Note 46 – Strategic Assessment Guidelines.

Whittlesea Planning Scheme

The Amendment is supported by and implements the following clauses of the Whittlesea Planning Scheme:

- 11.01- 1L Settlement – City of Whittlesea.
- 12.01- 1L Protection of biodiversity.
- 15.01- 1L Urban design in the City of Whittlesea.
- 16.01- 1L Integrated housing.
- 16.01- 1L Housing supply in established areas.
- 16.01- 2L Housing affordability.
- 15.03- 1L Heritage conservation in Whittlesea.
- 12.01- 1L River Red Gum Protection.

Declaration of Conflict of Interest

Under Section 130 of the *Local Government Act 2020* officers providing advice to Council are required to disclose any conflict of interest they have in a matter and explain the nature of the conflict.

The Responsible Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

Attachments

1. Site Context Plan [5.2.1 - 2 pages]
2. Amendment c269wsea Panel Report [5.2.2 - 70 pages]
3. Final DPO40 with tracked changes [5.2.3 - 11 pages]
4. Attachment 4 - Adoption Version Final Amendment Documents [5.2.4 - 37 pages]
5. Planning Scheme Amendment Process [5.2.5 - 1 page]
6. Panel Recommendations and Officer Responses [5.2.6 - 3 pages]
7. Statement of Environmental Audit, 149 Mc Kimmies Road, Bundoora [5.2.7 - 17 pages]

Attachment 1: Site Context Plans

Figure 1: Context Plan

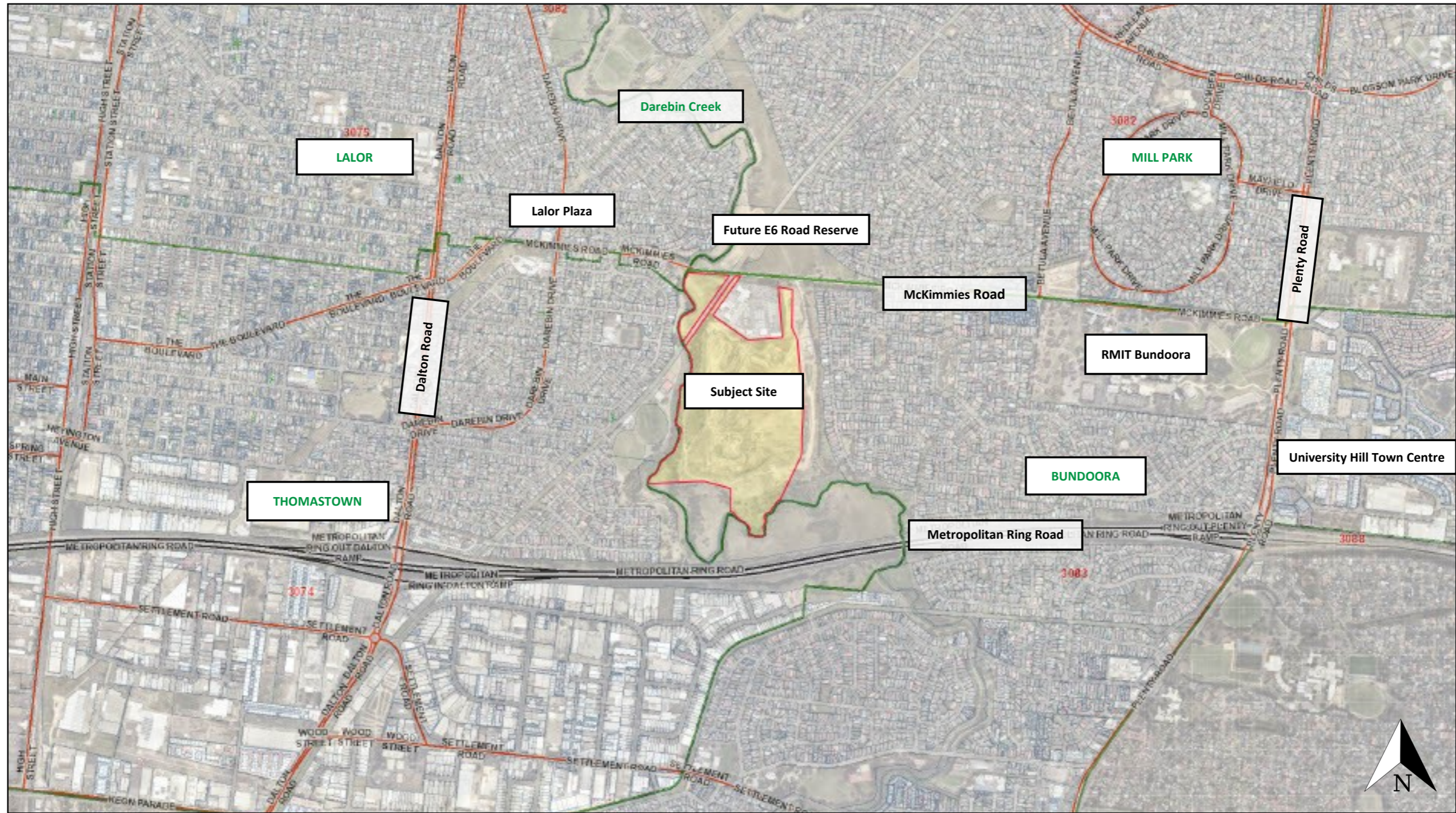


Figure 2. Aerial Photo



**Planning
Panels
Victoria**

**Whittlesea Planning Scheme Amendment C269wsea
149 McKimmies Road, Bundoora**

Panel Report

Planning and Environment Act 1987

20 June 2024

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

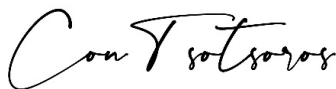
Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Whittlesea Planning Scheme Amendment C269wsea

149 McKimmies Road, Bundoora

20 June 2024



Con Tsotsoros, Chair



Gabby McMillan, Member

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Glossary and abbreviations

bus depot	Dyson Group bus depot at 121 McKimmies Road, Bundoora
Council	City of Whittlesea
DEECA	Department of Energy, Environment and Climate Change
DPO40	Development Plan Overlay Schedule 40
EP Act	<i>Environment Protection Act 2017</i>
Noise Impact Assessment	149 McKimmies Road Noise Impact Assessment (ARUP, 23 November 2023)
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Whittlesea Planning Scheme
section 173 agreement	an agreement enabled by section 173 of the PE Act
subject land	149 McKimmies Road, Bundoora
the roundabout	Laurie Collins Drive roundabout
VCAT	Victorian Civil and Administrative Tribunal

Overview

Amendment summary	
The Amendment	Whittlesea Planning Scheme Amendment C269wsea
Brief description	The Amendment proposes to rezone part of 149 McKimmies Road, Bundoora to General Residential Zone Schedule 6, apply a new Development Plan Overlay Schedule 40 and make associated changes to enable residential development
Subject land	149 McKimmies Road, Bundoora
The Proponent	Bundoora Developments Pty Ltd, Brencorp Bundoora Pty Ltd and New Urban Projects Pty Ltd
Planning Authority	City of Whittlesea
Authorisation	24 July 2023 subject to conditions
Exhibition	14 September to 15 October 2023
Submissions	<ol style="list-style-type: none"> 1. Bishoy Hanna 2. Rosa Radipitse 3. Jack [surname not provided] 4. Melbourne Water 5. Environmental Protection Authority 6. Department of Energy, Environment and Climate Action 7. Department of Transport and Planning 8. Bundoora Developments Pty Ltd, Brencorp Bundoora Pty Ltd and New Urban Projects Pty Ltd (Proponent) 9. Dyson Group

Panel process	
The Panel	Con Tsotsoros (Chair), Gabby McMillan
Directions Hearing	Online video conference
Panel Hearing	Whittlesea City Council offices, South Morang on 10 April and Planning Panels Victoria on 11, 12, 15, 16 and 18 April and 10 May 2024
Site inspections	Accompanied inspection of the subject land and Dyson site, 10 April 2024
Parties to the Hearing	<p>City of Whittlesea Council represented by Briana Eastaugh and Charlie Wurm of Maddocks, who called expert evidence on traffic from Valentine Gnanakone of OneMileGrid</p> <p>Bundoora Developments Pty Ltd, Brencorp Bundoora Pty Ltd and New Urban Projects Pty Ltd (the Proponent) represented by Chris Townshend KC and Sean McArdle of Counsel instructed by Tamara Brezzi of Norton Rose Fulbright, who called expert evidence on:</p> <ul style="list-style-type: none"> - planning from Amanda Ring of Urbis - acoustics from Darren Tardio of Enfield Acoustics - urban design and landscape from Craig Czarny of Hansen Partnership - traffic from Hilary Marshall of Ratio <p>Dyson Group represented by Eliza Minney and John Cicero of Best Hooper, who called expert evidence on:</p> <ul style="list-style-type: none"> - traffic and access from John Kiriakidis of Stantec - acoustics from Ross Leo of Clarity Acoustic
Citation	Whittlesea PSA C269wsea [2024] PPV
Date of this report	20 June 2024

Executive summary

149 McKimmies Road, Bundoora (subject land) is about 15 kilometres northeast of Melbourne's Central City. The subject land was part of a larger property outside Melbourne's urban area when it was first used as basalt quarry in 1964. When the quarry stopped operating in 1992, the quarry was rezoned to Industrial 1 Zone and later subdivided.

Dyson Group has operated its bus depot on the subdivided lot (121 McKimmies Road) it purchased in 2006. That lot is bound by Laurie Collins Drive, McKimmies Road and a narrow portion of the subject land.

Today, the subject land:

- is surrounded by residential areas within Melbourne's established northern suburbs
- remains in the Industrial 1 Zone and abuts the Outer Metropolitan Ring Road (E6) reservation
- is relatively close to being filled, following its quarrying operations.

Intrapac Property (Proponent) submitted a planning scheme amendment request in late 2021 to facilitate the subject land's transition from a quarry to residential development. Whittlesea Planning Scheme Amendment C269wsea (the Amendment) seeks to rezone the land to General Residential Zone Schedule 6 and apply Development Plan Overlay Schedule 40 (DPO40). The Amendment was exhibited from 14 September to 15 October 2023 and received 9 submissions including one from the Proponent.

Key issues raised in submissions include environmental issues, noise, air quality, construction impacts, traffic and access, and planning provision drafting. The Panel has considered submissions with unresolved issues, including those from submitters who did not appear at the Hearing.

The Panel commends the Proponent, Council and Dyson Group for how they worked together with the intention of resolving issues between them. This process resulted in consensus between the three parties on certain issues and is a model of collaboration.

Strategic justification

The Amendment is:

- supported by, and implements, the relevant sections of the Planning Policy Framework
- generally consistent with the relevant Ministerial Directions and Practice Notes
- well founded and strategically justified.

The Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

Environmental issues

The specific width of the proposed waterway reserve needs to be informed by a more detailed analysis of the subject land, final topography of the site and location of biodiversity, including the River Red Gums. Until further details are known, a precautionary approach should be adopted. A wider waterway reserve should be shown in DPO40 Figure 1.

DPO40 Figure 1 does not need to show a specific 'cut out' around the River Red Gums in the south-western part of the subject land, so long as a wider waterway reserve is shown in that figure.

DPO40 should acknowledge the Statement of Environmental Audit as a matter that informs the preparation of the concept plan. DPO40 does not need to duplicate requirements that exist in separate legislation.

Interface issues

Built form measures can appropriately manage the interface between the existing bus depot and future residential interface through acoustic mitigation measures including:

- a 3-storey fixed façade along the east, south and southeast boundary subject to design conditions
- a 2-storey fixed façade along the Laurie Collins Drive interface
- solid façades facing into the bus depot of 100-150 millimetres concrete with internal stud framed plasterboard with insulation
- staged development with noise mitigation works constructed before any residential lots are occupied.

DPO40 should be revised to:

- include appropriate acoustic mitigation requirements to manage the interface between the existing bus depot and future residential areas at 149 McKimmies Road, Bundoora
- better respond to the impact of offsite road traffic noise on future onsite dwellings
- require an assessment of light spill from the bus depot on future residents within 200 metres of the bus depot that recommends mitigation measures.

To understand potential impacts on sensitive uses, the DPO40 air quality assessment requirements should be revised to assess impacts:

- from the bus depot rather than other sources
- within 200 metres of the bus depot, consistent with the default threshold distance specified in Clause 53.10, rather than reference primary and secondary 'zones'.

DPO40 should not require a condition on a permit for a section 173 agreement regarding mitigation measures associated with air quality.

Traffic and access

The Laurie Collins Drive and McKimmies Road intersection should be upgraded when 450 dwellings on the subject land are occupied.

Laurie Collins Drive should comprise a minimum 20-metre road reserve, which includes a minimum 8-metre-wide pavement and footpath on one side to enable large vehicle movements. Any future road works to Laurie Collins Drive and the intersection with McKimmies Road should consider access requirements for the adjacent bus depot.

The impact of future development at the subject land on access at Laurie Collins Drive, existing movements and site access from the bus depot should be assessed when further details are known. The future street network should be designed to enable access for public transport and emergency services.

Other issues

The General Residential Zone is strategically justified and appropriate for the subject land.

It is appropriate to retain the Industrial 1 Zone for the hatched area shown in Figure 4 of this report if it is owned by the same owners of 121 McKimmies Road, Bundoora because it would:

- reflect the existing zone
- be the same zone as 121 McKimmies Road
- avoid the need to resolve multiple interface issues associated with sensitive land uses.

DPO40 does not need to require a construction management plan based on Whittlesea City Council's reason that such a plan is required through a planning permit condition.

It is appropriate for DPO40 Clause 2.0 to enable a permit to subdivide land with lots of not less than 10,000 square metres before a development plan has been prepared. This is because the Development Plan Overlay head provisions enable Council to require one development plan for all the subject land rather than multiple plans for each lot.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Whittlesea Planning Scheme Amendment C269wsea be adopted as exhibited subject to the following:

1. Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to:

Clause 1.0 (Objectives) and general drafting

- a) make drafting changes to provisions that clarify and improve their operation
- b) revise the objectives at Clause 1.0 and maintain no more than five objectives, consistent with the *Ministerial Direction on the Form and Content of Planning Schemes*.

Clause 2.0 (Requirement before a permit is granted)

- c) include a requirement to ensure any permits issued are consistent with the Statement of Environmental Audit.
- d) enable a permit to subdivide land if each lot is no less than 10,000 square metres in area.

Clause 3.0 (Conditions and requirements of permits)

- e) delete requirement requiring the preparation of a section 173 agreement to secure obligations under the Statement of Environmental Audit

Clause 4.0 (Requirements for development plan)

- f) require the concept plan to be consistent with the conditions of the Statement of Environmental Audit.

Clause 4.0 (Requirements for development plan)

- g) more clearly explain the matters that needs to be considered when determining the final width of the waterway reserve.
- h) include requirements for the acoustic assessment which better respond to the interface between 121 and 149 McKimmies Road, Bundoora.
- i) revise the acoustic assessment to include requirements which better respond to offsite road noise.
- j) revise the air quality assessment requirements to refer only to the bus depot and apply to land within 200 metres of the depot.
- k) require a light spill assessment on land within 200 metres of the bus depot at 121 McKimmies Road, Bundoora, that recommends measures to mitigate any impact.
- l) revise the Transport Strategy requirements to add more direction for assessing impacts and designing and delivering intersection upgrade and other road works.

- m) **revise the Transport Strategy requirements, including the Traffic Impact Assessment Report, to assess potential impacts on access at 121 and 149 McKimmies Road, Bundoora**
 - n) **specify that only one development plan may be prepared for the subject land**
Figure 1 (Framework plan)
 - o) **show a wider waterway reserve (particularly in the south-western part of the subject land)**
 - p) **reflect the wider waterway reserve width (particularly in the south-western part of the subject land) with a more generic line around the River Red Gums.**
- 2. If Whittlesea City Council has received formal written notice from the Proponent and the Dyson Group that this area has or will become in common ownership with 121 McKimmies Road, Bundoora (bus depot) and irrespective of other Panel recommendations:**
- a) **the hatched area shown in Figure 4 should not be rezoned from the Industrial 1 Zone**
 - b) **amend Development Plan Overlay Schedule 40 to not reference this area of land.**

1 Introduction

1.1 The Amendment

(i) The subject land

The Amendment applies to about 36.4 hectares of land shown in Figure 1 and is:

- about 15 kilometres northeast of Melbourne's Central City
- on the southern side of McKimmies Road between Dalton Road and Plenty Road
- generally bound by a large bus depot to the north (121 McKimmies Road) which fronts McKimmies Road, the future Outer Metropolitan Ring Road (E6) reservation to the east, the Metropolitan Ring Road to the south and the Yan Yean Pipe Track and the Darebin Creek to the west.

Figure 1 Subject land



Source: Explanatory report

The subject land was used as a basalt quarry from 1964 to 1992 then was progressively filled with clean material from 2000 to present. It received 13,500 cubic metres of acid sulphate soils from Coode Island.

(ii) Amendment description

The Amendment seeks to enable part of 149 McKimmies Road, Bundoora (the subject land) to be developed for residential purposes and to rehabilitate the land to allow sensitive uses. Specifically, the Amendment proposes to:

- amend the Strategic Framework Plans at Clauses 02.04-1 and 02.04-6 to identify 149 McKimmies Road, Bundoora as residential land
- rezone the subject land from Industrial 1 Zone to a new General Residential Zone Schedule 6
- apply a new Development Plan Overlay Schedule 40 (DPO40)
- change the existing Land Subject to Inundation Overlay mapping.

(iii) Council resolution for authorisation

At its 19 September 2022 meeting, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit the Amendment subject to:

- a s173 agreement committing to the provision of 5% social housing and 10% affordable housing being executed prior to the Amendment being adopted.
- a s173 agreement for the provision and contribution to local infrastructure including transport, community and recreation facilities being executed prior to the Amendment being adopted.
- the Amendment not being adopted until a Statement or Certificate of Environmental Audit has been issued by an independent Environmental Auditor appointed by the EPA, for the land and a s173 agreement has been entered into to implement the conditions of any Statement of Environmental Audit.

An environmental audit has been completed and a Statement of Environmental Audit was issued on 6 January 2023 in accordance with the *Environment Protection Act 2017*.

(iv) Amendment authorisation

The Department of Environment, Land, Water and Planning (now Department of Transport and Planning) authorised the Amendment under delegation from the Minister for Planning subject to the following conditions:

- Amend the Explanatory Report and Instruction Sheet in line with the tracked changes versions attached with this letter.
- Amend Clauses 02.04 (Strategic frameworks plans) to include all the amended framework plans identifying 149 McKimmies Road, Bundoora as residential land.
- Amend Schedule 6 to Clause 32.08 (General Residential Zone) in line with the marked-up version attached with this letter.
- Amend Schedule 40 to Clause 43.04 (Development Plan Overlay) in line with the tracked changes version attached with this letter.
- Ensure all changes to draft ordinances are authored in ATS authoring prior to submitting the amendment for exhibition.

(v) Council resolution requesting a Planning Panel

At its 20 February 2024 meeting, Council resolved to:

- request the Minister for Planning appoint an independent Planning Panel to consider all submissions made to the Amendment
- note for advocacy purposes at the Panel, its recommended DPO40.

1.2 Background

Before 2023	
1964 to 1992	The subject land was used as a basalt quarry
1998	Planning permit 703693 issued
2000	Council approved the rehabilitation plan
2000 to now	The subject land has been progressively filled with uncontrolled and untested clean-fill material
2004 to 2013	The subject land received about 13,500 cubic metres of acid sulphate soils from Coode Island
2006	Dyson Group started operating a bus depot at 121 McKimmies Road
3 Apr 2018	Council adopted the Thomastown Industrial Area Plan
July 2019	GB Landfill (former subject landowner) requested a planning scheme amendment
Nov 2021	Proponent submitted a revised planning scheme amendment request
19 Sep 2022	Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit the Amendment
2023	
6 Jan	A Statement of Environmental Audit was issued for the subject land
24 July	Department of Transport and Planning, under delegation from the Minister for Planning, authorised the Amendment
14 Sep	Amendment exhibition began
2 Oct	Council officers held a community information session regarding the proposal
15 Oct	Amendment exhibition ended
2024	
20 Feb	Council resolved to request the Minister for Planning to appoint an independent Planning Panel to consider all submissions made to the Amendment
22 Feb	Panel was appointed

1.3 Procedural matters

Parties who later withdrew

Environmental Protection Authority (EPA) and Rosa Radipitse requested to be heard at the Hearing. On 28 March 2024, EPA wrote to the Panel to make further submission and to confirm it was withdrawing as a party to the Hearing. Ms Radipitse wrote to the Panel to confirm she was withdrawing as a party of the Hearing.

Expert report withdrawn

During the Hearing, the Proponent advised it no longer sought to call Mr Milner as a planning expert and withdrew his report. The Panel noted it had already read Mr Milner's report but this has not been determinative in the Panel's consideration of submissions.

Party collaboration

At the Hearing on 18 April 2024, the Proponent, Council and the Dyson Group requested the Hearing be adjourned until 10 May 2024 so they could collaborate together with the intention of resolving issues between them. The Panel agreed.

The parties returned where they presented a consensus position on certain issues, as discussed in this report. The Panel commends the parties for taking a little more time to work together and achieve this outcome. This model of collaboration dispels the simplistic view that faster is better.

1.4 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It 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 materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

Experts referred to in this report

This report refers to the following experts:

- Council called Valentine Gnanakone of OneMileGrid on traffic
- Proponent called:
 - Amanda Ring of Urbis on planning
 - Darren Tardio of Enfield Acoustics on acoustics
 - Craig Czarny of Hansen Partnership on urban design and landscape
 - Hilary Marshall of Ratio on traffic
- Dyson Group called:
 - traffic and access from John Kiriakidis of Stantec on traffic
 - Ross Leo of Clarity Acoustic on acoustics
 - Rob Milner of Milner Planning Advisory on planning.

DPO40 versions

This report refers to the following versions of DPO40:

- Exhibited – exhibited from 14 September to 15 October 2023, which submitters responded to
- Post Exhibition Version – includes proposed changes resolved by Council on 20 February 2024
- Version 1 – provided before the Hearing for discussion from the first day
- Version 2 – provided by the Proponent, Council and Dyson Group on 18 April 2024
- Version 3 – provided by the Proponent on 9 May 2024
- Final Version – provided by the Proponent on 15 May 2024.

Report structure

This report deals with the issues under the following headings:

- Strategic and threshold issues
- Environmental issues
- Interface issues
- Traffic and access
- Other issues
- Form and content of the Amendment.

2 Strategic and threshold issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. The Explanatory Report states the Amendment meets the planning policy objectives summarised in Table 1. Appendix B highlights key imperatives of relevant provisions and policies.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Planning Policy Framework	Clauses: - 02.03-6 (Housing) - 02.03-9 (Infrastructure) - 11.01-1S, 11.01-1R and 11.01-1L (Settlement) - 11.02-1S (Supply of land) and 11.02-2S (Structure planning) - 12 (Environmental and landscape values) - 12.01-1S and 12.01-1L (Protection of biodiversity, River Red Gum protection) - 12.01-2S (Native vegetation management) - 13 (Environmental risks) - 13.03-1S (Floodplain management) - 13.04-1S (Contaminated and potentially contaminated land) - 15.01-1S and 15.01-1L (Urban design) - 15.01-4S (Healthy neighbourhoods) - 15.03-2S (Aboriginal cultural heritage) and 15.03-1L (Heritage conservation) - 16 (Housing) - 16.01-1S, 16.01-1R and 16.01-1L (Housing supply, Integrated housing) - 16.01-2S and 16.01-2L (Housing affordability)
Other planning strategies and policies	- Plan Melbourne Policies 2.1.1, 2.1.3, 2.3.3, 2.3.4, 2.4.2, 2.5.1, 3.1.6 and 3.3.1 - Thomastown Industrial Area Plan - Melbourne Industrial and Commercial Land Use Plan - Whittlesea 2040
Planning scheme provisions	- Zones: Industrial 1; Urban Flood; General Residential - Overlays: Development Contributions Plan; Public Acquisition; Land Subject to Inundation - Clause 52.17 (Native vegetation)
Ministerial directions	- The form and content of planning schemes (referred to as Ministerial Direction 7(5)) - 1: Potentially contaminated land - 9: Metropolitan Planning Strategy - 11: Strategic assessment of amendments - 19: formalising the role of EPA Victoria in planning scheme amendments
Planning practice notes and practice guide	Planning Practice Notes: - 12: Applying the flood provisions in planning schemes - 23: Applying the Incorporated Plan and Development Plan Overlays

- 30: Potentially contaminated land
- 46: Strategic assessment guidelines
- 91: Using the residential zones

A Practitioner's guide to Victoria's planning system

2.2 Strategic justification

(i) Evidence and submissions

The Updated Amendment Report states that rezoning the subject land for residential use is consistent with:¹

- the direction of local planning policy and the Industrial Land Use Strategy which seek housing in appropriate infill area and increase efficiency of unused industrial land
- the findings of the Thomastown Industrial Areas Strategy and Melbourne Industrial and Commercial Land Use Plan which identify the land as suitable to be considered for non-industrial uses.

The Updated Amendment Report considers the Amendment achieves state and local planning policy objectives by:

- encouraging residential use on underused land near jobs and services
- increasing housing supply and contribute to social and affordable housing
- allowing greater housing diversity through opportunities for higher density residential development in an area dominated by single detached dwellings and some medium density townhouses
- enabling underused and unviable industrial land to be used more efficiently
- ensuring development will sensitively respond to the Darebin Creek corridor through appropriate design provisions
- strategically protecting and conserving biodiversity areas near the Darebin Creek environs
- applying the Environmental Audit Overlay
- reducing potential noise and air quality impacts through the land's conversion from industrial uses.

The Updated Amendment Report states the Amendment complies with relevant Ministerial Directions and aligns with relevant planning practice notes.

Council submitted a consistent response to the Amendment's strategic context and justification. The Proponent relied on Council's assessment.

(ii) Discussion

No submission requested the Amendment be abandoned because it did not have enough strategic support. While there is no strategic justification issue to respond to, the Amendment addresses key policy objectives. The subject land is identified in Planning Scheme Clause 02.04 as industrial/employment land, but more recent strategic work does not. There are policy objectives seeking more and diverse housing in appropriately locations near transport, shops, services and schools. The subject land has these attributes.

¹ Document 3.18

The Amendment seeks to respond to identified environmental values and risks referred to in planning policy.

When weighing up relevant policy objectives, the Amendment will achieve net community benefit and sustainable development as required by Clause 71.02-3.

(iii) Conclusions

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is generally consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Environmental issues

3.1 Darebin Creek waterway reserve

(i) The issues

The issues are:

- whether the exhibited waterway reserve shown in DPO40 Figure 1 is appropriately defined
- whether the requirements relating to the waterway reserve in DPO40 are justified and appropriate.

(ii) Background

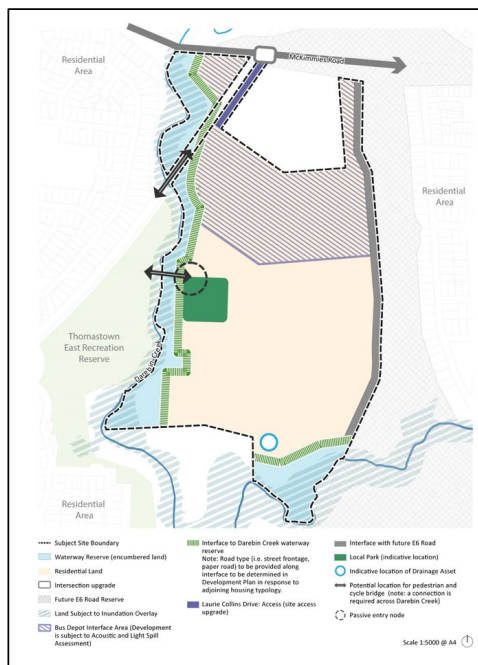
The exhibited DPO40 included an objective:

To enhance the Darebin Creek environs, protect significant environmental features and deliver increased tree canopy coverage across the site.

To give effect to that objective DPO40 Figure 1 nominated a ‘Top of bank 30m buffer zone’ along Darebin Creek and included a requirement at DPO40 Clause 4.0 to show a waterway corridor in an Open Space and Landscape Plan:

Identification of encumbered open space along the Darebin Creek that provides for a minimum 30m waterway corridor from the top of the bank and any other land encumbered by flooding or for conservation purposes.

Figure 2 Exhibited DPO40 Figure 1 (extract)



(iii) Evidence and submissions

Department of Energy, Environment and Climate Action (DEECA) submitted:

- the waterway reserve should be extended to a minimum of 50 metres from the top of bank and to include the areas covered by the current Land Subject to Inundation Overlay and any native vegetation outside of this area
- the corridor provides an important strategic link for metapopulation of the Growling Grass Frog, a species protected by the *Environment Protection and Biodiversity Conservation Act 1999* and *Flora and Fauna Guarantee Act 1988*.

The Proponent proposed a 'variable' waterway reserve that included an average setback of 50 metres from top of bank, with a minimum setback of 30 metres and a maximum setback of up to 78 metres. The Proponent relied on the urban design and landscape expert report of Mr Czarny in support of this approach.

DEECA advised in email dated 8 March 2024 that it supported a variable waterway reserve subject to some further detail to address:

- pinch points and expanded areas identified in plan provided by Nature Advisory in its letter dated 16 November 2023
- further detail on areas steep topography that may constrain movements of certain species
- strategic habitat corridor placement and widths to consider the needs of species like the Growling Grass Frog and kangaroos
- locating infrastructure outside of the narrow points to maximise the width of vegetated habitat corridor widths.²

DEECA considered there would be benefit in having a plan that showed the site topography, the top of bank and areas of steep slope with any proposed variable buffer widths (with variable widths annotated), having regard for the matters outlined in its email.

Melbourne Water submitted that the waterway reserve should be a minimum of 30 metres from the top of bank. In its email dated 27 March 2024, Melbourne Water advised that it supported a variable width waterway reserve along Darebin Creek that:

- provides a minimum width of 30 metres
- extends to 50 metres or more in flatter areas more likely to be used by Growling Grass Frogs and in areas of existing native vegetation for their protection.³

Council was content that both Melbourne Water and DEECA had supported the variable setback.

DPO40 Final Version included the following requirements at Clause 4.0:

Identification of encumbered open space along the Darebin Creek generally in accordance with the Framework Plan at Figure 1 that provides for a variable width waterway corridor which is at a minimum 30m from the top of the bank of the Darebin Creek, a minimum average of width of 50m from top of the bank of the Darebin Creek and includes any other land encumbered by flooding, for conservation purposes or tree retention including mature River Red Gums.

A scaled 'waterway corridor reserve' plan clearly showing the encumbered open space along Darebin Creek, environmental and cultural heritage features, the top of bank, interface

² Document 8.12

³ Document 8.43

treatments and any proposed embellishment including the location of shared paths and pedestrian/cycle crossings of the Darebin Creek.

(iv) Discussion

The waterway reserve purpose serves multiple purposes, including to protect the waterway and biodiversity. This is reflected in the exhibited DPO40 provisions.

The Proponent relied on Mr Czarny's landscape and open space expertise to support its waterway approach. However, issues raised in submissions related to the acceptability of the reserve from a waterway and biodiversity perspective rather than open space's function.

The Panel accepts the advice of agencies that a variable corridor is an acceptable outcome from a waterway and biodiversity perspective. This should be reflected in DPO40 Figure 1 and the Open Space and Landscape requirements in Clause 4.0.

The Panel agrees that the specific width of the waterway reserve needs to be informed by more detailed analysis of the site, biodiversity values, topography and final state of the site (including location of River Red Gums). Given the uncertainty about many of these aspects at this early stage of the process, DPO40 should adopt a precautionary approach by showing a wider indicative waterway reserve in Figure 1.

(v) Conclusions and recommendations

The Panel concludes:

- The specific width of the waterway reserve needs to be informed by a more detailed analysis of the site, final topography of the site and location of biodiversity, including the River Red Gums.
- Until further details are known and as a precautionary approach, a wider waterway reserve should be shown in Development Plan Overlay Schedule 40 Figure 1.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to:

- a) **more clearly explain in Clause 4.0 the matters that needs to be considered when determining the final width of the waterway reserve**
- b) **show in Figure 1, a wider waterway reserve (particularly in the south-western part of the subject land).**

3.2 Flora and fauna

(i) The issues

The issues are:

- whether the proposed interface to the Darebin Creek in DPO40 Figure 1 is appropriately defined to protect biodiversity
- whether DPO40 includes appropriate requirements to avoid, minimise and offset native vegetation (including the two River Red Gums in the south western part of the site).

(ii) Background

The exhibited DPO40 included a requirement at Clause 4.0 (Open Space and Landscape) to show:

Retention of native vegetation including scattered trees and patches of Riparian Woodland in the southern part of the site, adjacent to Darebin Creek, and retention of remnant vegetation in areas prone to inundation. Retention of all vegetation, including dead trees, identified for retention in Figure Two of *Native Vegetation Assessment 149 McKimmies Road, Bundoora Report No. 20196.2 (1.1) (Nature Advisory, November 2021)* and incorporation of that retained vegetation into open space or conservation reserves.

DPO40 Final Version amended this provision as follows:

Retention of native vegetation in accordance with the Flora and Fauna Assessment prepared in accordance with this schedule.

(iii) Submissions

DEECA submitted:

- there has been insufficient effort to demonstrate that impacts on native vegetation had been avoided
- it was not satisfied with the Native Vegetation Report (Nature Advisory, November 2021) which supported the Amendment
- native vegetation should be retained within the public open space.

In its 8 March 2024 email, DEECA:

- noted the potential implications of remediation on River Red Gums, particularly those in the western part of the subject land
- indicated that clear maps of the remediation work were needed to support statements that impacts could not be avoided or minimised in that location.

The exhibited DPO40 showed a 'cut out' around the River Red Gum trees in the south western part of the site.

Through its submission and response to Panel questions, the Proponent stated:

- it was not feasible to retain the River Red Gums nominated as trees 5 and 6, given they appear to be within or just outside the historical quarry area
- this historical quarry area will be remediated in accordance with the Statement of Environmental Audit
- there were different cross-sectional requirements for fill to occur near those trees and also that the existing planning permit did not include specific requirements to retain those trees.

Council submitted that consideration must be given to:

- the possible retention of these trees when the extent of final works is being determined, even though the Statement of Environmental Audit must be complied with
- Council's River Red Gum policy (Clause 12.01-1L)
- efforts made to retain a minimum of 80 per cent of medium, large or very large River Red Gums to ensure that the retention of trees 5 and 6 is properly considered at that time.

The Proponent submitted that DPO40 needed to include a more detailed description of the flora and fauna assessment, as reflected in its DPO40 Final Version.

(iv) Discussion

One of the purposes of the waterway reserve is to protect native vegetation. It is premature to make a specific decision about what native vegetation will be retained, or for that vegetation to be nominated in DPO40 Figure 1. This is because the remediation of the site has not been completed, and it is unclear which native vegetation might be retained after that process. It is also conceivable that the concept plan may not be developed for some time, and a flora and fauna assessment should be completed at the relevant point in time.

The Panel considers there are biodiversity matters that go beyond native vegetation that should inform the concept plan. For example, it would be appropriate to ensure the waterway reserve acts as a corridor for Growling Grass Frog, if this was deemed necessary as part of a flora and fauna assessment.

DPO40 Clause 4.0 should require a more detailed flora and fauna assessment without being overly prescriptive. The assessment should require the following to be considered:

- Scattered trees and patches of Riparian Woodland in the southern part of the site, adjacent to Darebin Creek.
- Native vegetation including patches of Plains Grassy Woodland and scattered trees in areas prone to inundation.
- Scattered trees or native vegetation patches within the Waterway Reserve under the development plan.
- Any native vegetation of high biodiversity or other value, including local biodiversity value.

The assessment should be prepared before any decision about the width of the waterway reserve, which will contain any retained native vegetation or biodiversity protection.

DPO40 Final Version included flora and fauna requirements that duplicate other Planning Scheme provisions and should be deleted. Examples of duplication with other Planning Scheme provisions include:

- the requirement to avoid, minimise and offset native vegetation impacts
- 80 per cent retention of River Red Gums sought through local policy.

(v) Conclusions and recommendation

The Panel concludes:

- The specific width of the waterway reserve needs to be informed by a more detailed analysis of the subject land, including a flora and fauna assessment, including the River Red Gums (as per recommendation above).
- A wider waterway reserve should be shown in Development Plan Overlay Schedule 40 Figure 1.
- Development Plan Overlay Schedule 40 Figure 1 does not need to show a specific 'cut out' around the River Red Gums in the south-western part of the subject land.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to reflect the wider waterway reserve width (particularly in the south-western part of the subject land) with a more generic line around the River Red Gums in Figure 1.

3.3 Environmental audit implementation

(i) The issues

The issues are:

- how site remediation will affect conditions on the subject land
- whether the DPO40 should include requirements related to remediation.

(ii) Background

The exhibited DPO40 included several references to the existing Statement of Environmental Audit, including:

Conditions and requirements detailed by the *Statement of Environmental Audit* issued on 6th January 2023 must be complied with to the satisfaction of an EPA appointed Environmental Auditor and Responsible Authority respectively.

Council, in resolving to seek authorisation for the Amendment, required the owner to enter into a section 173 agreement to secure conditions in the audit.

Planning Practice Note 30 (Potentially Contaminated Land) states that any recommendations in a statement of environmental audit must inform the drafting of the relevant planning provisions including schedules, overlays and table of uses to give effect and address the outcomes of the environmental audit statement.

The *Practitioners Guide to the Victorian Planning System* (Practitioners Guide) includes several 'rules' for writing a planning scheme provision. They include:

- Rule 3 – A provision must not conflict with or duplicate other legislation, instruments of planning scheme provision.
- Rule 4 – The application of a provision must be necessary and proportional to the intended planning outcome.

(iii) Submissions

Implication of the audit conditions

The Proponent submitted:

- the Statement of Environmental Audit requires significant earthworks on the subject land
- the overburden that needs to be moved could impact several River Red Gums
- it was hard to define the subject land's exact levels, given the extent of earthworks.

The Council acknowledged that the remediation works could impact tree protection but submitted that all efforts should be made to avoid impacts. DEECA aligned with this view in its submission. DEECA submitted that evidence that avoidance was not possible should be incorporated into the 'avoidance and minimisation' statement for native vegetation.

Capturing condition

EPA requested that DPO40 include conditions and requirements from the Statement of Environment Audit and require they be implemented. In its more recent letter dated 28 March 2024, EPA noted that this request was yet to be implemented.

Council submitted:

- the Statement of Environment Audit only needs to be given effect and that it is not necessary to specify all the requirements in DPO40

- DPO40 should require the owner to enter into a section 173 agreement to require compliance with the audit conditions where they have an ongoing effect.

(iv) Discussion

The *Environment Protection Act 2017* (EP Act) requires compliance with a Statement of Environmental Audit. A Statement of Environmental Audit has been completed in January 2023. EPA can enforce conditions and requirements of the Statement of Environment Audit without the need for another legal agreement.

The Proponent is currently required to comply with both the EP Act and the requirements in the Planning Scheme. The EP Act requirements will take effect concurrently with or before a concept plan is prepared for the subject land. Substantive development can only start on the subject land after a concept plan has been approved.

The key issue is how these two processes intersect. Specifically, whether implementing the audit conditions will influence any permits issued under DPO40 or the concept plan that will need to be prepared before substantive development could progress. To meet Planning Practice Note 30, DPO40 needs to acknowledge the Statement of Environmental Audit and ensure development does not prejudice its implementation or conflict with requirements. However, duplicating specific conditions is not necessary or appropriate.

The Panel considers that DPO40:

- does not need to specify the Statement of Environmental Audit conditions
- should not reference the date of the Statement of Environmental Audit as it may be superseded at a later point in time, and this goes beyond what is required to inform the concept plan
- does not need to, and should not, duplicate EP Act requirements because this would:
 - be inconsistent with the drafting rules in the Practitioner's Guide
 - not be proportional to the intended planning outcome.

(v) Conclusions and recommendations

The Panel concludes that DPO40 should:

- acknowledge the Statement of Environmental Audit as a matter that informs the preparation of the concept plan
- not duplicate requirements that exist in separate legislation.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to:

- include a requirement in Clause 2.0 to ensure any permits issued are consistent with the Statement of Environmental Audit**
- delete the requirement in Clause 3.0 requiring the preparation of a section 173 agreement to secure obligations under the Statement of Environmental Audit**
- require the concept plan in Clause 4.0 to be consistent with the conditions of the Statement of Environmental Audit.**

4 Interface issues

4.1 Background

(i) Whittlesea Planning Permit 707988

The issue is whether DPO40 provides an appropriate planning framework to manage the interface between the existing bus depot and future residential interface.

(ii) Background

At its 20 February 2020 meeting, Council resolved to propose changes to DPO40 that replaced the exhibited noise assessment requirements with:

An **Acoustic Assessment** report, prepared by a suitably qualified acoustic engineer or other

suitably qualified person to the satisfaction of the responsible authority, which:

- Applies the following noise objectives:
 - 35 dB LAeq,8h when measured within a sleeping area between 10 pm and 6 am
 - 40 dB LAeq,16h when measured within a living area between 6am and 10 pm.
- Noise levels should be assessed:
 - Considering the cumulative noise from all sources impacting on the proposal including industry and road traffic, as well as potential other noise sources; and
 - In unfurnished rooms with a finished floor and the windows closed and be based on average external noise levels measured as part of a noise level assessment.
- For areas other than sleeping and living areas, the median value of the range of recommended design sound levels of Australian Standard AS/NZ 2017:2016 (Acoustics – Recommended design sound level and reverberation times for building interiors).
- Includes recommendations for any noise attenuation measures required to meet the applicable noise level objectives, which is consistent with Clause 13.05-1 and can be implemented through subdivision with measures such as:
 - Land use separation, appropriate setback distances, use of barriers, and orientation and positioning for lots so that private open space is shielded from noise from the Metropolitan Ring Road and the bus depot; and
 - Clearly identifies areas where any attenuation measures are required.
- Includes additional considerations, where relevant, to address:
 - Potential noise character (tonality, impulsiveness or intermittency);
 - Noise with high energy in the low frequency range; and
 - Transient or variable noise.

Other proposed changes to DPO40 included new requirements:

A **Light Spill Assessment** which assesses the impact of lighting on the development site and makes recommendations on any measures or design responses required to mitigate the impacts.

4.2 Bus depot noise

(i) The issue

The issue is whether DPO40 provides an appropriate planning framework to manage potential acoustic issues between the existing bus depot and future residential uses on the subject land.

(ii) Evidence and submissions

EPA submitted that the subject land abuts the bus depot which may have significant noise impacts on future sensitive land. It added:

- Planning Scheme Clause 53.10 (Uses and activities with potential adverse impacts) specifies a 200-metre threshold distance for a bus depot
- a bus depot is therefore an identified land use that may cause offence or unacceptable risk if not appropriately design and located.

EPA recommended the requirement for an acoustic assessment which was supported by Council at its 20 February 2024 meeting.

EPA further submitted:

- its recommended requirement highlights the need for any recommended attenuation measures to be implemented at the subdivision stage, given a dwelling on land more than 300 square metres does not need a planning permit
- some noise attenuation may need to be implemented at the subdivision stage through a legal mechanism such as a section 173 agreement, covenant or title restriction
- if an acoustic wall or barrier is recommended, it should be constructed before the statement of compliance
- these recommendations should be specified in DPO40 Clause 3.0 (Conditions and requirements for permits).

Dyson Group submitted that its bus depot at 121 McKimmies Road, Bundoora:

- was established in 2006 with a planning permit which enables it to operate at all times
- may have amenity impacts such as lighting and noise from vehicles reversing at all hours of the night due to the nature of the business
- operates successfully with existing buffer distances to residential land.

Dyson Group noted that it has received no complaints from local residents since it started operating from this location. It requested the proposed development of the subject land, as the agent of change, include either appropriate buffers, mitigation measures or both to respond to the existing bus depot.

Dyson Group explained that its operations at its previous Reservoir and Bundoora depots had become unviable due to poorly managed encroachment of residential development. It originally requested that a portion of the subject land be rezoned to Industrial 3 Zone to provide a buffer to the bus depot and to facilitate the orderly delivery of residential development further south.

Dyson Group submitted the exhibited DPO40:

- requires future development to respond to the bus depot's operations but includes inadequate requirements for noise and air quality assessments
- would exempt future planning applications from notice and review requirements once the development plan is approved.

It requested that DPO40:

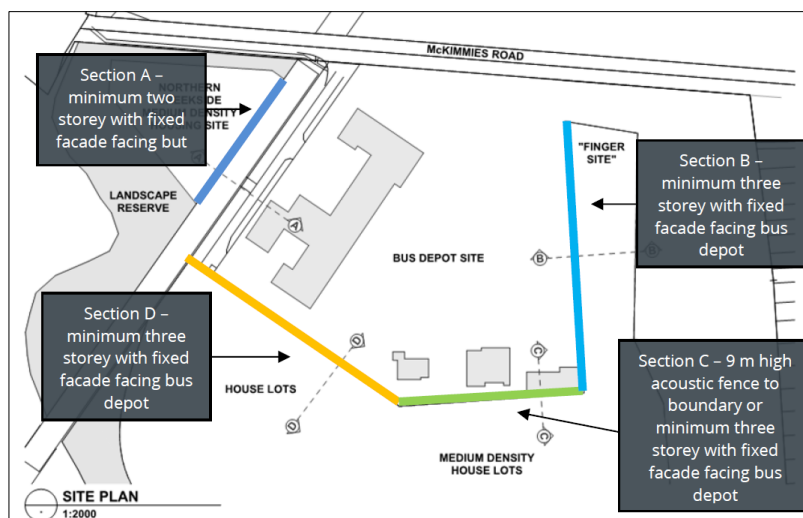
- specify a buffer distance between the bus depot and any sensitive development
- require an assessment of the risks and implementation of mitigation measures of the bus depot's light-spill on any future use on the subject land
- require the subject land developer to pay for any physical mitigations such as acoustic walls.

At its 20 February 2024 meeting, Council resolved to revise DPO40 to:

- identify a bus depot interface area subject to acoustic and light spill assessment
- and planning permit requirements for an acoustic assessment and light spill assessment.

Mr Leo's evidence recommended treatment options along interfaces to the bus depot, as summarised graphically in Figure 3.

Figure 3 Interface treatments recommended by Mr Leo



Source: Mr Leo expert report (Document 11)

The two acoustic experts met at the direction of the Panel to determine the extent to which they agreed on noise related matters. They prepared a statement of agreed facts which confirmed agreement on all discussed items. Both experts agreed:

- noise from the bus depot will impact future residential development on the subject land without noise mitigation measures
- a 3-storey fixed façade along the east boundary ('Finger Site' / Section B) would be sufficient to mitigate noise impacts to that area, as already shown as 'Option 2' on the Acoustic Section Diagrams referred to in the respective evidence
- a 3-storey fixed façade along the south boundary ('Courtyard House' / Section C) would be sufficient to mitigate noise impacts to that area, subject to:
 - the 3-storey built form moving to the northern boundary of the residential lots.
 - removal of garage access through the proposed laneway along the boundary, though both acknowledged garage use as a 'noise sensitive area' is ambiguous under the *Environment Protection Regulations 2021* and Noise Protocol
- a 3-storey fixed façade along the southwest boundary ('House Lot to Boundary' / Section D) would be sufficient to mitigate noise impacts to that area, subject to:
 - the 3-storey built form moving to the northern boundary of the residential lots, or
 - the landscaping buffer shown not to be included as part of the residential land lots.
- a 2-storey fixed façade along the Laurie Collins Drive interface ('Northern Creekside' / Section A) would be sufficient to mitigate noise impacts to that area, however:
 - this built form is not shown on the Acoustic Section Diagrams
 - there is road access into this part of the subdivision that would preclude the use of built form as an effective mitigation measure

- this will need to be resolved by the Proponent as the current design does not lend itself to enabling compliance with the proposed noise criteria
- both experts would need to see a revised development plan for this area, with input from other experts, before determining whether the noise criteria can be achieved by built form, boundary fencing or otherwise, which can be dealt with by the acoustic assessment required in DPO40
- 2-storey development could occur at setbacks beyond the boundary built form within the area defined as Secondary Interface Area
- solid façades facing into the Dyson site of 100-150mm concrete with internal stud framed plasterboard (with insulation) would be sufficient to mitigate noise impacts, including low frequency noise impacts, to internal spaces within the boundary townhouses. Some areas of these façades may be able to accommodate fixed windows with high acoustic performance
- the Secondary Interface Area is a sufficient setback from the bus depot to define the Protected Land referred to in the revised version of DPO40 – both experts reviewed their noise assessment data and modelling to confirm this.

In the statement, both experts agreed that based on the above factors, the Amendment can be approved subject to revising DPO40 to:

- requiring an acoustic assessment
- referencing the bus depot's impacts on the subject land
- referencing *Environment Protection Regulations 2021* and EPA Publication 1826 (Noise Protocol) as the assessment methodology
- requiring appropriate staging of development whereby required noise mitigation (including where boundary built form is relied on) needs to be constructed before the occupation of any other residential lot that is unreasonably impacted by noise from the bus depot, as defined by the acoustic assessment required under DPO40.
- referencing EPA Publication 1996 low frequency thresholds being met inside dwellings.

Dyson Group relied on Mr Leo's expert report and noted that all its acoustic concerns can be appropriately addressed by the proposed wording set out in Appendix A of the joint expert statement.

Regarding all interface issues, Dyson Group submitted:

Given that the Amendment seeks to incorporate residential zoning at the site's immediate interface, with no transitional land use buffer between the Dyson Site and the Amendment Site, consideration of how the Dyson Site currently operates and ensuring that the Amendment Site, as the agent of change, appropriately incorporates appropriate buffer and/or mitigation measures to respond to these operations is pivotal for Dysons.

In response to Panel directions, the Proponent submitted:

- the 'agent of change' principle:
 - is not included in an applicable policy like it is for live music noise
 - can be a useful and appropriate concept depending on the strategic and physical context of the land
 - at a general level can be used to test how the interface should be treated in practical terms
- in any event, the approach to the Amendment has been to support an interface solution that supports compatibility between the bus depot and subject land

- Clause 53.10 which includes threshold distances similarly does not apply but its underlying concepts have some application.

(iii) Discussion

The Dyson Group bus depot is a 24 hour operation on an 'island' site within the broader former quarry land. When it located there in 2006, it was, and still is, more than 130 metres from the closest residential property boundary. This may explain why it has received no complaints from local residents.

Planning Scheme Clause 53.10 specifies a minimum default threshold distance of 200 metres between a bus depot and a residential zone. This is to enable industry to be established without impacts such as noise, air quality and light spill negatively impacting sensitive land uses. However, Clause 53.10 does not apply here because:

- its purpose is to identify uses and activities that may cause offence or unacceptable risk to sensitive land uses, and does not apply in reverse
- residential uses are proposed, rather than a bus depot.

Having said that, the bus depot has been operating at 121 McKimmies Road for about 18 years and according to its submission, it is not going anywhere because it is strategically located to serve part of Melbourne's metropolitan bus network. Concurrently, future residents on the subject land should not experience offence or unacceptable risk resulting from impacts such as noise.

The bus depot's southern boundary is near where bus maintenance, repairs and movements occur. The Panel agrees with the acoustic experts that future residents within the interface area will be negatively affected by noise from bus depot operations without appropriate mitigation measures.

The Panel has given considerable weight to the mitigation measures proposed by the two acoustic experts which are supported by the Proponent, Council and Dyson Group. The Panel prefers a built form design response to manage potential interface issues rather than applying a different zone to restrict sensitive land uses from locating within 200 metres of the bus depot.

(iv) Conclusions and recommendations

The Panel concludes:

- Built form measures can appropriately manage the interface between the existing bus depot and future residential interface through acoustic mitigation measures including:
 - a 3-storey fixed façade along the east, south and southeast boundary subject to design conditions
 - a 2-storey fixed façade along the Laurie Collins Drive interface
 - solid façades facing into the bus depot of 100-150mm concrete with internal stud framed plasterboard with insulation
 - staged development with noise mitigation works constructed before any residential lots are occupied.
- Development Plan Overlay Schedule 40 should be revised to include appropriate acoustic mitigation requirements to manage the interface between the existing bus depot at 121 McKimmies Road, Bundoora and future residential areas at 149 McKimmies Road, Bundoora.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to include requirements for the acoustic assessment which better respond to the interface between 121 and 149 McKimmies Road, Bundoora in Clause 4.0.

4.3 Offsite road noise

(i) The issue

The issue is whether DPO40 provides an appropriate planning framework to respond to noise from offsite road traffic.

(ii) Evidence and submissions

EPA submitted it previously highlighted the subject land is near the Metropolitan Ring Road which may have significant noise impacts on future sensitive land.

On 11 April 2024, the acoustic experts convened again to discuss noise impacts not related to the bus depot and in response to EPA's recommended DPO40 provisions. Both experts prepared a revised statement that:

- explained offsite road traffic noise was essentially dealt with in the Noise Impact Assessment so was not considered in the previous acoustic expert meeting or expert reports.
- supported a redrafted version of the exhibited DPO40 Acoustic Assessment requirement to design dwellings that not exceed the following internal noise levels with windows and doors closed:
 - 35dB(A) $L_{eq,8hr}$ when measured within sleeping areas between 10pm and 6am
 - 40dB(A) $L_{eq,16hr}$ when measured within a living area between 6am and 10pm
- recommended the Acoustic Assessment ensure dwellings are designed to comply with VicRoads publication: *Requirements of Developers – Noise Sensitive Uses* where traffic noise from the Metropolitan Ring Road is shown to exceed the prescribed external noise objective (63dBA, L10,18hr) on a residential lot.

(iii) Discussion

The Panel accepts the intent and degree of detail for the acoustic assessment requirements sought by the acoustic experts. Their internal noise levels sought for the assessment to achieve mirror those found in the Planning Scheme:

- Clause 55.07-7 (Noise impacts objective) Standard B41 for two or more dwellings
- Clause 58.04-3 (Noise impacts objective) Standard D16 for apartment developments.

(iv) Conclusion and recommendation

The Panel concludes that Development Plan Overlay Schedule 40 should be revised to better respond to the impact of offsite road traffic noise on future onsite dwellings.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to revise the acoustic assessment in Clause 4.0 to include requirements which better respond to offsite road noise.

4.4 Air quality

(i) The issue

The issue is whether the Amendment has appropriately considered how air quality may impact future residents on the subject land.

(ii) Evidence and submissions

EPA referred to the Explanatory Report which states:

The land is located on the southern side of McKimmies Road, between Dalton Road and Plenty Road. The subject land is approximately 36.4 hectares in size. It is generally bound by a large bus depot to the north which fronts McKimmies Road, the future Outer Metropolitan Ring Road (E6) corridor to the east, the Metropolitan Ring Road to the south and the Yan Yean Pipe Track and the Darebin Creek to the west.

In its submission, EPA explained that it previously:

- recognised the significant health impacts of traffic-related air pollution near major roads
- emphasised the public often raises air quality in the context of major road developments and plans to develop sensitive uses near such roads
- said it was unclear whether the Proponent had adequately assessed potential air quality impact associated establishing sensitive uses on the subject land near existing and future major roads and freeways, existing industry including the bus depot, in accordance with the EP Act and associated regulations.

Dyson Group submitted that maintenance works at its bus depot includes paint spraying of vehicles in its southernmost building. It has exhaust stacks but has no record of complaints from emissions because there are no neighbouring residents. It was concerned that enabling residents to live closer to its 24-hour bus depot may cause nuisance, result in complaints and the need for Dyson Group to alter its operations.

EPA acknowledged that Council had since included a requirement to provide an air quality assessment in DPO40 Clause 4.0 (Requirements for development plan). It specifies:

An Air Quality Assessment which assesses the potential impacts to air quality on sensitive uses due to the surrounding environment from existing traffic conditions and nearby industry in the context of the Environment Protection Act 2017 and associated regulations. The assessment should refer to and consider Guidelines for assessing and minimising air pollution in Victoria as appropriate.

EPA noted that measures recommended by the air quality assessment may require some mitigation measures at subdivision stage through legal mechanisms such as a section 173 agreement, covenant and title restrictions. It requested that these recommendations be included in DPO40 Clause 3.0 (Conditions and requirements for permits) before the Amendment progresses.

The Proponent referred to the air quality impact assessment prepared by GHD in July 2022 that:

- considered the various pollution sources near the subject land including the bus depot and existing and future major roads
- concludes *“the air quality risk associated with re-zoning the site for residential development is considered to be negligible”*.

In its further written submission to Council on 7 March 2024, EPA stated:

- DPO40 Clause 4.0 included its recommended air quality requirements

- DPO40 Clause 3.0:
 - appears to have included requirements at Clause 3.0 for development but not subdivision
 - replace 'must' with 'are' or 'will be'
 - should refer to 'all' rather than 'any' recommendations
 - does not address mitigation measures that may be needed at subdivision stage
- the 2022 air quality impact assessment:
 - adequately assessed potential impact from the Metropolitan Ring Road and future Outer Metropolitan Ring Road (E6) corridor
 - did not adequately assess the potential impact of air pollution emissions from the bus depot
- a solid barrier like a 3-metre high noise barrier along the boundary of the bus depot and the subject land is recommended to reduce dust and air emission impacts.⁴

The Proponent accepted the requirements in Council's DPO40 Version 1:

Clause 3.0

Air Quality Assessment

A planning permit application must demonstrate that the development implements any all recommendations set out in the Air Quality Assessment prepared pursuant to the requirement at Clause 4.0 (Requirements for Development Plan) of this Schedule to the satisfaction of the responsible authority.

Clause 4.0

the development plan must include –

...

An Air Quality Assessment which assesses the potential impacts to air quality on sensitive uses due to the surrounding environment from existing and future traffic conditions and nearby industry in the context of the *Environment Protection Act 2017* and associated regulations. The assessment should refer to and consider Guidelines for assessing and minimising air pollution in Victoria as appropriate.

At the Hearing, Council reaffirmed the need for DPO40 to require an air quality assessment when preparing the development plan so that any potential air quality impact on future residential land is properly considered and managed. Its DPO40 Version 2 Clause 3.0 included:

Air quality mitigation measures

A condition that requires the owner to enter into an agreement under section 173 of the *Planning and Environment Act 1987* which secures mitigation measures recommended in the Air Quality Assessment prepared pursuant to the requirement at Clause 4.0 (Requirements for Development Plan) of this schedule. The section 173 agreement must be executed and registered on the title of the relevant land prior to certification of the plan of subdivision. The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority.

During drafting discussion at the Hearing:

- Council explained the section 173 agreement would provide a more secure process, particularly if the land is transferred to multiple owners
- Council expressed its preference to specify an assessment distance in metres rather than refer to an area or 'zone'.

⁴ Document 8.11

- Dyson Group said it expected that any mitigation measures would be addressed through a permit condition, though an agreement would be needed if there were ongoing measures

The Proponent submitted this requirement should be deleted because air quality documents to date do not demonstrate there is sufficient air quality risk to require a section 173 agreement. It added that section 173 agreements should be applied sparingly.

(iii) Discussion

The Panel supports a requirement in DPO40 for an air quality assessment. The assessment requirements should:

- seek to understand existing and future air quality conditions on sensitive uses
- specify the bus depot rather than other sources such as the future freeway to determine how emissions from activities such as spray painting at the depot may impact future residents on the subject land
- apply to the subject land where sensitive uses are proposed within 200 metres of the bus depot, consistent with the threshold distance specified for a bus depot in Planning Scheme Clause 53.10
- express the assessment area as metres from the bus depot boundary and show it accordingly in the Framework Plan.

The Panel does not support the requirement for a section 173 agreement because in its DPO40 Council Version 2 form:

- it pre-empts the recommendations of an air quality assessment yet to be prepared
- would require a section 173 agreement even if there is no recommendation suitable for such an agreement.

(iv) Conclusions and recommendation

The Panel concludes:

- Development Plan Overlay Schedule 40 should require an air quality assessment to understand any potential impacts on sensitive uses.
- The air quality assessment requirements should assess impacts:
 - from the bus depot rather than other sources
 - within 200 metres of the bus depot, consistent with the threshold distance specified in Clause 53.10, rather than reference primary and secondary 'zones'.
- Development Plan Overlay Schedule 40 should not require a condition on a permit for a section 173 agreement regarding mitigation measures associated with air quality.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to revise the air quality assessment requirements in Clause 4.0 to refer only to the bus depot and apply to land within 200 metres of the depot.

4.5 Light spill

(i) The issue

The issue is whether potential light spill from the bus depot on future residents on the subject land should be required to be assessed through DPO40.

(ii) Submissions

Dyson Group requested that DPO40 require an assessment of the risks and implementation of mitigation measures from light-spill from the 24-hour operation of the bus depot on any use.

At its 20 February 2024 meeting, Council resolved to revised DPO40 to:

- identify a bus depot interface area subject to acoustic and light spill assessment
- and planning permit requirements for an acoustic assessment and light spill assessment.

Council's DPO40 Version 1 required:

A Light Spill Assessment which assesses the impact of lighting on the development site from the bus depot at 121 McKimmies Road and makes recommendations on any measures or design responses required to mitigate the impacts.

At the Hearing, Dyson Group submitted:

- its bus depot has numerous lights, operates 24 hours a day, and would have transport vehicles using their lights when on the subject land
- it has had no complaints about light spill from surrounding residential properties, given the existing separation distance
- the light spill assessment in DPO40 Version 1 had no regard for the bus depot operation and existing light sources
- DPO40 should reference the applicable Australian Standard, assess the impact from existing uses on the bus depot and make recommendations for the subject land owner to pay for mitigation measures
- without appropriate wording, there is a significant risk that Dyson Group would be in breach of the relevant standard and be required to pay to mitigate its operations, which would be unacceptable, unfair and inequitable.

Dyson Group preferred:

A Light Spill Assessment which assesses, in accordance with AS/NZS 4282:2023 Control of the Obtrusive Effects of Outdoor Lighting, the impact of lighting from existing uses on abutting land on the land and makes recommendations for any measures proposed, at the owners cost, to mitigate the impacts.

Council's DPO40 Version 2 was consistent with Dyson Group's preferred version. It submitted the threshold distance of 200 metres specified for a bus depot in Planning Scheme Clause 53.10 has been applied to map the 'bus depot interface area'. It considered this sets an appropriate interface area for assessing amenity impacts such as light spill.

The Proponent accepted the DPO40 Version 1 requirement for a light spill assessment and implementation of any required mitigations arising from it. It submitted the built form design responses used to satisfy relevant noise criteria are also likely to have light spill advantages. However, the Proponent did not agree with the wording preferred by Dyson Group and Council and noted in its DPO40 Final Version:

- there is no need to 'hard code' a particular standard

- in any event, the bus depot permit requires that its lighting not extend beyond the boundaries of its site
- therefore, there should be no requirement for the developer to assess light spill from the bus depot.

(iii) Discussion

The Panel supports a requirement in DPO40 for a light spill assessment which:

- assesses the bus depot's lighting impact on future uses on the subject land
- recommends any measures or design responses required to mitigate the impacts.

The bus depot's lighting, as controlled by the planning permit issued in 2003, has responded to the subject land being a quarry with no sensitive land uses. This lighting is unlikely to have considered future residents living near its boundary because the subject land's existing Industrial 1 Zone prohibits residential land uses. The bus depot's existing permit conditions would require Dyson Group to mitigate any lighting impacts caused by new residents living near its boundary. The Panel considers this to be unfair, though there is no specific 'agent-of-change' policy for sensitive land uses within an industry's threshold distance.

A fairer approach is to require the light spill assessment recommend measures or design responses on the subject land to mitigate any identified negative impacts. Like noise and air quality, light spill should be assessed within the default minimum threshold distance of 200 metres from the bus depot. This measure should be expressed consistently in the Framework Plan. The assessment should not have to consider potential light spill impacts from a future freeway, particularly when its future and design details are unknown at this stage.

As discussed in Chapter 7, DPO40 Clause 3.0 (Conditions and requirements for permits) should not include permit application requirements, including those related to air quality, because they are not enabled by the parent Development Plan Overlay clauses or Ministerial Direction 7(5).

(iv) Conclusions and recommendation

The Panel concludes:

- Development Plan Overlay Schedule 40 should require an assessment of light spill from the bus depot on future residents within 200 metres of the bus depot at 121 McKimmies Road, Bundoora.
- The light spill assessment should recommend measures to mitigate any impact.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to require in Clause 4.0, a light spill assessment on land within 200 metres of the bus depot at 121 McKimmies Road, Bundoora, that recommends measures to mitigate any impact.

5 Traffic and access

5.1 Traffic

(i) The issue

The issue is whether the Amendment has appropriately considered potential traffic impact on the road network and appropriately responds to it through the proposed planning provisions.

(ii) Background

At its 20 February 2020 meeting, Council proposed traffic and access related changes to DPO40 which added the following requirements for a Transport Strategy:

- The Traffic Impact Assessment Report must include an assessment of the impacts of the proposed development on:
 - the function of McKimmies Road including the existing intersections along McKimmies Road between Plenty Road and Dalton Road,
 - existing travel times on the surrounding road network,
 - the function of the site access, and,
 - existing movements and public transport operations (quantified) from the adjoining bus depot.
- ...
- The assessment must make recommendations on measures to address the impacts, to the satisfaction of the Responsible Authority, including in respect to:
 - The intersection treatment of the site access (Laurie Collins Drive) and McKimmies Road.
 - Upgrades/treatments to other intersections on the McKimmies Road.
 - The feasibility of a second access / egress point to the site.
 - The views and requirements of emergency services.
 - Ensuring the continued effective and efficient public transport services operated from the adjoining bus depot.
 - The intersection with Laurie Collins Drive of the treatment of access points to the adjoining bus depot.
 - Any restrictions of lot or dwelling numbers or release of stages.
 - Other measures to support use of sustainable and active modes of transport as part of the development.
- ...
- A proposed concept design and cross section for the reconstruction of Laurie Collins Drive which considers the access requirements of the adjoining bus depot and minimises impacts on existing conditions and ensures the continued effective and efficient public transport operations.
- Consideration of the views of the affected landowners in respect to proposed changes to access arrangements included in the Transport Strategy.
- Location and details of proposed pedestrian and cycle crossing/s of Darebin Creek.
- Recommendations of measures to be incorporated into the development to support the transition to electric vehicles.

(iii) Evidence and submissions

Dyson Group was concerned that increased traffic generated during the subject land's construction phase and future residents will affect its bus depot operations. It submitted:

- a precautionary approach should be adopted when considering traffic distributions, given they may cause significant delays in delivering public transport services

- there is common ground between traffic experts that total traffic volumes for the McKimmies Road / Laurie Collins Drive intersection increased between 2018 and 2024
- the Traffic Impact Assessment Report should have regard to a design period of at least 10 years, consistent with Austroads guidelines.

Other submissions queried the traffic volume that will impact McKimmies Road and whether it will be upgraded to manage additional traffic and raised concern about traffic during the construction phase.

The three traffic experts, Mr Gnanakone, Mr Kiriakidis and Ms Marshall met at the direction of the Panel to determine the extent to which they agreed on traffic related matters. They prepared a statement and traffic matters are summarised below.

Traffic experts conference statement

Background and general assumptions

All traffic experts agreed:

- traffic activity information provided by the Dyson Group represents current conditions based on traffic data collected by Stantec
- the traffic volume data collected by Stantec, OMG and Ratio in March 2024 is all relatively consistent and either data set is acceptable for determining likely development impacts
- Mr Kiriakidis and Ms Marshall applied a yield of 728 dwellings and Mr Gnanakone used the previously proposed 800 dwellings.

Internal road network and cross sections

Mr Gnanakone and Ms Marshall were satisfied with the proposed cross sections in the Development Plan (2022). This aspect was not relevant to Mr Kiriakidis' assessment.

Pedestrian and cycling provision

All traffic experts supported the pedestrian / cycle bridge crossing over Darebin Creek shown on the Development Plan (2022).

Traffic generation and distribution

All traffic experts agree it was appropriate to:

- have 7 vehicle movements from each dwelling each day
- have 0.7 vehicle movements during morning peak hours
- include an appropriate percentage of heavy vehicles (buses) in the analysis.

Regarding traffic distributions east and west along McKimmies Road:

- Ms Marshall – 65 per cent from the west and 35 per cent from the east
- Ms Gnanakone – 60 per cent from the west and 30 per cent from the east
- Mr Kiriakidis – 50 per cent from the west and 50 per cent from the east.⁵

Extent of intersection analysis

Mr Gnanakone and Ms Marshall agreed the McKimmies Road / Laurie Collins Drive intersection access to the subject land is an appropriate limit of analysis.

Mr Kiriakidis considered:

⁵ Ms Marshall and Mr Gnanakone based their split on existing travel patterns in the morning and afternoon peak hours

- the three existing bus depot access points should be included in the SIDRA network model with the McKimmies Road / Laurie Collins Drive intersection to appropriately assess intersection interactivity
- the external intersections on McKimmies Road should be considered for analysis if traffic volumes increase by 10 per cent on any approach during the morning or afternoon peak hours, or both.

Analysis and triggers for roundabout upgrade

All three traffic experts agreed the roundabout needs to be upgraded to provide an appropriate level of service after development.

Regarding the timing for upgrading of the McKimmies Road / Laurie Collins Drive roundabout the experts proposed:

- Ms Marshall – upgrade at 405 lots
- Mr Gnanakone – upgrade at 500 lots
- Mr Kiriakidis – upgrade before use starts on the subject land, allowing also for traffic growth on McKimmies Road between now, occupancy (2026) and a 10 year design horizon which allows for growth (2036).

All three traffic experts agreed:

- an appropriate trigger should consider queues and delays on the southern approach of the intersection
- a target Level of Service D ($DOS\ 0.85 < x \leq 0.95$ and Average Delay $35s < d \leq 50s$) is an appropriate trigger for the roundabout upgrade.⁶

McKimmies Road / Laurie Collins Drive roundabout design

All traffic experts agreed:

- the roundabout should be designed to an Austroads compliant design and/or Engineering Design and Construction Manual (2019)
- the design vehicle should be a 14.5-metre coach rather than the standard 12.5-metre bus as a checking vehicle in and out of Laurie Collins Drive
- it is a reasonable design principle to maintain the existing distance between the intersection stop line and bus depot gate 1
- existing above and below ground infrastructure needs to be determined during the functional or at the latest detailed design phase of the roundabout roadworks improvement
- the roundabout upgrade will require additional land outside the existing road reserves
- the ultimate roundabout upgrade must be determined by the Transport Impact Assessment required by DPO40, and associated land secured before construction on the subject land begins.

⁶ As defined in Table 5.2 of Ms Kiriakidis' expert report

DPO40

At the Hearing, the Proponent sought to revise DPO40 Transport Strategy requirements to:

- specify 450 occupied dwellings on the subject land as an appropriate target for the intersection upgrade, noting it was simpler than a large formula (Dyson Group agreed, and Council preferred to apply the level of service but did not oppose specifying lots)
- for Laurie Collins Drive, specify a 20-metre road reserve with 8-metre-wide pavement and a footpath on one side (Council and Dyson Group agreed)
- delete the requirement to assess the impact on the function of McKimmies Road because it considered the subject land owner was not responsible for this
- delete reference to 'public transport operations' because there are no such operations at the bus depot (Dyson Group agreed)
- delete the consideration of the views of affected landowners introduced in the Post Exhibition Version because it is not appropriate in a Development Plan Overlay schedule (Council and Dyson Group agreed)
- delete the requirement introduced in the Post Exhibition Version which sought the assessment to recommend measures to support the transition to electric vehicles (Council preferred to retain).

(iv) Discussion

For the reasons provided by the Proponent, the Panel agrees with the proposed DPO40 changes to delete:

- an assessment on the function of McKimmies Road, noting another requirement seeks the Transport Strategy to detail "*the surrounding road network*"
- reference to 'public transport operations' which do not occur at the bus depot.

McKimmies Road / Laurie Collins Drive intersection

The Panel accepts the traffic expert advice:

- regarding trip generation and distribution figures and apportionments
- that the intersection needs to be upgraded in response to expected traffic volumes.

It would be premature to specify the ultimate intersection's final design through DPO40, though it should specify parameters the design should achieve. This includes having regard to Austroads standards and it being to the satisfaction of the responsible authority.

Regarding the intersection upgrade timing, the service level formula and the lot occupancy threshold number are likely to achieve similar outcomes. The Ministerial Direction on the Form and Content of Planning Schemes and the Practitioners Guide seek planning provisions to be drafted in plain English. The Panel prefers the 450-lot occupancy threshold because it is simpler to understand and implement.

Electric vehicles

The Panel agrees with the aspiration to plan for electric vehicles but does not support it being included as a DPO40 requirement. As the subject land is a brownfield site, there are no existing residents to 'transition' to electric vehicles. Excluding this provision does not preclude Council from seeking such an approach for the subject land.

(v) Conclusions and recommendation

The Panel concludes:

- The Laurie Collins Drive and McKimmies Road intersection should be upgraded when 450 dwellings on the subject land are occupied.
- Laurie Collins Drive should comprise a minimum 20-metre road reserve, which includes a minimum 8-metre-wide pavement and footpath on one side to enable large vehicle movements.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to revise the Transport Strategy requirements in Clause 4.0 to add more direction for assessing impacts and designing and delivering intersection upgrade and other road works.

5.2 Access**(i) The issue**

The issue is whether DPO40 includes appropriate planning provisions to ensure a framework for assessing the impact of any future development on access to the bus depot at 121 McKimmies Road and the subject land.

(ii) Experts conference statement

The traffic expert statement relating to access matters are summarised below.

Access limitations

All traffic experts agreed:

- Laurie Collins Drive is the only viable vehicle access point at this time
- the existing Public Acquisition Overlay (PAO2) is likely to limit providing additional vehicle access to McKimmies Road.

Laurie Collins Drive cross section

All traffic experts agreed:

- the existing Laurie Collins Drive road reservation next to the bus depot is 20 metres and privately owned
- it is important to provide convenient turning movements for buses next to the bus depot
- accordingly, the existing 8-metre pavement width should be maintained if possible
- the Laurie Collins Drive cross section next to the bus depot should comprise:
 - a 6-metre verge with a 1.5-metre footpath along the bus depot frontage
 - an 8-metre pavement with 6-metre verge (no paths) on the western side
- parking along the edges of Laurie Collins Drive should be removed along the bus depot's frontage.

Public transport access

Mr Gnanakone and Ms Marshall agreed the Connector Road with a minimum 7-metre carriageway and parking on both sides allows for a potential bus route subject to the proposed internal roundabout being designed to allow a bus to u-turn. This design aspect was not relevant to Mr Kiriakidis' assessment.

(iii) Submission

Dyson Group referred to its previous bus depot at 289 McKimmies Road, Bundoora, where the surrounding residential area created traffic conflicts which made it difficult to operate efficient bus contracts. It moved the bus depot to 121 McKimmies Road where sensitive uses were unlikely to locate nearby.

(iv) Discussion

The bus depot and subject land have their access limited to Laurie Collins Drive, with the subject land having only one access point. This appears challenging because:

- residential vehicles will have to negotiate with buses on the same street
- traffic from the subject land will be concentrated into one location for access needs.

Dyson Group should be able to continue operating its bus service with reasonably efficient access to and from McKimmies Road through Laurie Collins Drive. The Panel accepts expert traffic evidence that morning and afternoon traffic patterns will not unreasonably impact the ability for buses to access or leave the bus depot.

DPO40 should include requirements so that future road works to Laurie Collins Drive and the intersection with McKimmies Road do not negatively affect the bus depot's operations.

(v) Conclusions and recommendation

The Panel concludes:

- Any future road works to Laurie Collins Drive and the intersection with McKimmies Road should consider access requirements for the bus depot at 121 McKimmies Road, Bundoora.
- The impact of future development at 149 McKimmies Road, Bundoora on access at Laurie Collins Drive, and existing movements and site access from the bus depot should be assessed when details are known.
- The future street network at 149 McKimmies Road, Bundoora should be designed to enable access for public transport and emergency services.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to revise the Transport Strategy requirements in Clause 4.0, including the Traffic Impact Assessment Report, to assess potential impacts on access at 121 and 149 McKimmies Road, Bundoora.

6 Other issues

6.1 General Residential Zone

(i) The issue

The issue is whether the General Residential Zone is strategically justified and appropriate for the subject land.

(ii) Evidence and submissions

In its original submission, Dyson Group requested part of the subject land within 200 metres of the bus depot be rezoned to the Industrial 3 Zone to buffer future sensitive residential land uses proposed on the subject land from its depot activities. At the Hearing, Dyson Group submitted:

- its original submission did not, in principle, oppose rezoning the entire subject land subject to appropriate provisions such as an intervening zone, protections and consultation
- the Thomastown Industrial Area Plan did not identify the northeast ‘finger’ of land
- the Plan which underpins strategic support for the Amendment does not support rezoning the finger area
- the Industrial 1 Zone should continue to apply to the finger area until strategic work is completed to support a change.

On 16 April 2024, Dyson Group advised it was withdrawing Mr Milner’s report and was no longer calling him as an expert. The Panel noted it had already read Mr Milner’s report and would weight its contents accordingly.

Dyson Group later submitted that it no longer sought to apply an industrial zone to the finger area if the built form response recommended by the acoustic experts is implemented. Its submission regarding the southern interface would continue to apply.

On the final Hearing day, the Proponent submitted a joint proposal between Council, Dyson Group and itself. The proposal requested the Panel recommend:

- the General Residential Zone be applied to the entire subject land, as exhibited
- if before Council receives formal written notice from each of the owners of the subject land and the bus depot before it adopts the Amendment:
 - the hatched area (see Figure 4) should not be rezoned from IN1Z
 - the remaining part of the subject land should be rezoned to General Residential Zone
- DPO40 be approved in the form it thinks fit after hearing submissions of the parties and having regard to the alternative recommendations.

Figure 4 Zone and overlay land exclusion scenario

Source: Document 41

(iii) Discussion

Only one submitter, Dyson Group, opposed the area of the subject land within 200 metres of the bus depot being rezoned to the General Residential Zone. This position changed during the Hearing then again through the joint position which supports the General Residential Zone on the entire subject land if there is no notice of part of the land being (or will be) owned by the same owners of 121 McKimmies Road.

The Panel responds to the joint position to:

- apply the General Residential Zone to the entire subject land
- retain the hatched area of the subject land in IN1Z if it has or will form part of the bus depot.

The Panel supports General Residential Zone being applied to the subject land. The Amendment seeks to enable residential development with appropriate development requirements which respond to its site and context. The Panel has found the Amendment is strategically justified for reasons outlined in Chapter 2. Based on the Amendment's primary intent, this translates into strategic support for a residential zone.

The General Residential Zone is appropriate because it will enable diverse low rise housing of up to 3 storeys on a site that is surrounded by residential land with the same zone. Consistent with what is sought by the Amendment, two purposes of the zone are:

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

Retaining the hatched area of the subject land in IN1Z if it has or will form part of the abutting bus depot would result in an acceptable (if not better) outcome because it would:

- retain the subject land's existing zone
- retain a consistent zone across the hatched area and 121 McKimmies Road (bus depot)
- would reduce about 150 metres of IN1Z and General Residential Zone interface
- would remove an awkward section of General Residential Zone land tightly wedged between a bus depot, significant municipal road and possible future freeway.

The Panel agrees with the practical two-pronged proposal. The notice provided by the Proponent and Dyson Group should provide certainty the intent will be carried out rather than simply indicate a wish. Council is best placed to determine how much statutory force this notice should have.

(iv) Conclusions and recommendations

The Panel concludes:

- The General Residential Zone is strategically justified and appropriate for the subject land.
- It is appropriate to retain the Industrial 1 Zone for the hatched area shown in Figure 4 if it is owned by the same owners of 121 McKimmies Road, Bundoora because it would:
 - reflect the existing zone
 - be the same zone as 121 McKimmies Road
 - avoid the need to resolve multiple interface issues associated with sensitive land uses.

The Panel recommends:

If Whittlesea City Council has received formal written notice from the Proponent and the Dyson Group that this area has or will become in common ownership with 121 McKimmies Road, Bundoora (bus depot) and irrespective of other Panel recommendations:

- a) the hatched area shown in Figure 4 should not be rezoned from the Industrial 1 Zone
- b) amend Development Plan Overlay Schedule 40 to not reference this area of land.

6.2 Construction management

(i) The issue

The issue is whether the Amendment has appropriately considered construction management.

(ii) Submissions

One submission sought compensation for impacts during the construction phase including noise, dirt and dust, pests and traffic delays.

Dyson Group provided its version of DPO40 which proposed:

- the section 173 agreement sought through a permit condition include:
 - All construction vehicles to access the land from the existing access point from McKimmies Road along the eastern boundary of the land. If such access is not permitted by any relevant authority, construction vehicle access may be from Laurie Collins Drive in accordance with a construction management plan to be approved by the Responsible Authority which must include measures to minimise the impact of construction activities on the bus depot at 121 McKimmies Road.
- the development plan at Clause 4.0 include a new requirement:
 - A Construction Management Plan which, amongst other things, addresses traffic impacts and mitigation measures as may be required by the Transport Impact Assessment.

Council said it generally included a permit condition related to the construction phase at the permit stage so there was no need to include a requirement in DPO40.

(iii) Discussion

It is important there be some form of construction management plan to manage issues such as noise, dirt and dust, and traffic during the construction phase. Acknowledging Council's practice of applying such a requirement as a planning permit condition, it agrees it does not need to be specified in DPO40.

(iv) Conclusion

The Panel concludes that Development Plan Overlay Schedule 40 does not need to require a construction management plan based on Whittlesea City Council's reason that such a plan is required through a planning permit condition.

6.3 Subdivision before a development plan**(i) The issue**

The issue is whether it is appropriate for DPO40 Clause 2.0 to enable a permit to subdivide land before a development plan has been prepared.

(ii) Submissions

The Proponent submitted:

- DPO40 should enable a permit proposing to subdivide land to create a super lot of at least 10,000 square metres
- this is important to enable any commercial restructuring to facilitate the development of the subject land
- there would be no planning harm arising from creating a super lot
- there could be a safety net provision included to ensure that any super lot did not prejudice the approval of a development plan.

Council opposed the ability to create a super lot because it would create administrative issues when preparing a development plan where there are multiple landowners. Council could support a super lot if one development plan was prepared for all the subject land.

(iii) Discussion

The subject land has limited access and interface constraints. Therefore, the Panel agrees with Council that there should be a single development plan prepared for all the subject land at the one time. Development Plan Overlay Clause 43.04-4 specifies:

The development plan may consist of plans or other documents and may, with the agreement of the responsible authority, be prepared and implemented in stages.

This means that only one development plan can be prepared unless Council (responsible authority) agrees otherwise. The Development Plan Overlay does not enable a schedule like DPO40 to vary this parent provision.

Having regard to Council's existing power, the Panel supports the ability for planning permit proposing a super lot of no less than 10,000 square metres before the development plan has been prepared.

(iv) Conclusion and recommendation

The Panel concludes that it is appropriate for DPO40 Clause 2.0 to enable a permit to subdivide land with lots of not less than 10,000 square metres before a development plan has been prepared.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to enable a permit to subdivide land in Clause 2.0 if each lot is no less than 10,000 square metres in area.

7 Form and content of the Amendment

DPO40 should be consistent with the rules for writing a planning scheme provision set out in the Practitioner's Guide. They are:

- Entry rules:
1. A provision must be within the scope of the objectives and power of the Act.
 2. A planning provision must implement the objectives of planning and be supported by a sound strategic planning and policy basis.
 3. A provision must not conflict with or duplicate other legislation, instruments or planning scheme provisions.
- Application rules:
4. A provision must be within the scope of the objectives and power of the PE Act.
 5. A provision must be consistent with the operational provisions of the scheme, any parent provision and any relevant Ministerial Direction.
 6. The application of a provision must be clear.
- Drafting rules:
7. The requirements of a provision must be clear and unambiguous.
 8. A provision must be structured to be clear and unambiguous.
 9. A provision must be written to be clear and unambiguous.

The Ministerial Direction on the Form and Content of Planning Schemes, issued under section 7(5) of the PE Act is relevant to DPO40.

The Panel adopts the Practitioner's Guide's preferred language such as 'should', 'must' or 'may' (if optional) rather than 'shall' and 'is to'.

Appendix C shows the Panel's recommended drafting changes to DPO40.

The Panel recommends:

Amend Development Plan Overlay Schedule 40, as shown in Appendix C, to:

- a) make drafting changes to provisions that clarify and improve their operation**
- b) revise the objectives at Clause 1.0 and maintain no more than five objectives, consistent with the *Ministerial Direction on the Form and Content of Planning Schemes*.**

Appendix A Document list

No	Date	Description	Presented by
2024			
1	26 Feb	Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	26 Mar	Panel directions and Hearing timetable (version 1)	PPV
3	28 Mar	Amendment and associated documents:	City of Whittlesea Council (Council)
		3.1: Map – extent of existing and proposed Land Subject to Inundation Overlay and Urban Floodway Zone (26 Mar 2024)	
		3.2: Cultural Heritage Due Diligence (Ochre Imprints, 29 Oct 2021)	
		3.3: Biodiversity Considerations (Ecology Australia, 29 Feb 2019)	
		3.4: Geoenvironmental Report (Senversa, 26 Mar 2019)	
		3.5: Remediation and Audit Process (Senversa, 26 Apr 2019)	
		3.6: Peer Review of Environmental Studies and Recommendation for Environmental Audit (Golder, 13 Dec 2019)	
		3.7: Eastern Grey Kangaroo Management Plan (Nature Advisory, Nov 2020)	
		3.8: Golden Sun Moth Targeted Survey (Nature Advisory, Jan 2021)	
		3.9: Initial Stormwater Management Strategy Report (Reeds Consulting)	
		3.10: Geotechnical Strategy - Compaction Methodology (Tonkin + Taylor, 30 Sep 2021)	
		3.11: Planned Ecological Assessments (Nature Advisory, 30 Sep 2021)	
		3.12: Economic Effect of Proposed Rezoning (Deepend Services)	
		3.13: Transport Impact Assessment for Rezoning Application (Ratio)	
		3.14: Native Vegetation Assessment (Nature Advisory, Nov 2021)	
		3.15: Engineering Servicing Report, Version 2 (Reeds Consulting, 15 Nov 2021)	
		3.16: Growling Grass Frog Survey (Nature Advisory, 22 Nov 2021)	
		3.17: Engineering Servicing Report, Version 3A (Reeds Consulting, 8 Mar 2022)	
		3.18: Updated Planning Scheme Amendment Report (Urbis, Mar 2022)	

No	Date	Description	Presented by
		3.19: Engineering Servicing Report (Version 5) (Reeds Consulting, 29 Jun 2022)	
		3.20: Air Quality Assessment (GHD, 5 Jul 2022)	
		3.21: Noise Impact Assessment (v2) (ARUP, 18 Aug 2022)	
		3.22: Updated Noise Impact Assessment (v3) (ARUP, 23 Nov 2023)	
		3.23: Arboricultural Assessment (Tree Logic, 18 Oct 2021)	
		3.24: Arboricultural Assessment (Tree Logic, 4 Mar 2022)	
		3.25: Section 53X Environmental Audit Report (Tetra Tech Coffey, 6 Jan 2023)	
		3.26: Auditor Verification: Construction Environmental Management Plan & Detailed Design of Ground Gas Mitigation System (Tetra Tech Coffey, 27 Jul 2023)	
		3.27: Thomastown Industrial Area Plan 2018-2038 (City of Whittlesea, adopted Apr 2018)	
		3.28: Thomastown Industrial Area – Urban Design Review (City of Whittlesea, 4 Feb 2014)	
		3.29: Thomastown Industrial Area Economic and Market Analysis (Hill PDA, 27 May 2014)	
		3.30: Thomastown Industrial Area – Background Report (City of Whittlesea, Jul 2014)	
		3.31: Thomastown Industrial Area Transport Requirements Recommendations Report (Traffix Group, 1 Jun 2015)	
		3.32: Thomastown Industrial Area Feasibility Assessments and Recommendations Study (Charter Keck Cramer, 2 Jun 2015)	
		3.33: Council meeting agenda report – Thomastown Industrial Area Plan, 3 Apr 2018	
		3.34: Council meeting minutes, 3 Apr 2018	
		3.35: Housing Diversity Strategy (City of Whittlesea, adopted Dec 2013)	
		3.36: City of Whittlesea Integrated Transport Strategy 2014 (City of Whittlesea, adopted Mar 2014)	
		3.37: City of Whittlesea Traffic Modelling Analysis Report (InfraPlan, 21 Mar 2015)	
		3.38: Greening Whittlesea Strategy (City of Whittlesea, adopted Apr 2021)	
		3.39: Council meeting agenda, 20 Feb 2024	
		3.40: Council meeting minutes, 20 Feb 2024	
		3.41: Correspondence to Council from the Environmental Protection Authority (EPA), 27 Aug 2019	
		3.42: Correspondence to Council from EPA, 22 Feb 2022	
		3.43: Correspondence to Council from Melbourne Water, 27 Mar 2024	

No	Date	Description	Presented by
4	28 Mar	email – confirmed noise emission testing occurred during the ARUP initial investigations for the Proponent from 28 Feb to 16 Mar 2022	Proponent
5	28 Mar	Engineering Servicing Report, Version 5 (Reeds Consulting, 29 Jun 2022) which provides finished surface levels after rehabilitation	Proponent
6	28 Mar	Letter – from EPA confirming its withdrawal from the Hearing, and further submission	EPA
7	3 Apr	Council Part A submission	Council
8	3 Apr	Council Part A submission attachments: 8.1: Updated Clause 02.04-3 Environmental and landscape values plan 8.2: Social and Affordable Housing Policy and Strategy (City of Whittlesea) Adopted Apr 2012 8.3: City of Whittlesea Open Space Strategy (City of Whittlesea) Aug 2016 8.4: Melbourne Industrial and Commercial Land Use Plan (Department of Environment Land, Water and Planning) 2020 8.5: Neighbourhood Design Manual (City of Whittlesea) Sept 2023 8.6: Planning Permit 707988 (Amended) (Dyson Permit) a) Engineering Plans endorsed on 4 Mar 2005 b) Plans endorsed on 6 Jun 2005 c) Plans endorsed on 9 Jan 2006 d) Plans endorsed on 1 Jun 2006 8.7: Council meeting agenda, 19 Sep 2022 8.8: Council meeting minutes, 19 Sep 2022 8.9: Amendment C269wsea authorisation letter, 24 Jul 2023 and Department of Transport and Planning marked-up attachments: a) Draft Explanatory Report b) Draft Instruction Sheet c) General Residential Zone Schedule 6 d) DPO40 8.10: Amendment C249wsea authorisation letter 8.11: Correspondence from EPA, 7 Mar 2024 8.12: Correspondence from DEECA to Council, 8 Mar 2024	
9	3 Apr	Expert report – Valentine Gnanakone (traffic)	Council
10	3 Apr	Expert report – Rob Milner (planning)	Dyson Group
11	3 Apr	Expert report – Ross Leo (acoustics)	Dyson Group
12	4 Apr	Expert report – John Kiriakidis (traffic)	Dyson Group

No	Date	Description	Presented by
13	4 Apr	Proponent background submission	Proponent
14	4 Apr	Expert report – Amanda Ring (planning)	Proponent
15	4 Apr	Expert report – Craig Czarny (urban design)	Proponent
16	4 Apr	Expert report – Darren Tardio (acoustics)	Proponent
17	4 Apr	Expert report – Hilary Marshall (traffic)	Proponent
18	9 Apr	DPO40 (Version 1)	Council
19	9 Apr	Acoustic experts statement of agreed opinions and facts	Proponent
20	9 Apr	Summary of consultation process for TIAP: 20.1: Stage 1 consultation 2013 – responses 20.2: Email 22 Oct 2013 20.3: Stage 2 consultation 2014 – responses 20.4: Stage 3 consultation 2015 – phone log 20.5: Consultation plan	Council
21	10 Apr	Part B submission	Council
22	10 Apr	Traffic experts statement of agreed opinions and facts	Proponent
23	11 Apr	23.1: Document attached to ‘Document 12’ 23.2: Rev 31 plan referenced in Melbourne Water email (document 43) 23.3: Mark-up clauses for Whittlesea Amendment C249wsea	Council
24	11 Apr	24.1: Supplementary expert report from Mr Gnanakone 24.2: Updated DPO40 transport strategy provisions	Council
25	11 Apr	Main submission	Proponent
26	11 Apr	DPO40 Version 1	Proponent
27	15 Apr	Dyson Group comments on Proponent DPO40 Version 1	Dyson Group
28	15 Apr	Dyson Group comments on Proponent DPO40 transport strategy provisions	Dyson Group
29	15 Apr	Dyson Group submission	Dyson Group
30	15 Apr	Dyson Group submission attachments: 30.1: Transport modelling guidelines 30.2: Dyson Group comments on DPO40 transport strategy provisions (same as document 28) 30.3: Separation distance guidelines: draft EPA publication 1949 30.4: Dyson Group comments on Proponent DPO40 Version 1 (same as document 27)	Dyson Group
31	18 Apr	DPO40 Version 2 – Proponent	Proponent
32	18 Apr	Examples of Development Plan Overlay schedules from Whittlesea Planning Scheme	Proponent

No	Date	Description	Presented by
33	18 Apr	DPO40 Version 2 (tracked changes) – Council	Council
34	18 Apr	DPO40 Version 2 (tracked changes) – Dyson Group	Dyson Group
35	23 Apr	Planning permit 703693 and cover letter	Proponent
36	9 May	DPO40 Version 3 (tracked changes) – Proponent and Council	Proponent
37	9 May	DPO40 Framework plan	Proponent
38	10 May	Council’s closing submission	Council
39	10 May	Joint position statement (between Council, Proponent and Dyson Group)	Proponent
40	15 May	DPO40 Final version – Proponent	Proponent
41	15 May	Joint position map	Proponent

Appendix B Planning context

B:1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Reference	Objectives and strategies
PE Act	
Section 4	
Planning Policy Framework clauses	
02.03-6	Whittlesea is experiencing significant housing growth and change. Although much of this growth is directed towards Whittlesea's growth areas, there is increasing pressure to manage housing growth within the established urban areas.
11 (Settlement)	
11.01-1S	To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
11.01-1R	Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city and protect the values of non-urban land.
11.01-1L	Limit the extent of commercial incursion into residential and industrial areas by allocating suitable amounts of industrial and commercial land in appropriate locations. Support the strategic allocation of employment nodes.
11.02-1S	To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
11.02-2S	To facilitate the fair, orderly, economic and sustainable use and development of urban areas.
12 (Environmental and landscape values)	
12.01-1S	To protect and enhance Victoria's biodiversity.
12.01-1L	Protect and improve existing habitat corridors and remnant vegetation. To retain and provide for the long-term viability of River Red Gums.
12.01-2S	To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.
13 (Environmental risks)	
13.03-1S	To assist the protection of: <ul style="list-style-type: none"> - Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows. - The natural flood carrying capacity of rivers, streams and floodways. - The flood storage function of floodplains and waterways. - Floodplain areas of environmental significance or of importance to river, wetland or coastal health.

Reference	Objectives and strategies
13.04-1S	To ensure that contaminated and potentially contaminated land is used and developed safely.
15 (Built form and heritage)	
15.01-1S	To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
15.01-1L	Support built form outcomes that create a connection to place and the community. Design development to orient toward rather than away from the street, and include landscaped setbacks in locations along existing and planned arterial roads (except in a designated activity centre).
15.01-4S	To achieve neighbourhoods that foster healthy and active living and community wellbeing.
15.03-2S	To ensure the protection and conservation of places of Aboriginal cultural heritage significance.
16 (Housing)	
16.01-1S	To facilitate well-located, integrated and diverse housing that meets community needs.
16.01-1R	Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in greyfield renewal, particularly through opportunities for land consolidation.
16.01-1L	To promote increased diversity and quality in housing. To encourage development that maintains and enhances internal and external amenity for residents. To encourage housing that accommodates residents with different needs and abilities. To achieve a preferred character and design by encouraging generous landscaping and high-quality design of multi-dwelling development.
16.01-2S	To deliver more affordable housing closer to jobs, transport and services.
16.01-2L	Facilitate the provision of a balanced mix of market and affordable housing in development, especially larger residential development/mixed use development or on strategic redevelopment sites.
Plan Melbourne policies	
2.1.1	Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city
2.1.3	Plan for and define expected housing needs across Melbourne's regions
2.3.3	Strengthen the role of planning in facilitating and delivering the supply of social and affordable housing
2.3.4	Create ways to capture and share value uplift from rezonings
2.4.2	Facilitate the remediation of contaminated land, particularly on sites in developed areas of Melbourne with potential for residential development
2.5.1	Facilitate housing that offers choice and meets changing household needs

Reference	Objectives and strategies
3.1.6	Support cycling for commuting
3.3.1	Create pedestrian-friendly neighbourhoods
Other planning strategies and policies	
	<ul style="list-style-type: none"> - Thomastown Industrial Area Plan - Melbourne Industrial and Commercial Land Use Plan - Whittlesea 2040
Planning Scheme zones	
Industrial 1	To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.
Urban Floodway	<p>To identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.</p> <p>To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.</p> <p>To reflect any declarations under Division 4 of Part 10 of the <i>Water Act 1989</i>.</p> <p>To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.</p>
General Residential	<p>To encourage development that respects the neighbourhood character of the area.</p> <p>To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>
Planning Scheme overlays	
Development Contributions	To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.
Public Acquisition	<p>To identify land which is proposed to be acquired by a Minister, public authority or municipal council.</p> <p>To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.</p> <p>To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.</p>
Land Subject to Inundation	<p>To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.</p> <p>To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local</p>

Reference	Objectives and strategies
	<p>drainage conditions and will not cause any significant rise in flood level or flow velocity.</p> <p>To minimise the potential flood risk to life, health and safety associated with development.</p> <p>To reflect a declaration under Division 4 of Part 10 of the <i>Water Act 1989</i>.</p> <p>To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.</p> <p>To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.</p>
Particular provisions	
52.17	To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

B:2 Ministerial Directions, Planning Practice Notes and guides

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Planning Practice Note 12 (Applying the flood provisions in planning schemes)

Advises about applying the flood provisions, including preparation of policy, identifying land affected by flooding, preparing a local floodplain development plan and the application and operation of the flood provisions.

Planning Practice Note 23 (Applying the Incorporated Plan and Development Plan Overlays)

Advises about the Incorporated Plan Overlay and Development Plan Overlay functions and when to apply them.

Planning Practice Note 30 (Potentially contaminated land)

Explains how to identify potentially contaminated land and how to assess it, and about provisions in amendments and conditions on permits.

Planning Practice Note 46 (Strategic assessment guidelines)

Provides a consistent framework for preparing and evaluating a proposed planning scheme amendment.

Planning Practice Note 91 (Using the residential zones)

Advises on how to use the residential zones to implement strategic work for housing and neighbourhood character, use local policies and overlays to complement the residential zones, and make use of key features in the residential zones.

Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Appendix C Development Plan Overlay Schedule 40 (Panel recommended version)

[Tracked Added](#)

~~Tracked Deleted~~

SCHEDULE 40 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as DPO40.

MCKIMMIES ROAD RENEWAL SITE

1.0 Objectives

To [safely manage remediated land](#) and guide the orderly use and development of the land for residential purposes [at an appropriate density and amenity](#), including a diversity of housing, ~~at a range of densities throughout the site.~~

To provide for safe and efficient traffic, pedestrian and cycling networks that integrate with the adjoining area ~~and encourage sustainable transport.~~

To enhance the Darebin Creek environs, protect significant environmental features and deliver increased tree canopy coverage across the site.

To ensure the timely delivery of infrastructure including roads, drainage, open space and links to the adjoining open space.

To provide appropriate interface treatments to the bus depot at 121 McKimmies Road (the Depot), the Darebin Creek, and existing residential development in proximity to the site.

2.0 Requirement before a permit is granted

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority for the following:

- Temporary land uses and buildings and works.
- Any buildings and works associated with the remediation of the site in accordance with or for the purpose of carrying out a Preliminary Risk Screen Assessment or obtaining a Certificate or Statement of Environmental Audit issued under the *Environment Protection Act 2017*.
- Completion of the filling of the disused quarry and related works.
- Display of advertising signs.
- ~~Subdivide land~~ [Create lots no less than 10,000 square metres in area.](#)
- Removal, variation or creation of easements, restrictions or reserves.
- Removal of vegetation.
- Site offices or display suites.
- Rehabilitation of the Darebin Creek environs.
- Works associated with a minor utility installation or any other service infrastructure.

- [Construction of noise barriers.](#)

An application for a planning permit ~~prior to the approval of~~ [before](#) a development plan [is approved](#) must be accompanied by a report demonstrating the granting of a permit will not prejudice or conflict with:

- The long-term future use and development of the site.
- The preparation or approval of a Development Plan.
- [Conditions of any Statement of Environmental Audit.](#)

[A planning permit issued before a development plan is approved must be consistent with the conditions of the Statement of Environmental Audit.](#)

3.0 Conditions and requirements for permits

Requirements

The following requirements apply to permits, as appropriate:

A planning permit granted may include a requirement for the following items to be endorsed prior to the commencement of the building and works, or land use as appropriate:

- ~~Waste Management Plan~~
- ~~Drainage/Stormwater Management Plan~~
- ~~Site Environmental Management Plan/s (including any Construction Environmental Management Plan or similar plan required by and Environmental Audit statement).~~

~~A planning permit for the removal of native vegetation must be accompanied by an Offset Statement which demonstrates the offsets required to compensate for the proposed removal of native vegetation from the study area as identified in *Native Vegetation Assessment 149 McKimmies Road, Bundoora Report No. 20169.2 (1.1)* (Nature Advisory, November 2021) have been achieved and secured via a third-party offset prior to removal of native vegetation.~~

Compliance with Environmental Audit

~~Conditions and requirements detailed by the Statement of Environmental Audit issued on 6th January 2023 must be complied with to the satisfaction of an EPA appointed Environmental Auditor and Responsible Authority respectively.~~

Geotechnical

~~Before the submission and approval of construction plans (engineering plans) and the certification of the relevant plan of subdivision, a geotechnical statement prepared by a suitably qualified geotechnical engineer must be prepared to the satisfaction of the responsible authority. The statement is to include:~~

- ~~An overview of the geotechnical remediation works completed,;~~
- ~~A record of the measured settlement.~~
- ~~Reconciliation of the measured settlement to behaviour modelled in the Geotechnical Design Report.~~
- ~~Address any instances where the measured settlement is outside expected parameters and provide detailed mitigation/design solutions.~~
- ~~A plan of the Stage showing zones of different predicted future settlement behaviour and noting.~~

~~Where the geotechnical statement identifies a difference between the measured settlement and the behaviour modelled, it should be accompanied by a written peer review statement from a suitably qualified and independent geotechnical engineer which is to the satisfaction of the responsible authority.~~

Conditions

The following conditions ~~apply to~~ **must be included in any permits**, as appropriate, **except where any of the matters referred to below have been previously satisfied:**

~~Section 173 Agreement~~ Affordable housing

A ~~planning permit may include a~~ condition that requires the owner to enter into an agreement or agreements under section 173 of the *Planning and Environment Act 1987* which must be registered on title and make provision for the following:

- An arrangement with one or more Participating Registered Agencies for the provision of affordable housing within the meaning of that agency's remit to the satisfaction of the responsible authority.
- Provide:
 - ~~an agreed~~ **15** percentage of the total number of dwellings as affordable housing including **5 percent** as social housing, ~~or~~
 - ~~Or make other arrangements for the provision of~~ affordable housing to the satisfaction of the responsible authority.
- The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including reasonable costs borne by the responsible authority.

~~Unless there is an agreement which deals with the matter, a planning permit may include conditions as appropriate which require any measures required by a Statement of Environmental Audit to be implemented during and after the development of the site.~~

Geotechnical works and Council Infrastructure

A ~~planning permit for subdivision may include a~~ condition ~~for~~ **that requires** the ~~proponent~~ owner to **provide** evidence that any Council infrastructure has been designed to accommodate the maximum anticipated ground movement established in the geotechnical remediation design and ~~as that may have been modified~~ **any adjustments** based on actual settlement monitoring during and after the geotechnical remediation works.

A planning permit for subdivision may include a condition that requires the owner to enter into an agreement or agreements under ~~S~~ **section 173** of the *Planning and Environment Act 1987* which:

- indemnifies Council against third party claims related to negligence in respect to the geotechnical works undertaken on the site.
- if required by the Responsible Authority, provides for a **specified** bond and/or **a specified** extended maintenance or repair of defects period for Council infrastructure on filled land related to geotechnical failure from settlement, for a specified period of time.
- notifies purchasers of land and successive purchasers of the nature of ground conditions including filling.

Acoustic attenuation measures

A condition that requires the owner to enter into an agreement under section 173 of the Planning and Environment Act 1987 or other legal mechanism which secures acoustic attenuation measures recommended in the Acoustic Assessment prepared pursuant to the requirement at Clause 4.0 (Requirements for Development Plan) of this schedule. Where the Acoustic Assessment recommends reliance on built form to provide acoustic shielding to achieve the Noise Criteria as set out in this schedule at any particular part of the land, the agreement must provide that the built form must be constructed before any part of such land is occupied.

The section 173 agreement must be executed and registered on the title of the relevant land before the plan of subdivision is certified. The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority.

Geotechnical

A condition that requires before the approval of engineering construction plans and the certification of the relevant plan of subdivision for each stage, a geotechnical statement prepared by a suitably qualified geotechnical engineer must be prepared to the satisfaction of the responsible authority. The statement should include:

- An overview of the geotechnical remediation works completed.
- A record of the measured settlement.
- Reconciliation of the measured settlement to behaviour modelled in the Geotechnical Design Report.
- Address any instances where the measured settlement is outside expected parameters and provide detailed mitigation / design solutions.

A plan of the Stage showing zones of different predicted future settlement behaviour and noting where the geotechnical statement identifies a difference between the measured settlement and the behaviour modelled. If there are any such areas, it should be accompanied by a written peer review statement from a suitably qualified and independent geotechnical engineer to the satisfaction of the responsible authority.

4.0 Requirements for development plan

A development plan must include the following requirements and must generally be in accordance with the Framework Plan at Figure 1.

A **Site Analysis Plan** that includes:

- Site shape, size, orientation and existing easements.
- Topographical features.
- Existing environmental features including waterways and vegetation
- The general location and built form of existing buildings on the site and surrounding properties.
- The environmental features and use of surrounding land including alignment of future E6 road corridor.
- Key interfaces to McKimmies Road, Darebin Creek to the west and south, residential areas to the east and [the bus depot at 121 McKimmies Road](#) to the north.
- Key views to and from the site.

- Street frontage details including crossovers, streetscape treatments and intersections.
- The location of existing public transport services and public open spaces within walking distance.
- The existing and proposed local road network.
- [Existing local services, facilities and infrastructure in the immediate vicinity of the site.](#)

A **Concept Plan** that includes:

- [The waterway corridor reserve along the Darebin Creek.](#)
- Details of the proposed land uses consistent with zoning of the site.
- A breakdown of land uses/precincts including standard density only precincts and [potential location for social housing.](#)
- [Retention of any vegetation in open space, conservation reserves or tree reserves including mature River Red Gums as recommended in the Flora and fauna assessment.](#)
- [The identification of the bus depot Interface Areas indicated in the Framework Plan at Figure 1 of this schedule, and a response to any recommendation\(s\) of the approved Acoustic Assessment under this clause.](#)
- [The identification of amenity interface areas and responses, including those associated with the land uses in the vicinity of the site such as the existing bus depot and existing and future major roads.](#)
- The size and location of encumbered and unencumbered open space, including the identification of any conservation and heritage areas.
- Key infrastructure elements including access, transport connections, pedestrian/cycle and vehicle links.
- ~~The identification of any critical interface points, including those associated with the adjoining land uses and the Darebin Creek.~~
- ~~Details of key interfaces including to existing bus depot and~~ [A response to the interface with Darebin Creek. The interface response to Darebin Creek corridor is to must provide for high amenity and accessibility and consider public safety and bushfire risk. The type of interface \(i.e. street frontage or paper road\) must respond to the adjoining housing typology.](#)
- Details of ~~the~~ proposed pedestrian and cycle connections through the site ~~from east to west beyond~~ to the Thomastown East Recreation Reserve ~~over Darebin Creek.~~
- Retention of vehicular access to the Yarra Valley Water site (149A McKimmies Road) and 121 McKimmies Road.
- [The location of any Integrated Water Management infrastructure.](#)
- [A response to the recommendations and outcomes of other plans prepared in accordance with this schedule.](#)

A **Precinct Infrastructure Plan** that includes:

- The location of existing infrastructure and services, including their capacity.
- An assessment of any future infrastructure and service upgrades required to support the proposed future development of the site.
- An assessment of community and recreation infrastructure required to support the anticipated residential population.
- A staging plan for the delivery of site infrastructure and mechanisms for how staging is intended to occur and milestones for completion and delivery of infrastructure and land projects.

- The location and scope of infrastructure and land projects.
- The timing and conditions for transfer of open space and conservation land.

A **Stormwater and Flood Management Plan** that includes:

- Assessment of the pre and post development drainage conditions of the site.
- [Assessment of impacts from flooding including impact on flood levels from the local drainage system.](#)
- Water sensitive urban design principles, which provides for the protection of natural systems, integration of stormwater treatment into the landscape and protection of water quality.
- Consideration of natural systems, integration of stormwater treatment into the landscape and protection of water quality.
- [Stormwater quality and water sensitive urban design principles which limit the amount of impervious surfaces.](#)
- A [concept](#) design response, including any drainage reserve and/or infrastructure required to the satisfaction of Melbourne Water.
- [Concept plan of proposed connections to the Darebin Creek.](#)
- Consideration and response to the habitat requirements for the Growling Grass Frog and any other threatened species which may inhabit or frequent the site.
- Requirements for future development including minimum floor heights with sufficient freeboard ([which are to be minimum 600mm for habitable buildings and 300mm for non-habitable buildings except as approved by the responsible authority](#)) above modelled flood levels.

An **Open Space and Landscape Plan** that includes:

- Details of the existing open space network in the adjacent and broader area and what opportunities there are for connection to those areas from the site.
- Identification of the location, features and embellishment of proposed [parks, public and other](#) publicly accessible open space areas and the pedestrian/cycle path network within the site.
- Location of all medium to very large trees and existing River Red Gums on the land (including dead trees). Identification of those trees to be retained and Tree Protection Zones (TPZs) in accordance with Council requirements for those trees nominated for retention. ~~The plan must accord with Council's River Red Gum policy and should provide for the retention of a minimum 80 per cent of River Red Gums classified as Medium, large or Very Large.~~
- Identification of no less than ~~20%~~ [72,820 square metres](#) ~~of the gross site area~~ as open space. The identified open space will comprise a combination of encumbered and unencumbered areas, including no less than 10,000 square metres of new unencumbered open space.
- Identification of encumbered open space along the Darebin Creek [generally in accordance with the Framework Plan at Figure 1](#) that provides [for a variable width waterway corridor which is at for a minimum 30 metres waterway corridor](#) from the top of the bank [of Darebin Creek, a minimum average width of 50 metres from top of the bank of the Darebin Creek and includes any other land encumbered by flooding, for](#)

conservation purposes or tree retention including mature River Red Gums and any other land encumbered by flooding or for conservation purposes.

- A scaled 'waterway corridor reserve' plan clearly showing the encumbered open space along Darebin Creek, environmental and cultural heritage features, the top of bank, interface treatments and any proposed embellishment including the location of shared paths and pedestrian/cycle crossings of the Darebin Creek.
- A tree canopy coverage plan which demonstrates a minimum 30%per cent coverage in the public realm and public open space (not including Darebin Creek waterway corridor or areas for conservation).
- Retention of native vegetation in accordance with the Flora and Fauna Assessment prepared in accordance with this schedule including scattered trees and patches of Riparian Woodland in the southern part of the site, adjacent to Darebin Creek and retention of remnant vegetation in areas prone to inundation.
- Retention of all vegetation, including dead trees, identified for retention in Figure Two of *Native Vegetation Assessment 149 McKimmies Road, Bundoora Report No. 20196.2 (1.1) (Nature Advisory, November 2021)* and incorporation of that retained vegetation into open space or conservation reserves.
- A preferred planting list for public and publicly accessible spaces, with consideration given to the suitability of planting within the Darebin Creek environs and the environmental and soil conditions of the site.
- Details of any cultural heritage features to be incorporated into open space areas.

~~An **Aboriginal Cultural Heritage Assessment** which:~~

- ~~• Responds to the provisions of the Aboriginal Heritage Act 2006.~~

A Transport Strategy which includes:

- A Traffic Impact Assessment Report detailing access and passage to the surrounding road network as well as within the development area.
- The Traffic Impact Assessment Report must include an assessment of the impacts of the proposed development on:
 - the function of the site access at Laurie Collins Drive
 - existing movements and site access from the bus depot at 121 McKimmies Road.
- The assessment must make recommendations on mitigation measures to address the impacts, to the satisfaction of the responsible authority, including:
 - The intersection treatment of the site access (Laurie Collins Drive and McKimmies Road) including a mitigating works package (intersection upgrade) which supports the total number of dwellings proposed and manages queues and delays at the intersection. The design of the intersection upgrade must have regard to Austroads standards and be to the satisfaction of the responsible authority.
 - The timing for the delivery of the intersection upgrade at Laurie Collins Drive and McKimmies Road, which should include consideration of queues and delays on the southern approach of the intersection. The appropriate target for when the intersection upgrade should occur is occupation of 450 dwellings on the land.
 - Measures to support use of sustainable and active modes of transport as part of the development.

- A ~~road~~street network with a high degree of internal and external connectivity and permeability, ~~and which ensures public transport and emergency services can be accessed within the development site opportunities as appropriate.~~
- Location of proposed intersections and road upgrades.
- Indicative road cross sections.
- A proposed concept design and cross section having regard to Austroads road design standard, for the reconstruction of Laurie Collins Drive which considers the access requirements of the adjoining bus depot at 121 McKimmies Road.
- The Laurie Collins Drive cross section adjacent to the bus depot at 121 McKimmies Road should comprise a 20 metre road reserve with 8 metre wide pavement and a footpath on one side.
- A pedestrian and cycling movement plan, with a high degree of permeability and connectivity to the broader pedestrian and cycling network.
- Location of proposed pedestrian and cycle crossing/s of Darebin Creek.

An **Environmentally Sustainable Design Statement** which:

- Sets out the energy efficiency and water conservation principles and requirements to guide the preparation of a Sustainability Management Plan ~~which is~~ to be applied to the design and construction of the development and buildings.

A **Flora and fauna assessment** which:

- Provides for the management and protection of threatened species and ecological communities including any land required to be retained for conservation purposes.
- Has regard to existing ecological reports/plans for the site and ~~permitted Clearing of Native Vegetation Regulations~~ Victoria's Guidelines for the removal, destruction or lopping of native vegetation or other legislative requirements relating to the removal of native vegetation and threatened species conservation.
- Must consider:
 - Scattered trees and patches of Riparian Woodland in the southern part of the site, adjacent to Darebin Creek.
 - Native vegetation including patches of Plains Grassy Woodland and scattered trees in areas prone to inundation.
 - Scattered trees or native vegetation patches within the Waterway Reserve under the development plan.
 - Any native vegetation of high biodiversity or other value, including local biodiversity value.

An **Arborist Report** providing a survey prepared by a suitably qualified person, to the satisfaction of the ~~R~~responsible ~~A~~authority, of all existing trees on the site.

~~A Native Vegetation Removal Plan and Offset Assessment of any native vegetation to be removed, having regard to Victoria's Guidelines for the removal, destruction or lopping of native vegetation, including the location of any necessary vegetation offsets and the requirements under the Flora and Fauna Guarantee Act 1988 and Environment Protection Biodiversity Conservation Act 1999.~~

A **Kangaroo Management Plan** which includes:

- Strategies to avoid land locking kangaroos, including staging of subdivision.

- Strategies to minimise animal and human welfare risks.
- Management and monitoring actions to sustainably manage a population of kangaroos within a suitable location.
- Actions to address the containment of kangaroos and to ensure adequate animal welfare.

A **Built Form Analysis Plan** that identifies:

- The range of preferred [housing typologies](#), building heights and indicative lot densities across the site.
- A design response to buildings interfacing with the Darebin Creek corridor, open space, and any significant biodiversity retained on site.
- Key interface ~~treatments~~[responses](#) for McKimmies Road, Darebin Creek to the west and south, [the E6 corridor and](#) residential areas to the east and 121 McKimmies Road to the north, [including noise and light spill treatments](#).
- Design response and guidelines which delivers tree canopy coverage in the public realm and on private residential lots and provides for their longevity.

A **Housing Diversity Report** which includes:

- The range of housing types, densities and sizes [which responds to demographic needs](#).
- The expected housing population and dwelling yield including a breakdown of dwelling types.
- The delivery of [15 per cent](#) ~~an agreed amount~~ of the overall housing stock as ~~social and/or~~ affordable housing, [including 5 per cent as social housing](#).
- Principles to ensure that the social/affordable housing dwelling are well designed, provide for a range of housing types and are integrated with the remainder of the development.
- Guidelines to deliver accessible and adaptable housing at a rate of [5% per cent](#) of the total number of dwellings across the site.

A **Geotechnical Design Report** outlining the proposed design response to geotechnical issues affecting the development plan area.

~~A **Noise Assessment** which includes a high-level noise assessment for the proposal to identify the existing risks to new noise sensitive areas established on the subject land. The assessment should make recommendations in respect to the specific controls to achieve suitable noise attenuation and outcomes for noise sensitive areas based on the existing conditions surrounding the site; or that further, site specific assessment is needed to assess each proposal having regard to the ambient sound environment.~~

An **Acoustic Assessment Report** for the Primary and Secondary Interface Zone, prepared by a suitably qualified acoustic engineer or other suitably qualified person to the satisfaction of the Responsible Authority, which specifies how the following noise criteria (Noise Criteria) will be met, and requiring that development within the Primary Interface Area must achieve the following Noise Criteria, to the satisfaction of the responsible authority:

- Noise received in a noise sensitive area, as defined in regulation 4 of the *Environment Protection Regulations 2021* (Noise Sensitive Area), from the Dyson bus depot, that

complies with EPA Publication 1826-4 'Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues'.

- For noise inside a building which is a Noise Sensitive Area, the following noise levels assessed internally near the centre of habitable rooms with the doors and windows closed:
 - Low frequency noise from Dyson bus depot in accordance with the low frequency thresholds outlined in EPA Publication 1996.
 - Maximum airborne noise from the Dyson bus depot to not exceed 55 dB LAmax in bedrooms.

Where the report recommends to rely on built form to provide acoustic shielding to achieve the Noise Criteria at any particular part of the land (Protected Land), that built form must be constructed before the Protected Land is occupied for residential purposes.

The Acoustic Assessment must provide a response to road traffic noise impacts as follows:

- That all dwellings are designed to comply with VicRoads publication: Requirements of Developers – Noise Sensitive Uses where traffic noise from the Metropolitan Ring Road is shown to exceed the prescribed external noise objective (63dBA, L10,18hr) on a residential lot.
- That all dwellings are designed to not exceed the following internal noise levels with windows and doors closed:
 - 35dB(A) Leq,8hr when measured within sleeping areas between 10pm and 6am.
 - 40dB(A) Leq,16hr when measured within a living area between 6am and 10pm.

An **Air Quality Assessment** which assesses the potential impacts to air quality on sensitive uses concerning emissions from the bus depot at 121 McKimmies Road, Bundoora~~due to the surrounding environment from existing traffic conditions and nearby industry in the context of the Environment Protection Act 2017 and associated regulations.~~ The assessment should refer to and consider *Guidelines for assessing and minimising air pollution in Victoria* as appropriate.

A **Light Spill Assessment** which assesses the impact of lighting from existing uses on abutting land on the site and makes recommendations for any measures required to mitigate the impacts.

Figure 1: Framework Plan



Framework Plan notes:

- The exhibited Framework Plan not shown.
- If Council has received formal written notice from the Proponent and the Dyson Group that this area has or will become in common ownership with 121 McKimmies Road, Bundoora (bus depot), the Framework should be revised to:
 - remove the area identified as 'A'

- apply the 'Dwellings to face/orientate away from this interface' pattern along the small section of new interface created by the excised area.

WHITTLESEA PLANNING SCHEME

NOTE: TRACK CHANGES ARE OFFICER RECOMMENDED CHANGES TO THE DPO VERSION CONTAINED IN THE PANEL REPORT**SCHEDULE 40 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY**

Shown on the planning scheme map as **DPO40**

MCKIMMIES ROAD RENEWAL SITE**1.0 Objectives**

To safely manage remediated land and guide the orderly use and development of the land for residential purposes at an appropriate density and amenity, including a diversity of housing.

To provide for safe and efficient traffic, pedestrian and cycling networks that integrate with the adjoining areas.

To enhance the Darebin Creek environs, protect significant environmental features and deliver increased tree canopy coverage across the site.

To ensure the timely delivery of infrastructure, including roads, drainage, open space and links to adjoining open space.

To provide appropriate interface treatments to the bus depot at 121 McKimmies Road (the Depot), the Darebin Creek, and existing residential development in proximity to the site.

2.0 Requirement before a permit is granted

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority for the following:

- Temporary land uses and buildings and works.
- Any buildings and works associated with the remediation of the site in accordance with or for the purpose of meeting the conditions of the *Statement of Environmental Audit* issued under the *Environment Protection Act 2017*.
- Completion of the filling of the disused quarry and related works.
- Display of advertising signs.
- Create lots no less than 10,000 square metres in area.
- Removal, variation or creation of easements, restrictions or reserves.
- Removal of vegetation.
- Site offices or display home centres.
- Rehabilitation and protection of the Darebin Creek environs.
- Works associated with a minor utility installation or any other service infrastructure works.
- Construction of noise barriers.

An application for a planning permit before a Development Plan is approved must be accompanied by a report demonstrating the granting of a permit will not prejudice or conflict with:

- The long-term future use and development of the site.
- The preparation or approval of a Development Plan.
- Conditions of any Statement of Environmental Audit.

A planning permit issued prior to the approval of a Development Plan must be consistent with

WHITTLESEA PLANNING SCHEME

NOTE: TRACK CHANGES ARE OFFICER RECOMMENDED CHANGES TO THE DPO VERSION CONTAINED IN THE PANEL REPORT

- The conditions of the Statement of Environmental Audit.

3.0 Conditions and requirements for permits

- **Conditions**

The following conditions must be included in any permit, as appropriate, except where any of the matters referred to below have been previously satisfied:

Affordable housing

A condition that requires the owner to enter into an agreement or agreements under section 173 of the *Planning and Environment Act 1987* which must be registered on the title and make provision for the following:

- An arrangement with one or more Participating Registered Agencies for the provision of affordable housing within the meaning of that agency's remit to the satisfaction of the responsible authority.
- Provide:
 - 15 percent of the total number of dwellings as affordable housing including 5 percent as social housing, or
 - arrangements to provide affordable housing to the satisfaction of the responsible authority.
- The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including reasonable costs borne by the responsible authority.

Geotechnical works and Council Infrastructure

A condition that requires the owner to provide evidence that any Council Infrastructure has been designed to accommodate the maximum anticipated ground movement established in the geotechnical remediation design and any adjustments based on actual settlement monitoring during and after the geotechnical remediation works.

A planning permit for subdivision may include a condition that requires the owner to enter into an agreement or agreements under section 173 of the *Planning and Environment Act 1987* which:

- indemnifies Council against third party claims related to negligence in respect to the geo-technical works undertaken on the site.
- if required by the Responsible Authority, provides for a specified bond and/or a specified extended maintenance or repair of defects period for Council Infrastructure on filled land related to geotechnical failure from settlement, for a specified period of time.
- notifies purchasers of land and successive purchaser of the nature of ground conditions including filling.

The section 173 agreement must be executed and registered on the title of the relevant land prior to certification of the plan of subdivision. The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority. The agreement may provide for the agreement to be ended and removed from the title upon the grant of a statement of compliance issued in respect to lots created for the purposes of construction of a dwelling or dwellings.

WHITTLESEA PLANNING SCHEME

NOTE: TRACK CHANGES ARE OFFICER RECOMMENDED CHANGES TO THE DPO VERSION CONTAINED IN THE PANEL REPORTAcoustic attenuation measures

A condition that requires the owner to enter into an agreement under section 173 of the *Planning and Environment Act 1987* or other legal mechanism which secures acoustic attenuation measures recommended in the Acoustic Assessment prepared pursuant to the requirement at Clause 4.0 (Requirements for Development Plan) of this schedule. Where the Acoustic Assessment recommends reliance on built form to provide acoustic shielding to achieve the Noise Criteria as set out in this schedule at any particular part of the land, the agreement must provide that the built form must be constructed prior to the occupation of any part of such land.

The section 173 agreement must be executed and registered on the title of the relevant land prior to certification of the plan of subdivision. The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority.

Plans to be endorsed

Conditions requiring the following plans to be endorsed prior to the commencement of the construction of buildings or the construction or carrying out of works, or the land use as appropriate:

- Waste Management Plan.
- Stormwater Management and Drainage Plan.
- Site Environmental Management Plan/s (including any Construction Environmental Management Plan or similar plan required by an environmental audit statement).

Geotechnical

A condition that requires, before the approval of engineering construction plans and the certification of the relevant plan of subdivision for each stage, a geotechnical statement prepared by a suitably qualified geotechnical engineer must be prepared to the satisfaction of the responsible authority. The statement is to include:

- An overview of the geotechnical remediation works completed.
- A record of the measured settlement.
- Reconciliation of the measured settlement to behaviour modelled in the Geotechnical Design Report.
- Address any instances where the measured settlement is outside expected parameters and provide detailed mitigation / design solutions.

A plan of the Stage showing zones of different predicted future settlement behaviour and noting where the geotechnical statement identifies a difference between the measured settlement and the behaviour modelled. If there are any such areas, it should be accompanied by a written peer review statement from a suitably qualified and independent geotechnical engineer which is to the satisfaction of the responsible authority.

4.0 Requirements for development plan

A development plan must include the following requirements and must be in accordance with the Framework Plan at Figure 1.

Only one development plan may be prepared and approved for the entire area covered by this schedule.

WHITTLESEA PLANNING SCHEME

NOTE: TRACK CHANGES ARE OFFICER RECOMMENDED CHANGES TO THE DPO VERSION CONTAINED IN THE PANEL REPORT**A Site Analysis Plan** that includes:

- Site shape, size, orientation of the site and existing easements.
- Topographical features.
- Existing environmental features including waterways and vegetation.
- The general location and built form of existing buildings on the site and surrounding properties.
- The environmental features and use of surrounding land including alignment of the future E6 road corridor.
- Key interfaces to McKimmies Road, Darebin Creek to the west and south, residential areas to the east and the bus depot at 121 McKimmies Rd to the north.
- Key views to and from the site.
- Street frontage details including crossovers, streetscape treatments, and intersections.
- The location of existing public transport services and public open spaces within walking distance.
- The existing and proposed local road network.
- Existing local services, facilities and infrastructure in the immediate vicinity of the site.

A Concept Plan that includes:

- The waterway corridor reserve along the Darebin Creek.
- Details of the proposed land uses consistent with zoning of the site.
- A breakdown of land uses/precincts including standard density only precinct and potential location for social housing.
- Retention of native vegetation in open space, conservation reserves or tree reserves including mature River Red Gums as recommended in the Flora and fauna assessment.
- The identification of the Bus Depot Interface Areas indicated in the Framework Plan at Figure 1 of this schedule, and a response to any recommendation(s) of the approved Acoustic Assessment, [Light Spill Assessment and/or Air Quality Assessment](#) under this clause.
- The identification of amenity interface areas and responses, including those associated with the land uses in the vicinity of the site such as the existing bus depot and existing and future major roads.
- A response to the interface with the Darebin Creek. The interface response to Darebin Creek corridor must provide for high amenity and accessibility and consider public safety. The type of interface (i.e. street frontage or paper road) is to respond to the adjoining housing typology.
- The size and location of encumbered and unencumbered open space, including the identification of any conservation and heritage areas.
- Key infrastructure elements including access, transport connections, pedestrian/cycle and vehicle links.
- Details of the proposed pedestrian and cycle connection through the site to the Thomastown East Recreation Reserve over the Darebin Creek.
- Retention of vehicular access to the Yarra Valley Water site (149A McKimmies Road) and 121 McKimmies Road.
- The location of any Integrated Water Management infrastructure.
- A response to the recommendations and outcomes of other plans prepared in accordance with this schedule

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A Precinct **Infrastructure Plan** that includes:

- The location of existing infrastructure and services including their capacity.
- An assessment of any future infrastructure and services upgrades required to support the proposed future development of the site.
- An assessment of community and recreation infrastructure required to support the anticipated residential population.
- A staging plan for the [development of the site](#) and delivery of site infrastructure [and including](#) mechanisms for how staging is intended to occur and milestones for completion and delivery of infrastructure and land projects.
- [The location and scope of infrastructure and land projects.](#)
- [The lot or dwelling cap trigger for the upgrade of the Laurie Collins Drive and McKimmies Road intersection.](#)
- [The trigger and mechanism for securing any additional land required for the Laurie Collins Drive and McKimmies Road intersection.](#)
- The timing and conditions for transfer of open space and conservation land.

A **Stormwater Management and Drainage Strategy** that includes:

- Assessment of the pre and post development drainage conditions of the site.
- Assessment of impacts from flooding including impact on flood levels from the local drainage system.
- Water sensitive urban design principles, which provides for the protection of natural systems, integration of stormwater treatment into the landscape and protection of water quality.
- Stormwater quality and water sensitive urban design principles which limit the amount of impervious surfaces.
- A concept design response, including any proposed drainage reserve and / or infrastructure required to the satisfaction of Melbourne Water.
- Concept plan of proposed connections to the Darebin Creek.
- Consideration of natural systems, integration of stormwater treatment into the landscape and protection of water quality.
- Consideration and response to the habitat requirements for the Growling Grass Frog and any other threatened species which may inhabit or frequent the site.
- Requirements for future development including minimum floor heights with sufficient freeboard (which are to be minimum 600mm for habitable buildings and 300mm for non-habitable buildings except as approved by the responsible authority) above modelled flood levels.

An **Open Space and Landscape Plan** that includes:

- Details of the existing open space network in the adjacent and broader area and what opportunities there are for connection to those areas from the site.
- Identification of the location, features and embellishment of proposed parks, other publicly accessible open space areas and the pedestrian / cycle path network within the site.
- Identification of no less than 72,820 square metres as open space. The identified open space will comprise a combination of encumbered and unencumbered areas, including no less than 10,000 square metres of new unencumbered open space.
- Identification of encumbered open space along the Darebin Creek generally in accordance with the Framework Plan at Figure 1 that provides for a variable width waterway corridor which is at a minimum 30m from the top of the bank of the

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Darebin Creek, a minimum average width of 50m from top of the bank of the Darebin Creek and includes any other land encumbered by flooding, for conservation purposes or tree retention including mature River Red Gums.

- A scaled 'waterway corridor reserve' plan clearly showing the encumbered open space along Darebin Creek, environmental and cultural heritage features, the top of bank, interface treatments and any proposed embellishment including the location of shared paths and pedestrian/cycle crossing of the Darebin Creek.
- Location of all medium to very large trees and existing River Red Gums on the land (including dead trees). Identification of those trees to be retained and Tree Protection Zones (TPZs) in accordance with Council requirements for those trees nominated for retention..
- A tree canopy coverage plan which demonstrates a minimum 30 per cent coverage in the public realm and public open space (not including Darebin Creek waterway corridor or areas for conservation).
- Retention of native vegetation In accordance with the Flora and Fauna Assessment prepared in accordance with this schedule.
- ~~Retention of all vegetation, including dead trees, identified for retention in Figure Two of the Native Vegetation Assessment 149 McKimmies Road, Bundoora Report No- 20196.2 (1.1) (Nature Advisory, November 2021) and incorporation of that retained vegetaiton into open space or conservation reserves.~~
- A preferred planting list for public and publicly accessible spaces, with consideration given to the suitability of planting within the Darebin Creek environs and the environmental and soil conditions of the site.
- Details of any cultural heritage features to be incorporated into open space areas.

A Transport Strategy which includes:

- A Traffic Impact Assessment Report detailing access and passage to the surrounding road network as well as within the development area.
- The Traffic Impact Assessment Report must include an assessment of the impacts of the proposed development on:
 - the function of the site access at Laurie Collins Drive; and
 - existing movements and site access from the bus depot at 121 McKimmies Road.

The assessment must make recommendations on mitigation measures to address the impacts, to the satisfaction of the Responsible Authority, including:

- The intersection treatment of the site access (Laurie Collins Drive and McKimmies Road) including a mitigating works package (intersection upgrade) which supports the total number of dwellings proposed and manages queues and delays at the intersection. The design of the intersection upgrade must have regard to AustRoads standards, [identify the extent of additional land required outside the existing road reserves](#) and be to the satisfaction of the responsible authority.
- The timing for the delivery of the intersection upgrade at Laurie Collins Drive and McKimmies Road, which should include consideration of queues and delays on the southern approach of the intersection. The appropriate target for when the intersection upgrade should occur is occupation of 450 dwellings.
- A street network with a high degree of internal connectivity and permeability which ensures public transport and emergency services can be accessed within the development site.
- Location of proposed intersections and road upgrades.
- Indicative road cross sections.

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- A proposed concept design and cross section, designed to AustRoads road design standard, for the reconstruction of Laurie Collins Drive which considers the access requirements of the adjoining bus depot at 121 McKimmies Road.
- The Laurie Collins Drive cross section adjacent to the bus depot at 121 McKimmies Road should comprise a 20m road reserve with 8 metre wide pavement and a footpath on one side
- A pedestrian and cycling movement plan, with a high degree of permeability and connectivity to the broader pedestrian and cycling network.
- Location of proposed pedestrian and cycle crossing/s of Darebin Creek.

An Environmentally Sustainable Design Strategy which:

- Sets out the energy efficiency and water conservation principles and requirements to guide the preparation of a Sustainability Management Plan to be applied to the design and construction of the development and buildings.

A Flora and Fauna Assessment which:

- Provides for the management and protection of threatened species and ecological communities including any land required to be retained for conservation purposes.
- Has regard to existing ecological reports/plans for the site and Victoria's Guidelines for the removal, destruction or lopping of native vegetation or other legislative requirements relating to the removal of native vegetation and threatened species conservation.
- Must consider:
 - Scattered trees and patches of Riparian Woodland in the southern part of the site, adjacent to Darebin Creek.
 - Native vegetation including patches of Plains Grassy Woodland and scattered trees in areas prone to inundation.
 - Scattered trees or native vegetation patches within the Waterway Reserve under the development plan.
 - Any vegetation of high biodiversity or other value, including local biodiversity value.

An **Arborist Report** providing a survey prepared by a suitably qualified person, to the satisfaction of the responsible authority, of all existing trees on the site.

A Kangaroo Management Plan which includes

- Strategies to avoid land locking kangaroos, including staging of subdivision.
- Strategies to minimise animal and human welfare risks.
- Management and monitoring actions to sustainably manage a population of kangaroos within a suitable location.
- Actions to address the containment of kangaroos and to ensure adequate animal welfare.

A Built Form Analysis Plan that identifies:

- The range of preferred housing typologies, building heights and indicative lot densities across the site.
- A design response to any buildings interfacing with the Darebin Creek corridor, open space, and any significant biodiversity retained on site.
- Key interface responses for McKimmies Road, Darebin Creek to the west and south, the E6 corridor and residential areas to the east and **the bus depot at 121 McKimmies Road** to the north, including noise and light spill treatments.

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- Design response and guidelines which delivers tree canopy coverage in the public realm and on private residential lots and provides for their longevity.
- [Design guidelines required to guide lot densities, street layout, siting and orientation and built form to deliver high quality streetscapes and buildings.](#)

A Housing Diversity Report which includes:

- The range of housing types, densities and sizes which responds to demographic needs.
- The expected housing population and dwelling yield including a breakdown of dwelling types
- The delivery of 15 per cent of the overall housing stock as affordable housing, including 5 per cent as social housing.
- Principles to ensure that the social/affordable housing dwellings are well designed, provide for a range of housing types and are integrated with the remainder of the development.
- Guidelines to deliver accessible and adaptable housing at a rate of 5 per cent of the total number of dwellings across the site.

A Geotechnical Design Report outlining the proposed design response to geotechnical issues affecting the development plan area,

Statement of Environmental Audit implementation summary table prepared by a suitably qualified environmental consultant which includes a response as to how each condition of the Statement of Environmental Audit issued 6th January 2023 will be complied with and implemented as part of the development or subdivision of the site and future planning permit applications.

An **Acoustic Assessment** report for the Primary and Secondary Interface Area, prepared by a suitably qualified acoustic engineer or other suitably qualified person to the satisfaction of the responsible authority, which specifies how the following noise criteria (**Noise Criteria**) will be met, and requiring that development within the Primary Interface Area must achieve the following Noise Criteria, to the satisfaction of the responsible authority:

- Noise received in a noise sensitive area, as defined in regulation 4 of the Environment Protection Regulations 2021 (**Noise Sensitive Area**), from the Dyson bus depot, that complies with EPA Publication 1826-4 '*Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*'; and
- For noise inside a building which is a Noise Sensitive Area, the following noise levels assessed internally near the centre of habitable rooms with the doors and windows closed:
 - low frequency noise from Dyson bus depot in accordance with the low frequency thresholds outlined in EPA Publication 1996.
 - maximum airborne noise from the Dyson bus depot to not exceed 55 dB LAmax in bedrooms.

Where the report recommends to rely on built form to provide acoustic shielding to achieve the Noise Criteria at any particular part of the land [within the Bus Depot Interface Area\(Protected Land\)](#), that built form must be constructed prior to occupation of the Protected Land for residential purposes.

The Acoustic Assessment shall also provide a response to road traffic noise impacts as follows:

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- That all dwellings are designed to comply with Vicroads publication: *Requirements of Developers – Noise Sensitive Uses* where traffic noise from the Western Ring Road is shown to exceed the prescribed external noise objective (63dBA, L10,18hr) on a residential lot.
- That all dwellings are designed to not exceed the following internal noise levels with windows and doors closed:
 - 35dB(A) Leq,8hr when measured within sleeping areas between 10pm and 6am; and
 - 40dB(A) Leq,16hr when measured within a living area between 6am and 10pm.

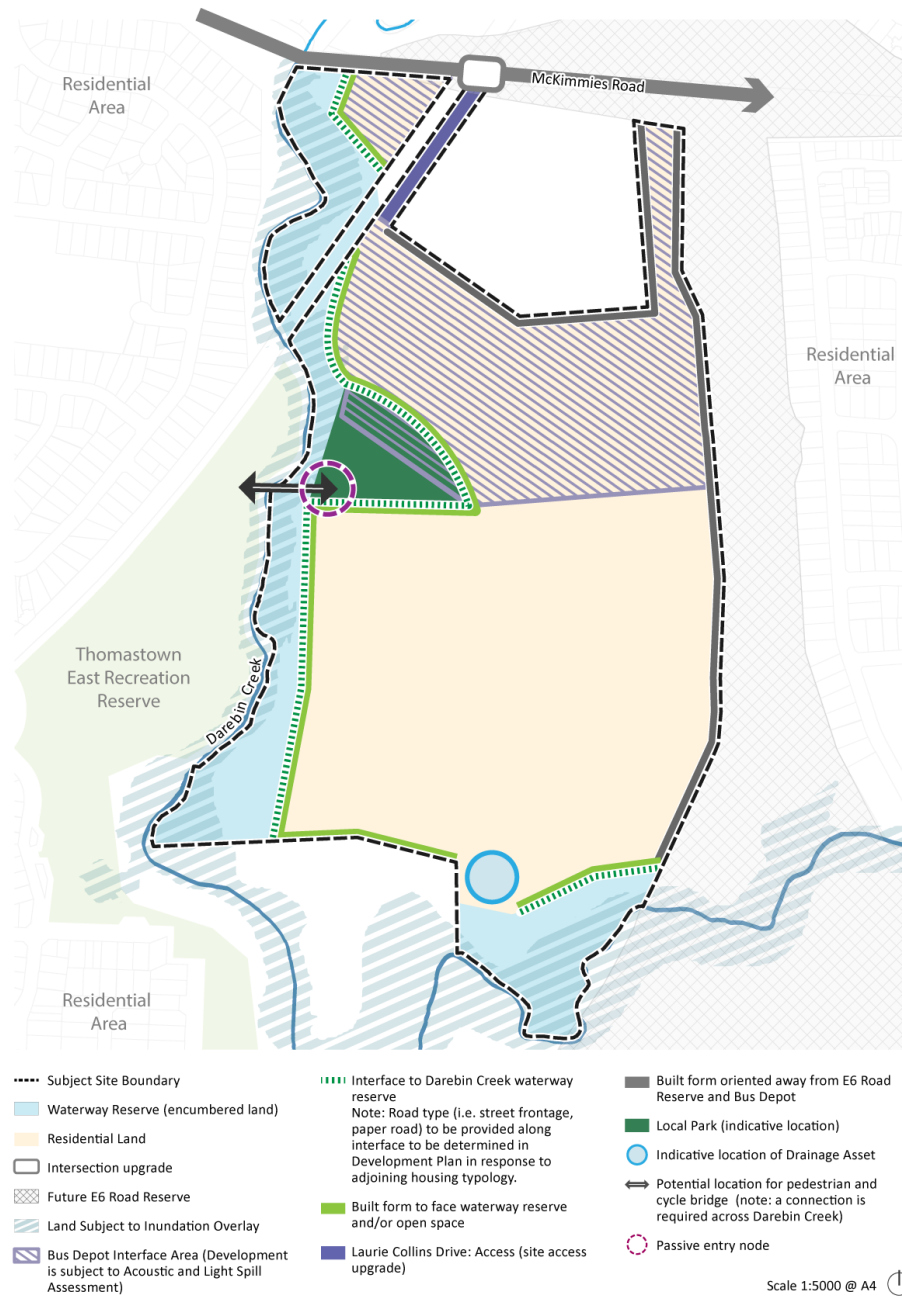
An **Air Quality Assessment** which assesses the potential impacts to air quality on sensitive uses located within 200m of the bus depot at 121 McKimmies Road, Bundoora concerning emissions from the bus depot at 121 McKimmies Road, Bundoora. The assessment should refer to and consider *Guidelines for assessing and minimising air pollution in Victoria* as appropriate.

A **Light Spill Assessment** which assesses, the impact of lighting from existing uses on abutting land on that part of the site within 200m of the bus depot at 121 McKimmies Road, Bundoora and makes recommendations for any measures required to mitigate the impacts.

WHITTLESEA PLANNING SCHEME

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Figure 1: Framework Plan



WHITTLESEA PLANNING SCHEME

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CONTAINED IN THE PANEL REPORT**

Planning and Environment Act 1987

WHITTLESEA PLANNING SCHEME
AMENDMENT C269WSEA
EXPLANATORY REPORT

Overview

This amendment rezones land at 149 McKimmies Road, Bundoora to facilitate the future redevelopment of the land for residential purposes.

It does this by rezoning the part of the land from Industrial 1 Zone (IN1Z) to General Residential Zone (GRZ) and introduces a new Schedule 6 to the General Residential Zone.

The amendment also facilitates a range of other outcomes including rehabilitation of contaminated land, provision of affordable housing, additional open space and protection of the Darebin Creek environs.

The amendment achieves this by also amending the Strategic Framework Plans at Clause 02.04-1 and 02.04-6 and applying the Development Plan Overlay (DPO) and introducing a new schedule to part of the land. The amendment also updates the Land Subject to Inundation Overlay (LSIO) boundary which applies to the land.

Where you may inspect this amendment

The amendment can be inspected free of charge at the City of Whittlesea website at engage.whittlesea.vic.gov.au

And the amendment is available for public inspection, free of charge, during office hours at the following places:

City of Whittlesea Civic Centre, 25 Ferres Boulevard, South Morang 3752

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person may make a submission to the planning authority about the amendment. Submissions about the amendment must be received by 15th October 2023.

A submission must be sent to:

Chief Executive Officer, City of Whittlesea
By post: Locked Bag 1, Bundoora MDC 3083
In person: 25 Ferres Boulevard, South Morang
By email: Strategic.Planning@whittlesea.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: week of 4th December 2023
- panel hearing: week of 8th January 2024

OFFICIAL

Details of the amendment

Who is the planning authority?

This amendment has been prepared by the City of Whittlesea, which is the planning authority for this amendment.

The amendment has been made at the request of Intrapac Property Group.

Land affected by the amendment

The amendment applies to the former Bundoora Quarry site. The land affected by the amendment includes:

- Part of 149 McKimmies Road, Bundoora

A map showing the land affected by the amendment is attached at Appendix A.

What the amendment does

The amendment seeks to facilitate the future redevelopment of the land for residential purposes and to rehabilitate the land to allow sensitive uses.

The proposed amendment:

- Amends the Strategic Framework Plans at Clause 02.04-1 and 02.04-6 to identify 149 McKimmies Road, Bundoora as residential land.
- Rezones part of the land at 149 McKimmies Road, Bundoora from Industrial 1 Zone (IN1Z) to General Residential Zone (GRZ) and introduces a new Schedule 6 to the General Residential Zone.
- Applies the Development Plan Overlay (DPO) to part of the land at 149 McKimmies Road, Bundoora and introduces a new Schedule 40 to the Development Plan Overlay.
- Amends the Land Subject to Inundation Overlay (LSIO) to part of land at 149 McKimmies Road, Bundoora.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to facilitate the future development and rehabilitation of industrial land at 149 McKimmies Road, Bundoora.

The land is located on the southern side of McKimmies Road, between Dalton Road and Plenty Road. The subject land is approximately 36.4 hectares in size. It is generally bound by a large bus depot to the north which fronts McKimmies Road, the future Outer Metropolitan Ring Road (E6) corridor to the east, the Metropolitan Ring Road to the south and the Yan Yean Pipe Track and the Darebin Creek to the west.

The land was previously used as a basalt quarry from 1964 to 1992. More recently, the site was operated by GB Landfill Pty Ltd as a 'clean-fill' landfill site.

In-line with state and local planning policies, the land presents an opportunity to provide additional housing within the municipality. The site is strategically identified as 'opportunity area' in the Thomastown Industrial Area Plan:

The precinct is largely underutilised and once rehabilitation works are completed a large proportion of this precinct may become available for development subject to geotechnical and contamination considerations. Appropriate detailed assessments will be required when considering an alternative land use such as residential or mixed use. Any mixed use or residential development would also need to incorporate elements of social and affordable housing.

The strategic nature of the site as a location for future in-fill residential development is further substantiated by its proximity to a range of transport options, services, community and education facilities. These include proximity to various tram and bus routes, Lalor Plaza and University Hill

shopping centres, the Bundoora RMIT Campus, and various primary and secondary schools.

Under the current industrial zoning, housing is prohibited. A rezoning of the land, together with the application of the Development Plan Overlay (DPO) will enable an orderly and efficient residential development. The proposed provisions will recognise the conditions of the site and protect and improve the current state of the site.

In accordance with updated Melbourne Water flood mapping it is proposed to reduce the area of land the Land Subject to Inundation Overlay (LSIO) is applied to. The mapping has identified a reduced area affected by potential flooding in the north west corner of the site adjacent to the Darebin Creek. Melbourne Water have provided support for this reduction to the LSIO area.

The proposed amendment will have a net community benefit through the delivery of a number of environmental, social and economic benefits that include but are not limited to:

- Facilitating the remediation of a contaminated site that would otherwise sit vacant and unusable with no contribution to the local economy or housing supply.
- Allowing an increase in residential housing stock that will add diversity of housing in proximity to existing transport and services.
- Facilitating social and affordable housing to be integrated into the residential development
- Enhancement and protection of the Darebin Creek linear reserve.
- Providing essential connections from the existing residential community to the Darebin Creek.
- Facilitating improved landscape character outcomes through increased canopy tree planting.
- Providing an immediate boost to the local economy through construction and development.

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

In accordance with the objectives of planning in Victoria as detailed in Section 4(1) of the *Planning and Environment Act 1987*, the amendment will:

(a) provide for the fair, orderly, economic and sustainable use, and development of land;

The proposed amendment will implement this objective by facilitating a prohibited use of the currently unused and unproductive land. The orderly and integrated planning of a residential development will be guided by the application of the DPO. The proposed Schedule 40 to the DPO provides a strategic framework plan that sets out high level directions for future development, as well as a range of further assessments that will guide detailed site layout. These assessments will inform the future Development Plan that once finalised, will serve to coordinate future residential development to ensure the appropriate placement of housing, roads, open space as well as providing additional built form controls to manage the character of the eventual built form.

The proposed GRZ Schedule 6 further implements Council's key policy objectives of improved landscape character and diversity of housing. This will be done by enabling lot sizes appropriate for medium density housing, which provides an alternative to the predominant surrounding residential typology of detached houses. The proposed Schedule 6 also facilitates canopy tree planting in private lots and the public realm through the provision of appropriate dedicated private open space.

(b) provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

The amendment protects and enhances important natural environment particularly along the Darebin Creek watercourse. The provisions of the proposed Schedule 40 to the DPO, including requirements for detailed flora and fauna assessments and storm and flood water management, as well as for the provision of new open space, will work to protect the biodiversity values of the site, and deliver important environmental and amenity benefits. The embellishment of open space adjacent to the Darebin Creek will also improve community access to this important natural asset.

(c) secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

The amendment will facilitate an integrated residential development that will deliver a pleasant, efficient and safe urban environment for people to live. The site will be rehabilitated to ensure that the site is safe for people to inhabit and the preparation of a Development Plan will ensure development occurs in an integrated manner.

(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

A portion of the site that follows the Darebin Creek falls within an area of Cultural Heritage Sensitivity as defined by the *Aboriginal Heritage Regulations 2007*. A Cultural Heritage Due Diligence report has been undertaken.

This reports that an earlier due diligence assessment featuring a field inspection found: "Several small but significant areas of relatively unmodified landscape surface were identified – in particular, areas bordering the creek and along the east, west and southern boundaries of the study area. No Aboriginal artefacts were identified during the inspection of the works area however two possible scarred trees were noted. It is therefore considered probable that previously unrecorded heritage is present within the study area."

The report goes on to state that two places on the Victorian Aboriginal Heritage Record are found on the site both with scattered artefacts.

Previous archaeological assessments in and around the study area provide little insight into the likelihood of subsurface Aboriginal cultural heritage being present within the study area. It can be reasonably predicted, however, that:

- Aboriginal cultural heritage is present within the study area associated with VAHR 7922-0754;
- Aboriginal cultural heritage may be present within the study area associated with VAHR 7922-1002;
- Aboriginal cultural heritage places in the form of stone artefact scatters and low density artefact distributions are likely to be present within the study area beyond what has thus far been recorded;
- Land in the vicinity of Darebin Creek and on raised landforms such as stony rises is sensitive for stone artefact scatters;
- Aboriginal Scarred Trees may exist within the study area, for example at the locations marked on Figure 5 and described in Table 1;
- The archaeological sensitivity of the centre, quarried, part of the study area is expected to be significantly lower than the less disturbed margins, but due to limited data on the extent of previous quarrying, its actual archaeological potential is at this stage unknown.

The report goes on to say that a Cultural Heritage Management Plan (CHMP) is not required as the zoning of the site is not a high impact activity.

Nevertheless, the proponent has decided to prepare a CHMP. This, CHMP 18404, is well progressed with a number of milestones already met. The process has cleared the main site of having any significant finds. The northwest corner has been found to contain small areas of artifact scatter which are proposed to be registered. Discussion with the proponent, consultants and indigenous representatives are ongoing about the management of these artifacts.

There are no recorded European heritage present within the subject land.

(e) protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;

The amendment will apply a Development Plan Overlay (DPO) which requires a Development Plan to be prepared. The Development Plan will confirm how the site is to be serviced and identify any necessary utilities and facilities to be provided to support the new community.

(f) facilitate development in accordance with the objectives set out in paragraphs (a), (c) and (e);

As noted above, the amendment will facilitate re-use of currently underutilised and potentially contaminated land for productive economic purposes through the provision of new housing in a well serviced location in proximity to transport, jobs and a range of retailing and educational opportunities. The application of the DPO will ensure an integrated development of the land with appropriate services and facilities for residents including a new open space network and enhanced access to the Darebin Creek corridor which is currently inaccessible given the use of the site.

Overall, the amendment will help secure a new high amenity community through an integrated an orderly planning process, securing the remediation and sustainable use of the land.

(g) balance the present and future interests of all Victorians.

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The amendment balances present and future interests by ensuring an underutilised, contaminated and redundant industrial site can be remediated to provide high quality housing and open space facilities in a well serviced and established residential location.

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

The amendment addresses a range of environmental, social and economic effects and overall will have a net community benefit by delivering a number of important and valuable environmental, social and economic benefits:

Environmental Effects

The amendment addresses environmental effects by:

- Being preceded by an environmental audit to the subject land has ensured the proposed future sensitive uses can be achieved safely through installation of ground gas mitigation measures and other requirements to be monitored and signed off by an environmental auditor.
- Ensuring that any significant flora and fauna within the site are either retained, enhanced or managed through the preparation of a Development Plan which will be consistent with the recommendations of the relevant environmental reports prepared for this amendment.
- Retaining the Urban Flood Zone and the Land Subject to Inundation Overlay on the subject land with up to date flood mapping informing the area the overlay and zone are applied to.
- Supporting the rehabilitation of the Darebin Creek and surrounds through the removal of industrial uses, remediation of the land and implementation of water sensitive urban design measures required to be investigated and implemented through the Development Plan and future planning permits.

Social Effects

The amendment addresses social effects by:

- Providing a diversity of housing within the City of Whittlesea in response to a diverse range of demographic needs and housing shortage.
- Facilitating the provision of social and affordable housing integrated within the new community. Providing new local open spaces, parks and waterway paths and enhancing the local open space network.

Economic Effects

The amendment addresses economic effects by:

- Ensuring local employment is supported by additional trade from a new residential community.
- Making use of existing land in proximity to services, transport and community facilities.
- Remediating an underutilised and redundant industrial site that is currently making little economic contribution to the local or broader area.
- The rezoning of current Industrial zoned land will have a negligible effect as the land due to its location and context is considered unsuitable for industrial development.

Does the amendment address relevant bushfire risk?

The amendment meets bushfire policy in Clause 13.02 of the Planning Scheme because the land is not subject to the Bushfire Management Overlay nor is it within a bushfire prone area.

The wider context of the site is within an urban environment. Management strategies for minimising potential bushfire risk, if any, can be resolved during the preparation of the Development Plan and planning permit application process as relevant.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Form and Content of the planning scheme.

The planning scheme amendment documentation has been prepared in accordance with this direction.

Ministerial Direction 1 – Potentially Contaminated Land

The amendment complies with Minister Direction No. 1– Potentially Contaminated Land. The Ministerial Direction requires in preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, a planning authority must satisfy itself that the environmental conditions of that land are or will be suitable for that use.

Detailed site investigations have been undertaken to determine an indicative remediation strategy and scope for the subject site. As the landfill operation was a 'clean-fill' the primary remediation works are geotechnical in terms of compaction of the landfill cell and construction of a 'capping layer' to provide a suitable founding base for traditional residential construction i.e. slab on ground. Whilst localised contamination and 'pockets' of landfill gas were detected, the environmental consultant advised both can be resolved/addressed via conventional remediation and/or construction techniques. Hence, as above, the core remediation issue is geotechnical not environmental (contamination) given this is a 'clean-fill' landfill and not a landfill containing putrescible waste. A 'clean-fill' landfill simply means the quarry excavation has been filled with 'clean' soil.

An Environmental Audit has been completed on the site. This was undertaken concurrently with preparing the planning scheme amendment as per Environment Protection Authority's (EPA) advice. A Statement of Environmental Audit (ref 55556-2) was issued on 6 January 2023. It concluded that the nature and extent of the risk from relatively low concentrations of soil, groundwater and gas contaminants can be made acceptable for future on-site receptors, including residents under a low density residential scenario, provided suitable control measures are implemented. This includes the installation of a ground gas mitigation system to be verified and monitored by an environmental auditor until the auditor determines it is no longer required.

Ministerial direction No 9. Metropolitan Strategy

The amendment complies with Ministerial Direction No 9. Metropolitan Strategy. The Direction seeks to ensure that planning scheme amendments have regard to the Metropolitan Strategy.

The amendment and subsequent redevelopment of the site will achieve several policies identified in Plan Melbourne including:

- Policy 1.1.4 Support the significant employment and servicing role of health education precincts across Melbourne.
- Policy 2.1.1 Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city.
- Policy 2.1.2 Facilitate an increased percentage of new housing in established area to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport.
- Policy 2.1.3 Plan and define expected housing needs across Melbourne's regions.
- Policy 2.3.3 Strengthen the role of planning in facilitating and delivering the supply of social and affordable housing.
- Policy 2.3.4 Create ways to capture and share value uplift from rezonings.
- Policy 2.4.2 Facilitate the remediation of contaminated land, particularly on sites in developed areas of Melbourne with potential for residential development.
- Policy 2.5.1 Facilitate housing that offers choice and meets changing household needs
- Policy 3.1.6 Support cycling for commuting.
- Policy 3.3.1 Create pedestrian-friendly neighbourhoods.
- Policy 4.4.1 Recognise the value of heritage when managing growth and change.
- Policy 4.4.2 Respect and protect Melbourne's Aboriginal cultural heritage.

Minister's Direction No.11 – Strategic Assessment of Amendment

The amendment complies with Minister Direction No. 11 (Strategic Assessment of Amendments) under section 12 of the Planning and Environment Act 1987. The amendment is consistent with this direction which ensures a comprehensive strategic evaluation of a planning scheme amendment and

the outcomes it produces. The amendment is consistent with the relevant policy as described in examples throughout this report.

Ministerial Direction No. 15 – the planning scheme amendment process

The amendment complies with Ministerial Direction No. 15 – the planning scheme amendment process. The amendment will be processed in accordance with this direction.

Ministerial Direction 19 – on the preparation and content of Amendments that may significantly impact the environment, amenity and human health

The amendment complies with Ministerial Direction 19 – on the preparation and content of Amendments that may significantly impact the environment, amenity and human health. Noting the former use of the site, the views of the Environment Protection Authority (EPA) have been sought in the preparing this planning scheme reviews amendments. The EPA provided their views and recommendations in correspondence dated 24 February 2022 which have been incorporated into the Amendment documents. This includes a recommendation not to apply the Environment Audit Overlay (EAO) in this instance given the Environmental Audit is to be completed prior to the adoption of the Amendment.

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

The amendment supports and implements the following state sections Planning Policy Framework:

- Clause 11.01-1S, (Settlement) promotes, ‘sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians...’ The proposed rezoning will allow for greater housing diversity by providing opportunities for a diverse range of residential development in an area that is dominated by single detached dwellings and some medium density townhouse development.
- Clause 11.01-1R (Settlement – Metropolitan Melbourne). The amendment will support development of housing within the Urban Growth Boundary and utilise non-viable industrial land, ensuring that growth occurs in existing urban areas.
- Clause 11.02-1S (Supply of Urban Land) seeks to “ensure that sufficient land is available to meet forecast demand” and to consider “Opportunities for the consolidation, redevelopment and intensification of existing urban areas”. The amendment will ensure that the supply of residential land in the municipality is not diminished and provides for an opportunity to utilise unused industrial land that is surrounded by residential development.
- Clause 11.02-2S (Structure Planning). The objective of this clause is to facilitate orderly development. The effective management of any proposed residential development following the approval of this amendment will be managed by a development plan, ensuring orderly and efficient planning that takes a holistic view of development.
- Clause 12 (Environmental and Landscape Values). This proposed amendment will aim to ensure development will be sensitive to any potential environmental and landscape values associated with this corridor through appropriate design controls in the future development plan.
- Clause 12.01-1S (Protection of Biodiversity). The proposed amendment will strategically plan for the protection and conservation of biodiversity areas, specifically in proximity to the Darebin Creek Environs through the drafting of a development plan which will seek to manage development through appropriate design controls.
- Clause 12.01-2S (Native Vegetation Management). The proposed amendment will ensure that any removal destruction or lopping of native vegetation, apply the three-step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017).
- Clause 13 (Environmental Risks). An Environmental Audit has been completed on the site and Statement of Environmental Audit issued on 6 January 2023. The Statement contains a number of conditions which will be required to be met during development to mitigate and monitor risk presented by the presence of low levels of landfill gas on site. With these conditions the site can be made appropriate for residential use.
- Clause 13.03-1S (Floodplain Management). The proposed amendment will update the existing Urban Floodway Zone or Land Subject to Inundation Overlay using Melbourne Water’s most

current flood mapping. It seeks to maintain existing measures to protect life, property and community infrastructure from flood hazard.

- Clause 13.04-1S (Contaminated and Potential Contaminated Land). The Environmental Audit found relatively low concentrations of soil, groundwater and gas contaminants. The Statement of Environmental Audit contains a number of conditions to be met during development to enable the site to be made safe for residential use. This includes the installation of a ground gas mitigation system to be monitored by an environmental auditor until it is determined it is no longer required.
- Clause 15.01-1S (Urban Design). The proposed amendment will require the preparation of a development plan to enable development to occur. The eventual preparation of a development plan will facilitate development that creates urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
- Clause 15.01-4S (Healthy Neighbourhoods). The rezoning of the subject site will create a sizable neighbourhood within an existing urban context. This urban area is serviced by existing community infrastructure and will include a network of open space and increased access to the Darebin Creek corridor, thus promoting healthy neighbourhood design.
- Clause 15.03-2S (Aboriginal Cultural Heritage). A CHMP is well progressed. The majority of the site has been cleared for any heritage artifacts. In the north-west corner of the site, some small areas of scattered artifacts have been found. It is planned to register these, and discussions between the proponent and indigenous representatives are taking place to determine the best management of these areas and artifacts.
- Clause 16 (Housing). The proposed amendment supports the objectives of Clause 16 by proposing a zone that encourages residential land use on under-utilised urban land.
- Clause 16.01-1S (Integrated Housing). The proposed amendment will ensure that integrated housing is achieved through increasing the supply of housing in existing urban areas and controlling the appropriate quantity, quality and type of housing through the application of a Development Plan Overlay.
- Clause 16.01-1R (Integrated Housing – Metropolitan Melbourne). The Development Plan that will be prepared following approval of the proposed amendment will provide greater certainty about the scale of growth through various controls that will allow a balance between the need for urban growth and the need to protect valued areas.
- Clause 16.01-2S (Location of Residential Development). The proposed amendment will meet the objectives of this clause through facilitating the location of new housing in an underutilised urban area with good access to jobs, services and transport.
- Clause 16.01-2R (Housing opportunity areas – Metropolitan Melbourne). The proposed amendment seeks to capitalise on an opportunity to develop housing, in line with Clause 16.01-2R by proposing a residential zone in an area that is primed for urban renewal due to its underutilisation as an industrial precinct.
- Clause 16.01-3S (Housing Diversity). The proposed amendment will provide the opportunity to improve Whittlesea's stock of diverse housing types through the application of a Development Plan Overlay which will require a Housing Diversity Report to inform the preparation of a future Development Plan.
- Clause 16.01-4S (Housing Affordability). Housing affordability and the promotion of a mix of private and affordable housing has the potential to be realised following rezoning of the land and application of the DPO.

Melbourne Industrial and Commercial Land Use Plan (MICALUP)

MICALUP 'puts in place a planning framework that will enable state and local government to more effectively plan for future employment and industry needs, and better inform strategic directions.'

The plan identifies the site as a 'local industrial precinct' and states that 'Councils are best placed to determine how these industrial areas are to be planned for. This could include identifying when industrial land should be retained, when it could transition to other employment generating uses, or if it is no longer required, when it could transition to other mixed-use or non-employment focussed uses.'

The Thomastown Industrial Area Plan is a strategic plan adopted by Council which identifies the site as an opportunity area including for residential development. This reflects the location and context of the site which is not supportive of the site being developed for industrial purposes.

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

The amendment supports and implements the following local sections Planning Policy Framework:

No.	Clause	Proposal response
11.01-1L	Settlement – City of Whittlesea	The proposed amendment will meet the objectives of managing growth in established suburbs. It will facilitate the eventual development of diverse housing types to meet the needs of the local community and reflect demographic changes and trends; the amendment will include a Development Plan Overlay to facilitate this outcome.
12.01-1L	Protection of biodiversity	Clause 12.01-1L identifies creek valleys such as the Darebin Creek as significant environmental assets within the City of Whittlesea. The proposed planning amendment application recognises the creek’s significance and responds to the Council objective to protect environmental assets and landscape values.
15.01-1L	Urban design in the City of Whittlesea	<p>Clause 15.01-1L recognises Council’s aspirations to continue to provide high quality urban areas which add value to the community. The following relevant strategies include:</p> <ul style="list-style-type: none"> • <i>To support built form outcomes that create a connection to places and the community;</i> • <i>To enhance the landscape values by retaining identified natural features in developments.</i> <p>The proposed amendment will seek to meet these objectives by proposing the future residential development in an area already connected by services and amenities, supporting connectivity to the surrounding areas, and integrating the development with the Darebin Creek Environs.</p>
16.01-1L	Integrated housing	This clause outlines the need to provide a diverse range of housing opportunities to address all members of the community, including through support for the provision of social housing in established areas. The amendment will positively respond to this strategy by providing 5% of the total dwellings as social housing.
16.01-1L	Housing supply in established areas	The proposed amendment will meet the objectives of managing growth in established suburbs. It will facilitate the eventual development of diverse housing types to meet the needs of the local community and reflect demographic changes and trends; the amendment will include a Development Plan Overlay to facilitate this outcome.
16.01-2L	Housing affordability	<p>This policy seeks to <i>deliver more affordable housing closer to jobs, transport and services</i>, with strategies including to increase housing choice in tenure, type and cost and encouraging a portion of new development to be affordable to households on very low to moderate incomes.</p> <p>The proposed amendment positively responds to this policy by facilitating an agreement for the provision of social and affordable housing on the site.</p>
15.03-1L	Heritage conservation in Whittlesea	The proposed amendment will not affect areas of cultural heritage significance. Notwithstanding, the amendment will facilitate the eventual development of the site for dwellings which may impact on areas of potential cultural heritage sensitivity in proximity to Darebin Creek. The proposed amendment mitigates this through maintaining the Urban Flood Zone, though with more up-to-date boundaries, (no development will occur in this

		area). In addition, future development resulting from this amendment will likely require a Cultural Heritage Management Plan should it be required under the <i>Aboriginal Heritage Act 2006</i> .
12.01-1L	River Red Gum Protection	Any future subdivision and development proposed at the site will require consideration of River Red Gums in accordance with this policy.

How does the amendment support or implement the Municipal Planning Strategy?

The City of Whittlesea’s Municipal Planning Strategy (MPS) is outlined at Clause 02. This rezoning responds to the MPS by implementing the strategies set out within this Clause.

Supporting the Vision at 02.02, the proposed rezoning seeks to locate new housing in a location accessible by a variety of transport modes, promoting sustainable living and health and wellbeing. It also aims to enhance the attractiveness of the municipality as a residential destination and as a place to connect people.

The amendment responds to the key Strategic Directions at Clause 02.03 and Strategic Framework Plans at 02.04 as follows:

As detailed within section 6.5, the amendment will provide for the ongoing protection of key environmental assets on the site. Specifically, these are the Darebin Creek Environs (identified as a Key Habitat Link at 02.04-3), home to Growling Grass Frogs, and the kangaroo habitat in the former quarry area. These will be managed through the Development Plan Overlay, which will include a requirement that a Kangaroo Management Plan be prepared.

- The proposed amendment retains local environmental features and integrates them into a proposed new residential development, allowing for new residential development that respects its context and is environmentally sustainable.
- The rezoning will allow for attractive, well-designed urban elements that contribute to the City’s image and integrate local features and natural characteristics into their design. New spaces will be made possible that encourage recreation and social interaction.
- Further, the amendment will contribute to improved landscape character resulting from requirements for tree planting in the GRZ and DPO Schedules.
- The amendment responds to the demand for new residential development within established suburbs. The proposed General Residential Zone will facilitate the eventual development of diverse housing types to meet the needs of the local community and reflect demographic changes and trends; the amendment will include a Development Plan Overlay to facilitate this outcome.

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

The amendment makes proper use of the Victoria Planning Provisions. It seeks to rezone land which is currently zoned for industrial purposes to a zone that will facilitate future redevelopment of the land for residential uses.

The Urban Flood Zone and LSIO along Darebin Creek will remain, to maintain and protect with the Darebin Creek Corridor. The LSIO will be amended to reflect updated flood mapping prepared by Melbourne Water.

The use of the Development Plan Overlay will assist to create a co-ordinated development outcome, manage site interfaces with adjoining land and road networks, and allow for the integration of the landscaping features and water bodies into future development within the site.

In compliance with Ministerial Direction 1, an Environmental Audit is currently underway and will be completed prior to the adoption of the Amendment.

The following Planning Practice Notes have been considered during the preparation of this Amendment:

Planning Practice note 12 – Applying the flood provisions in the planning scheme

The Urban Flood Zone (UFZ) is to be retained along the Darebin Creek Corridor.

The Land Subject to Inundation Overlay (LSIO) is proposed to be retained. The LSIO mapping is to be

amended as per updated flood mapping prepared by Melbourne Water. The application of the new mapping is consistent with this practice note.

Planning Practice note 23 – Applying the Incorporated Plan and Development Plan Overlay

The Development Plan Overlay is the appropriate tool to require a future Development Plan to be prepared to co-ordinate and guide the future use and development of the site.

Planning Practice note 30 – Potentially contaminated land

The site has undergone an Environmental Audit finding a relatively low concentration of soil, groundwater and gas contaminants. It determined that site can be made safe for residential uses. The Statement of Environmental Audit contains a number of conditions to be met during development to make the site safe for residential use. This includes the installation of a gas mitigation system.

Planning Practice Note 46 – Strategic Assessment Guidelines

This practice note has been considered during the preparation of this explanatory report.

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

The proposed amendment was referred to the EPA for advice and a response was provided in August 2019 highlighting the various pathways for dealing with contaminated land. The amendment responds to this advice by completing a statutory environmental audit prior to the amendment being adopted for approval by Council. The views of the EPA are also reflected in the draft planning controls including the proposed schedule to the Development Plan Overlay. Further engagement was conducted with the EPA in early 2022 as part of preparing and reviewing the amendment documents.

Early engagement has also occurred with Melbourne Water in respect to the updated flood mapping for the Darebin Creek.

The views of relevant agencies will be considered as part of the public exhibition process of the amendment. Agencies including, EPA, Melbourne Water, VicRoads, the Department of Energy, Environment and Climate Action, and the Department of Transport and Planning will be notified and consulted as part of this process.

Further consultation will occur with agencies during the preparation of the Development Plan for the land in accordance with the Development Plan Overlay proposed to be introduced through this amendment.

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

The amendment addresses the relevant requirements of the *Transport Integration Act 2010*. The Amendment is not likely to have a significant impact on the transport system. Traffic impact potential of the proposed change in zoning (to residential) is considered comparable to the traffic impact potential of the existing zoning (industrial). The anticipated traffic generation and distribution is anticipated to result in upgrades to the access intersections on McKimmies Road. The rezoning is not anticipated to have a detrimental impact on the surrounding road network. As part of the exhibition of the amendment, the Department of Transport and Planning will have an opportunity to review the proposed amendment and provide a submission.

No Statements of Policy Principles have been issued under section 22 of the Act.

Resource and administrative costs

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

This amendment will not have unreasonable impact on the resource and administrative costs of the Whittlesea City Council.

The consideration of a future Development Plan and lodgement of future planning permit applications will need to be accompanied by the fees prescribed in the *Planning and Environment (fees) Regulations 2006*.

ATTACHMENT A – Land to which the amendment applies



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Planning and Environment Act 1987

WHITTLESEA PLANNING SCHEME

AMENDMENT C269wsea

INSTRUCTION SHEET

The planning authority for this amendment is the Whittlesea City Council.

The Whittlesea Planning Scheme is amended as follows:

Planning Scheme Maps

The Planning Scheme Maps are amended by a total of three (3) attached maps.

Zoning Maps

1. Amend Planning Scheme Map No.21 in the manner shown on the one (1) attached map marked "Whittlesea Planning Scheme, Amendment C269wsea Map 21 Exhibition".

Overlay Maps

2. Amend Planning Scheme Map No.21DPO Development Plan in the manner shown on the attached map marked "Whittlesea Planning Scheme, Amendment C269wsea Map 21DPO Exhibition".
3. Amend Planning Scheme Map No.21LSIO Land Subject to inundation Overlay in the manner shown on the attached map marked "Whittlesea Planning Scheme, Amendment C269wsea Map 21LSIO Exhibition".

Planning Scheme Ordinance

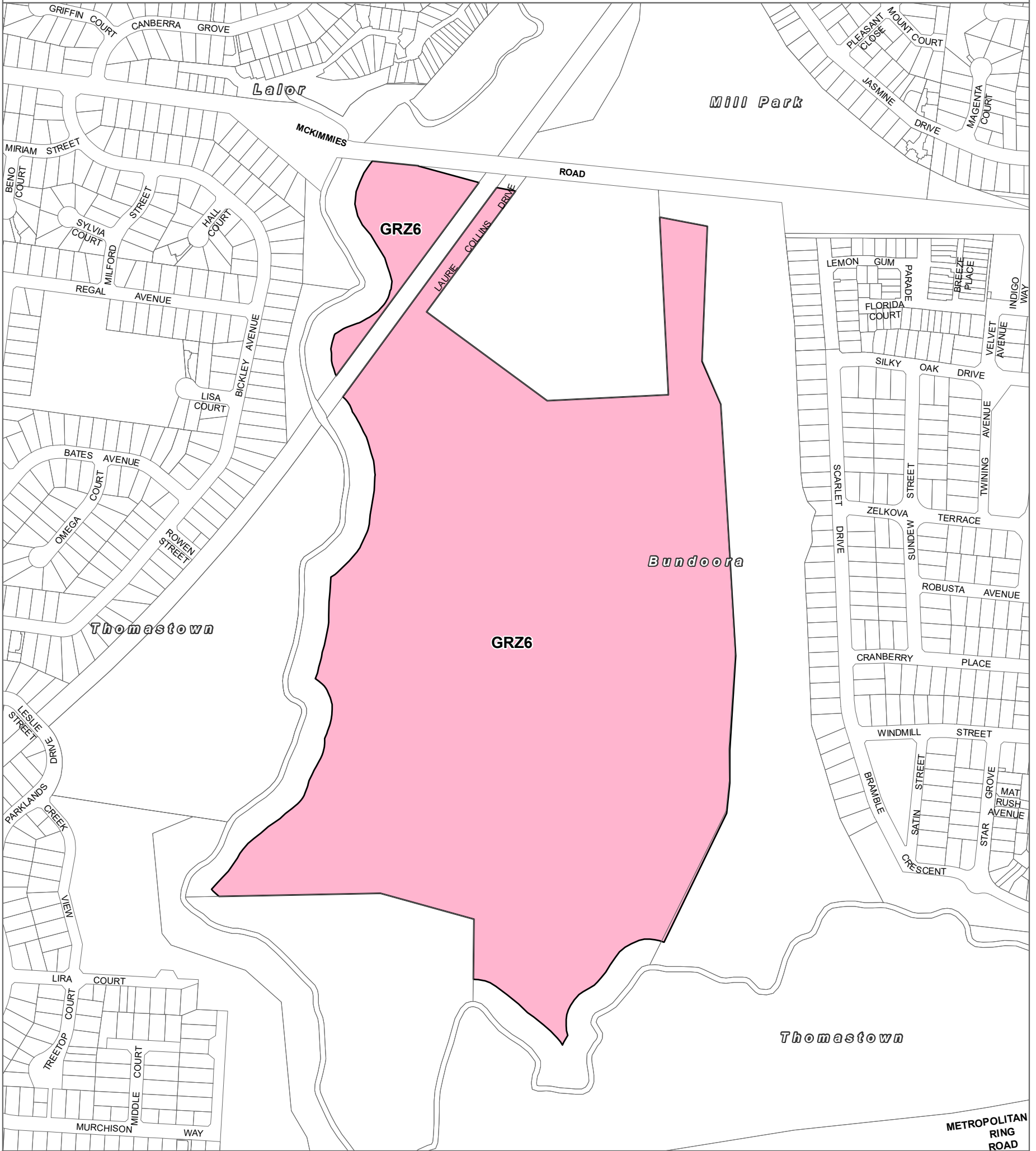
The Planning Scheme Ordinance is amended as follows:

4. In **Purpose and Vision** – replace Clause 02.04 with a new Clause 02.04 in the form of the attached document.
5. In **Zones** – Clause 32.08, insert a new Schedule 6 in the form of the attached document.
6. In **Overlays** – Clause 43.04, insert a new Schedule 40 in the form of the attached document.

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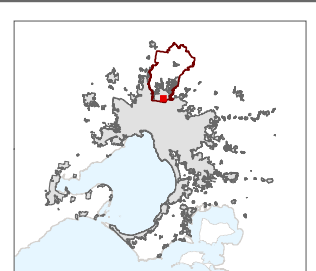
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WHITTLESEA PLANNING SCHEME - LOCAL PROVISION AMENDMENT C269wsea



LEGEND

- GRZ - General Residential Zone
- Local Government Area



Part of Planning Scheme Map 21

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Planning Group
Print Date: 30/11/2022
Amendment Version: 1

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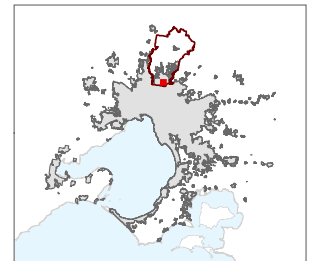


WHITTLESEA PLANNING SCHEME - LOCAL PROVISION AMENDMENT C269wsea



LEGEND

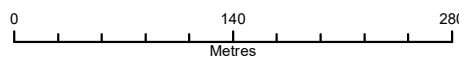
- DPO40 - Development Plan Overlay - Schedule 40
- Local Government Area



Part of Planning Scheme Map 21DPO

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Amendment Version: 1



Environment,
Land, Water
and Planning

WHITTLESEA PLANNING SCHEME - LOCAL PROVISION
AMENDMENT C269wsea



LEGEND
 ■ LSIO - Land Subject to Inundation Overlay
 ■ Local Government Area

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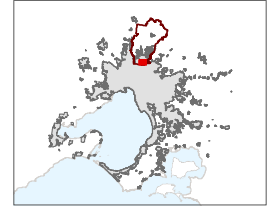
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 Print Date: 19/12/2022
 Amendment Version: 2

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Part of Planning Scheme Map 21LSIO



WHITTLESEA PLANNING SCHEME

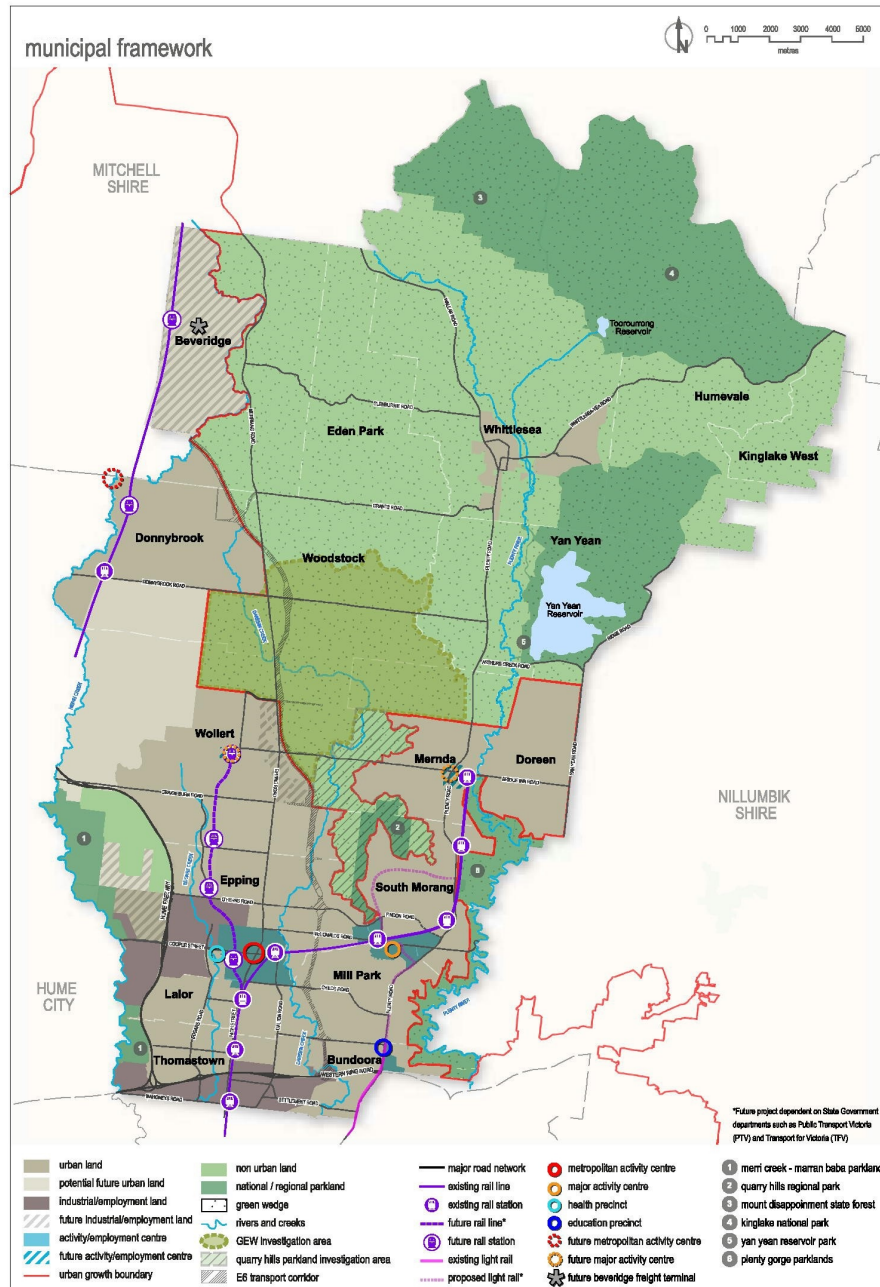
02.04 STRATEGIC FRAMEWORK PLANS

18/12/2020
C250wsea

The plans contained in Clause 02.04 are to be read in conjunction with the strategic directions in Clause 02.03.

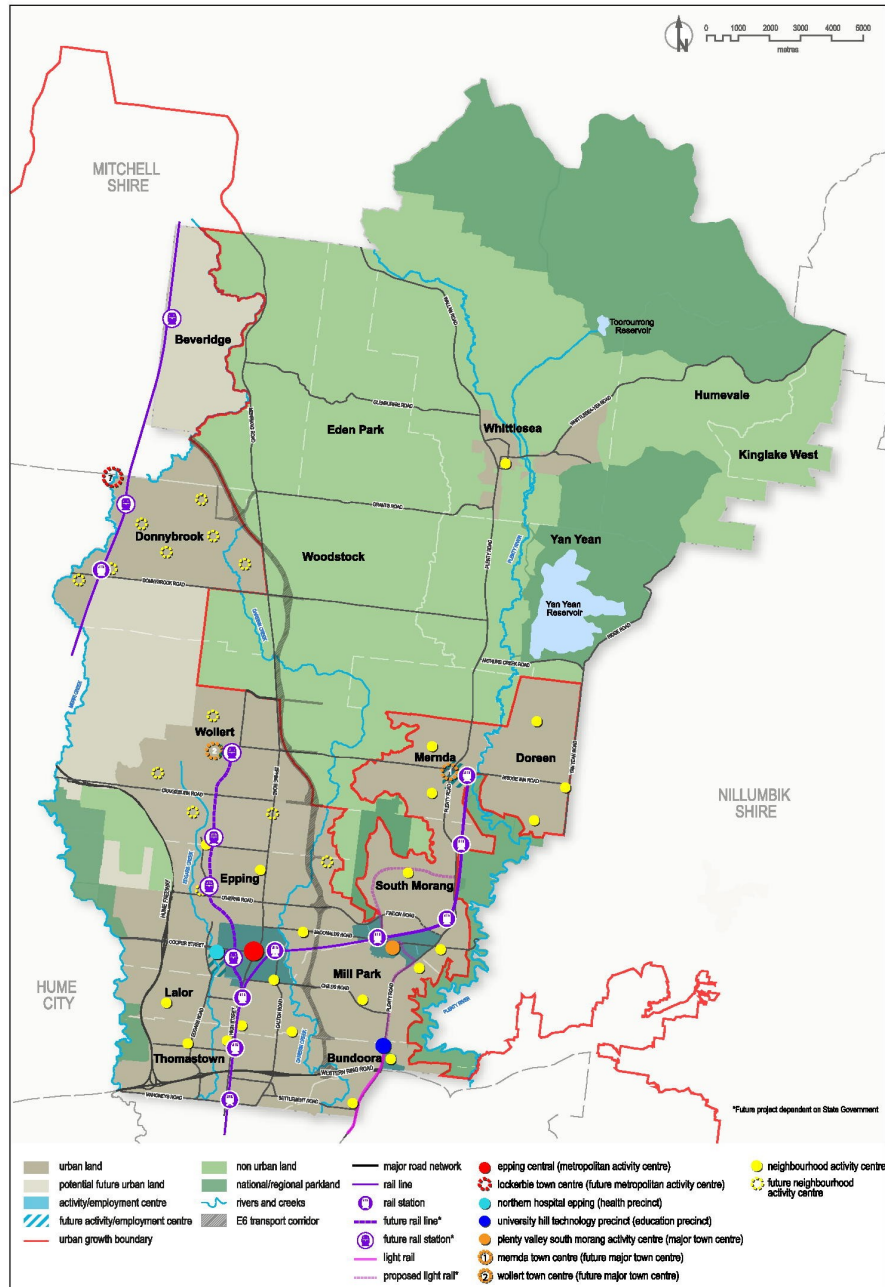
02.04-1 Municipal framework plan

Proposed C269wsea



WHITTLESEA PLANNING SCHEME

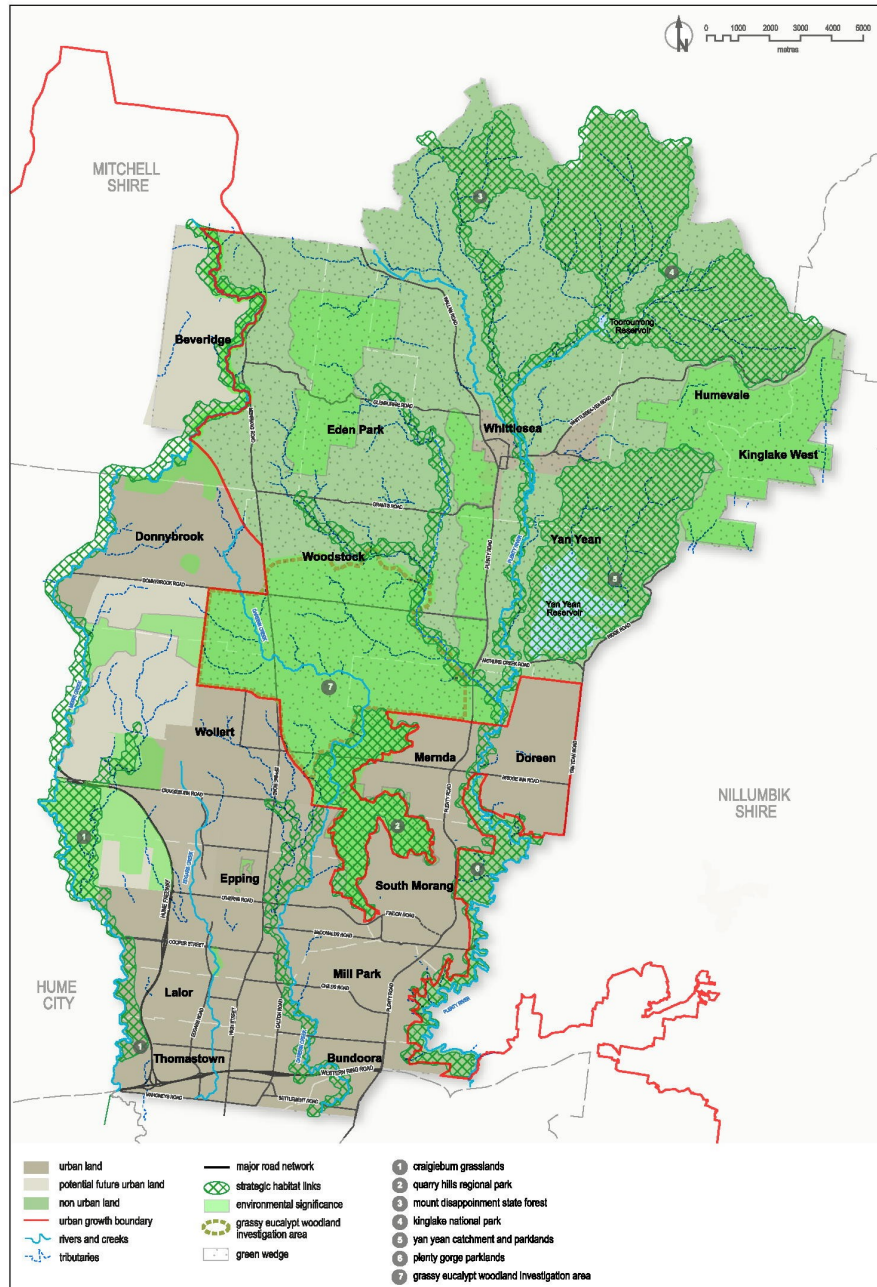
02.04-2 Activity centres plan
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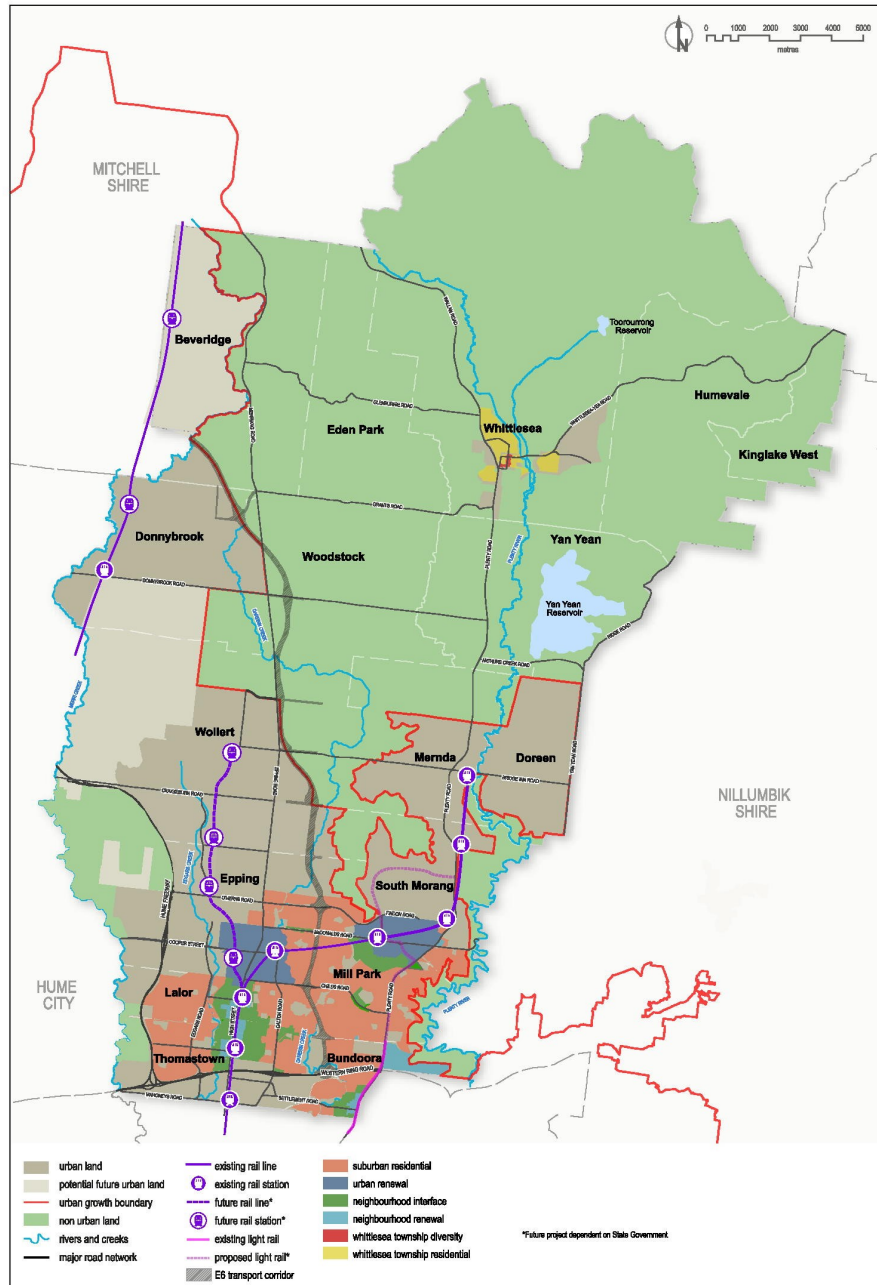
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Environmental and landscape values plan



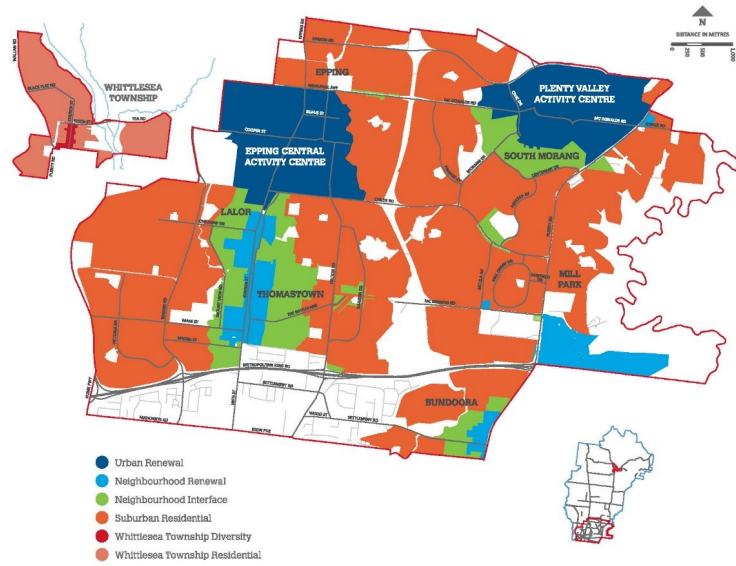
WHITTLESEA PLANNING SCHEME

02.04-4 Housing change areas plan
18/12/2020
C250wsea



WHITTLESEA PLANNING SCHEME

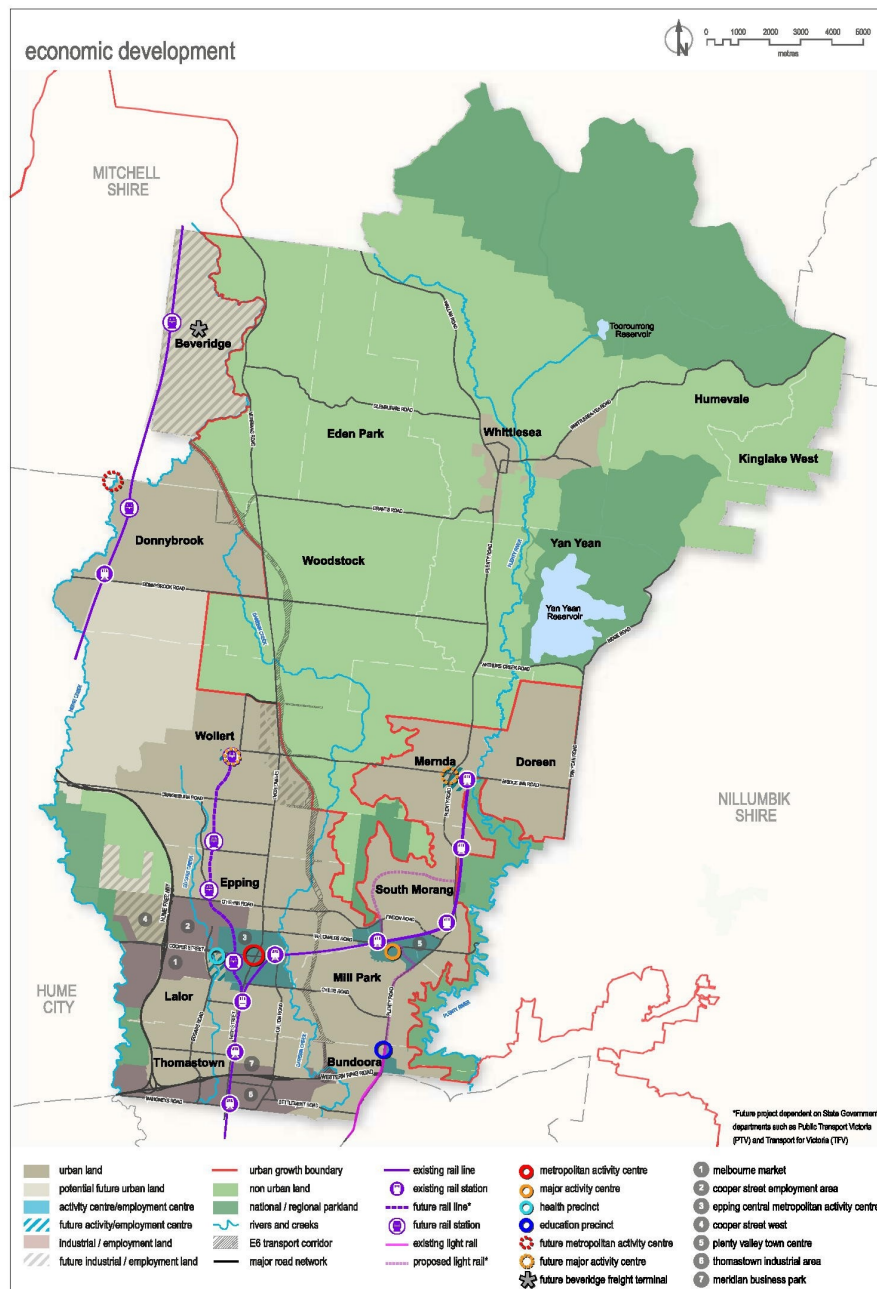
02.04-5 **Housing change areas detail plan**
18/12/2020
C250wsea



WHITTLESEA PLANNING SCHEME

02.04-6 Economic development plan

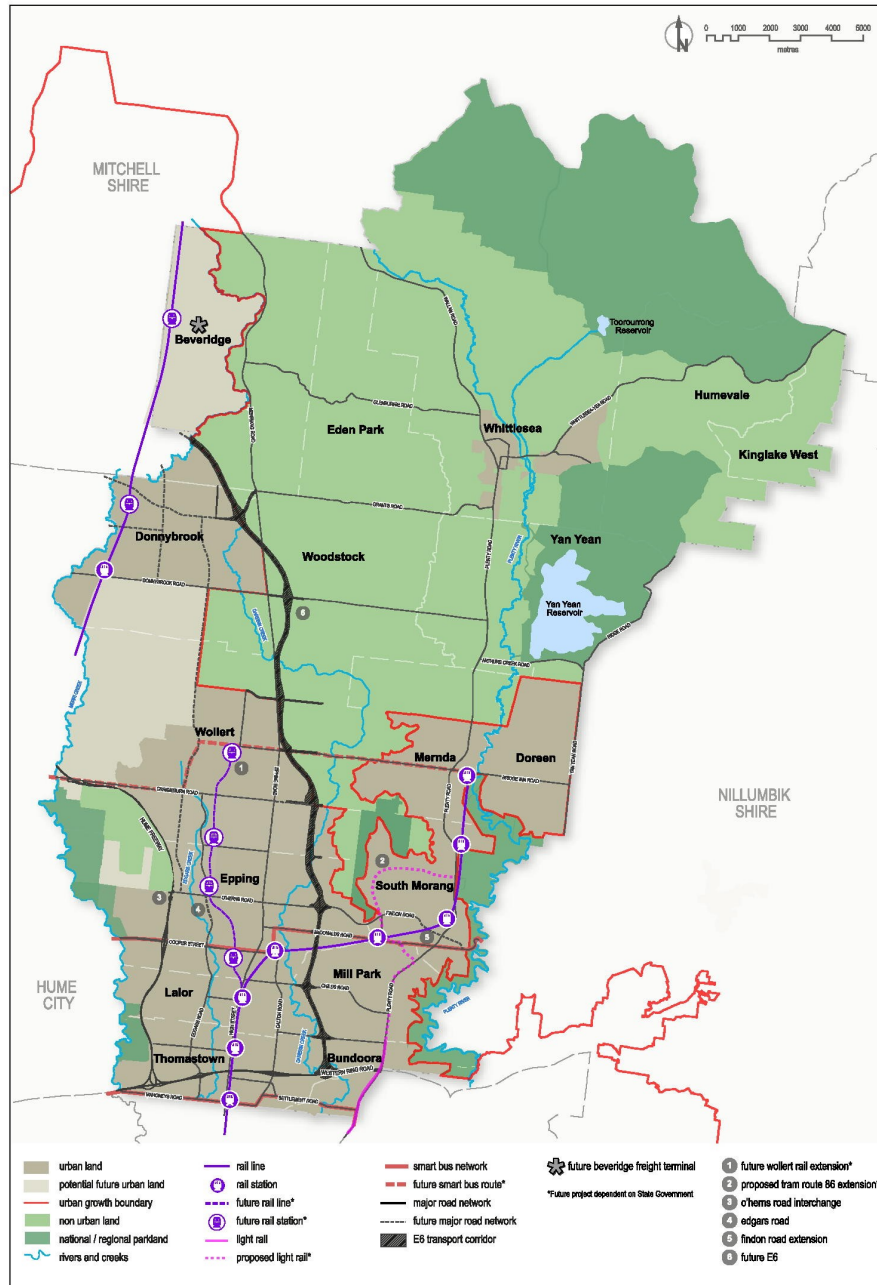
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02.04-7
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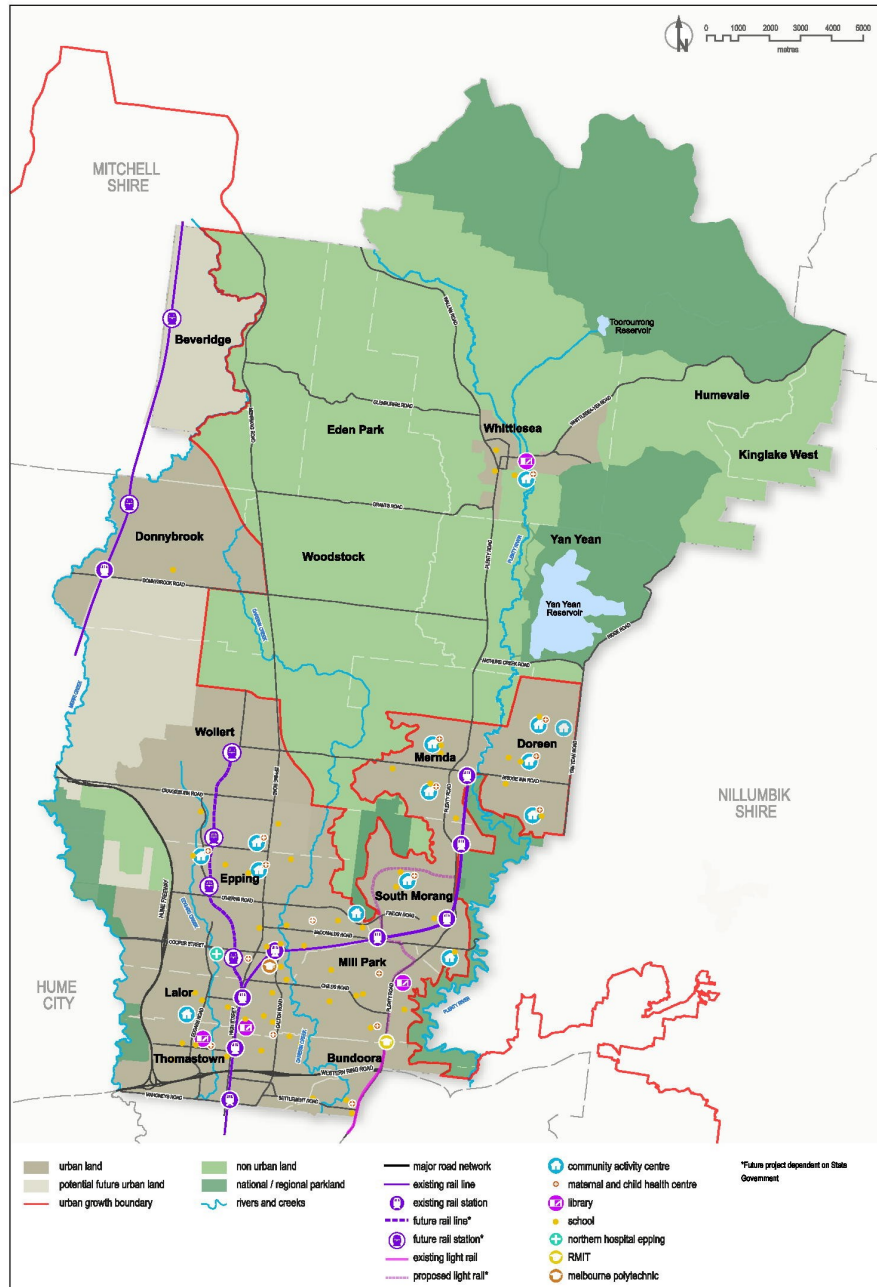
Integrated transport plan



WHITTLESEA PLANNING SCHEME

02.04-8
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C250wsea

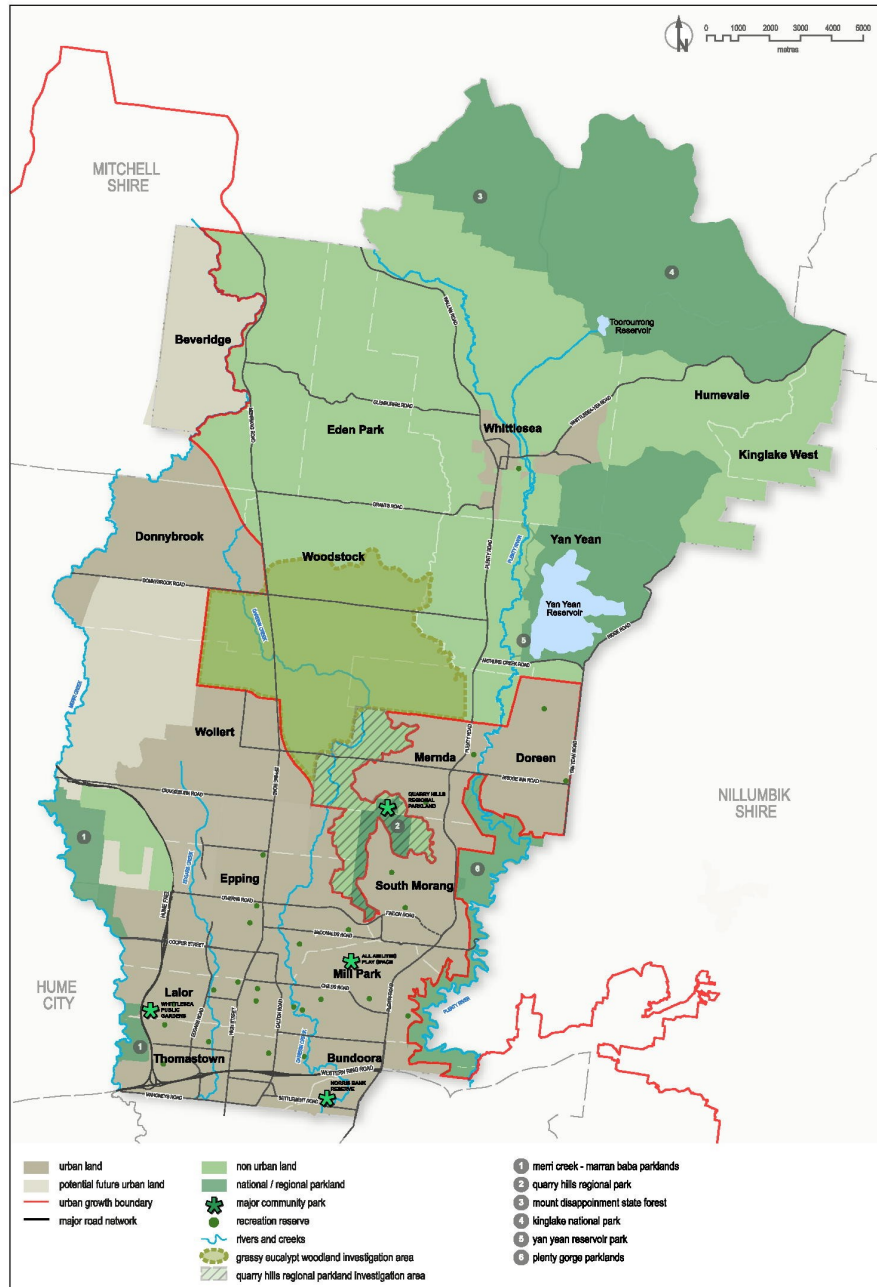
Community uses plan



WHITTLESEA PLANNING SCHEME

02.04-9
18/12/2020
C250wsea

Open space plan



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Proposed C269wsea

SCHEDULE 6 TO CLAUSE 32.08 GENERAL RESIDENTIAL ZONE

Shown on the planning scheme map as **GRZ6**.

MCKIMMIES ROAD RENEWAL SITE

1.0 Neighbourhood character objectives

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Proposed C269wsea

To contribute to housing diversity in the locality, including opportunities for increased densities, affordable housing and social housing provision.

To complement landscape character in the public realm by providing opportunities for canopy tree planting in private lots.

To encourage functional secluded private open space generally at the rear of dwellings through its orientation and design.

2.0 Construction or extension of a dwelling or residential building - minimum garden area requirement

---/---/---
Proposed C269wsea

3.0 Permit requirement for the construction or extension of one dwelling or a fence associated with a dwelling on a lot

---/---/---
Proposed C269wsea

Is a permit required to construct or extend one dwelling on a lot of between 300 and 500 square metres?

No

Is a permit required to construct or extend a front fence within 3 metres of a street associated with a dwelling on a lot of between 300 and 500 square metres?

No

4.0 Requirements of Clause 54 and Clause 55

---/---/---
Proposed C269wsea

	Standard	Requirement
Minimum street setback	A3 and B6	For rear loaded Lots, building walls are to be set back 3m from streets (except where fronting a paper road or open space reserve which would allow the setback to be reduced by up to 1 metre) with encroachment up to 1.5 metres for eaves, roofs, porch and blade walls permitted. For Lots under 300 square metres and front loaded, building walls to be set back 2m from streets with encroachment up to 1 metre for eaves, roofs, porch and blade walls permitted. Garage setback to be a minimum of 0.5 metres behind building wall line. For all other Lots, street setback requirements as specified in Standards A3 and B6 continue to apply.
Site coverage	A5 and B8	None specified
Permeability	A6 and B9	None specified
Landscaping	B13	For Lots greater than 300 square metres, provide one canopy tree in either the front or rear setback. Each canopy tree must achieve a minimum 6 metres mature height and be accommodated in a pervious area of at least 4 metres by 4 metres that does not contain buildings, driveways or car parking.
Side and rear setbacks	A10 and B17	None specified
Walls on boundaries	A11 and B18	None specified

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	Standard	Requirement
Private open space	A17	None specified
	B28	An area of 40 square metres with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 4 metres and convenient access from a living room, or A balcony of 12 square metres with a minimum width of 2.4 metres and convenient access from a living room, or A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.
Front fence height	A20 and B32	None specified

5.0 Maximum building height requirement for a dwelling or residential building

Proposed C269wsea None specified

6.0 Application requirements

Proposed C269wsea The following application requirements apply to an application for a permit under Clause 32.08, in addition to those specified in Clause 32.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- Applications for developments of two or more dwellings on a lot must include a Landscape Plan to demonstrate compliance with the relevant requirements of Clause 4.0 of this schedule.
- An application to subdivide land that would create a vacant lot greater than 300 square metres capable of development for a single dwelling or residential building (not including sites designated as medium density housing), must ensure that each vacant lot can provide one canopy tree in either the front or rear setback. Each canopy tree must achieve a minimum 6 metre mature height and be accommodated in a pervious area of at least 4 metres by 4 metres that does not contain buildings, driveways or car parking. This area is to be secured via a restriction on the plan of subdivision submitted for certification. This could be in the form of a text notation or an alternate restriction, to the satisfaction of the responsible authority.

7.0 Decision guidelines

Proposed C269wsea None specified

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SCHEDULE 40 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO40**

MCKIMMIES ROAD RENEWAL SITE**1.0 Objectives**

To safely manage remediated land and guide the orderly use and development of the land for residential purposes at an appropriate density and amenity, including a diversity of housing.

To provide for safe and efficient traffic, pedestrian and cycling networks that integrate with the adjoining areas.

To enhance the Darebin Creek environs, protect significant environmental features and deliver increased tree canopy coverage across the site.

To ensure the timely delivery of infrastructure, including roads, drainage, open space and links to adjoining open space.

To provide appropriate interface treatments to the bus depot at 121 McKimmies Road (the Depot), the Darebin Creek, and existing residential development in proximity to the site.

2.0 Requirement before a permit is granted

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority for the following:

- Temporary land uses and buildings and works.
- Any buildings and works associated with the remediation of the site in accordance with or for the purpose of meeting the conditions of the *Statement of Environmental Audit* issued under the *Environment Protection Act 2017*.
- Completion of the filling of the disused quarry and related works.
- Display of advertising signs.
- Create lots no less than 10,000 square metres in area.
- Removal, variation or creation of easements, restrictions or reserves.
- Removal of vegetation.
- Site offices or display home centres.
- Rehabilitation and protection of the Darebin Creek environs.
- Works associated with a minor utility installation or any other service infrastructure works.
- Construction of noise barriers.

An application for a planning permit before a Development Plan is approved must be accompanied by a report demonstrating the granting of a permit will not prejudice or conflict with:

- The long-term future use and development of the site.
- The preparation or approval of a Development Plan.
- Conditions of any Statement of Environmental Audit.

A planning permit issued prior to the approval of a Development Plan must be consistent with

- The conditions of the Statement of Environmental Audit.

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3.0 Conditions and requirements for permits▪ **Conditions**

The following conditions must be included in any permit, as appropriate, except where any of the matters referred to below have been previously satisfied:

Affordable housing

A condition that requires the owner to enter into an agreement or agreements under section 173 of the *Planning and Environment Act 1987* which must be registered on the title and make provision for the following:

- An arrangement with one or more Participating Registered Agencies for the provision of affordable housing within the meaning of that agency's remit to the satisfaction of the responsible authority.
- Provide:
 - 15 percent of the total number of dwellings as affordable housing including 5 percent as social housing, or
 - arrangements to provide affordable housing to the satisfaction of the responsible authority.
- The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including reasonable costs borne by the responsible authority.

Geotechnical works and Council Infrastructure

A condition that requires the owner to provide evidence that any Council Infrastructure has been designed to accommodate the maximum anticipated ground movement established in the geotechnical remediation design and any adjustments based on actual settlement monitoring during and after the geotechnical remediation works.

A planning permit for subdivision may include a condition that requires the owner to enter into an agreement or agreements under section 173 of the *Planning and Environment Act 1987* which:

- indemnifies Council against third party claims related to negligence in respect to the geo-technical works undertaken on the site.
- if required by the Responsible Authority, provides for a specified bond and/or a specified extended maintenance or repair of defects period for Council Infrastructure on filled land related to geotechnical failure from settlement, for a specified period of time.
- notifies purchasers of land and successive purchaser of the nature of ground conditions including filling.

The section 173 agreement must be executed and registered on the title of the relevant land prior to certification of the plan of subdivision. The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority. The agreement may provide for the agreement to be ended and removed from the title upon the grant of a statement of compliance issued in respect to lots created for the purposes of construction of a dwelling or dwellings.

Acoustic attenuation measures

A condition that requires the owner to enter into an agreement under section 173 of the *Planning and Environment Act 1987* or other legal mechanism which secures acoustic attenuation measures recommended in the Acoustic Assessment prepared pursuant to the

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requirement at Clause 4.0 (Requirements for Development Plan) of this schedule. Where the Acoustic Assessment recommends reliance on built form to provide acoustic shielding to achieve the Noise Criteria as set out in this schedule at any particular part of the land, the agreement must provide that the built form must be constructed prior to the occupation of any part of such land.

The section 173 agreement must be executed and registered on the title of the relevant land prior to certification of the plan of subdivision. The applicant must meet all costs associated with drafting and execution of the agreement, including those incurred by the responsible authority.

Plans to be endorsed

Conditions requiring the following plans to be endorsed prior to the commencement of the construction of buildings or the construction or carrying out of works, or the land use as appropriate:

- Waste Management Plan.
- Stormwater Management and Drainage Plan.
- Site Environmental Management Plan/s (including any Construction Environmental Management Plan or similar plan required by an environmental audit statement).

Geotechnical

A condition that requires, before the approval of engineering construction plans and the certification of the relevant plan of subdivision for each stage, a geotechnical statement prepared by a suitably qualified geotechnical engineer must be prepared to the satisfaction of the responsible authority. The statement is to include:

- An overview of the geotechnical remediation works completed.
- A record of the measured settlement.
- Reconciliation of the measured settlement to behaviour modelled in the Geotechnical Design Report.
- Address any instances where the measured settlement is outside expected parameters and provide detailed mitigation / design solutions.

A plan of the Stage showing zones of different predicted future settlement behaviour and noting where the geotechnical statement identifies a difference between the measured settlement and the behaviour modelled. If there are any such areas, it should be accompanied by a written peer review statement from a suitably qualified and independent geotechnical engineer which is to the satisfaction of the responsible authority.

4.0 Requirements for development plan

A development plan must include the following requirements and must be in accordance with the Framework Plan at Figure 1.

Only one development plan may be prepared and approved for the entire area covered by this schedule.

A **Site Analysis Plan** that includes:

- Site shape, size, orientation of the site and existing easements.
- Topographical features.
- Existing environmental features including waterways and vegetation.

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- The general location and built form of existing buildings on the site and surrounding properties.
- The environmental features and use of surrounding land including alignment of the future E6 road corridor.
- Key interfaces to McKimmies Road, Darebin Creek to the west and south, residential areas to the east and the bus depot at 121 McKimmies Rd to the north.
- Key views to and from the site.
- Street frontage details including crossovers, streetscape treatments, and intersections.
- The location of existing public transport services and public open spaces within walking distance.
- The existing and proposed local road network.
- Existing local services, facilities and infrastructure in the immediate vicinity of the site.

A **Concept Plan** that includes:

- The waterway corridor reserve along the Darebin Creek.
- Details of the proposed land uses consistent with zoning of the site.
- A breakdown of land uses/precincts including standard density only precinct and potential location for social housing.
- Retention of native vegetation in open space, conservation reserves or tree reserves including mature River Red Gums as recommended in the Flora and fauna assessment.
- The identification of the Bus Depot Interface Areas indicated in the Framework Plan at Figure 1 of this schedule, and a response to any recommendation(s) of the approved Acoustic Assessment, Light Spill Assessment and/or Air Quality Assessment under this clause.
- The identification of amenity interface areas and responses, including those associated with the land uses in the vicinity of the site such as the existing bus depot and existing and future major roads.
- A response to the interface with the Darebin Creek. The interface response to Darebin Creek corridor must provide for high amenity and accessibility and consider public safety. The type of interface (i.e. street frontage or paper road) is to respond to the adjoining housing typology.
- The size and location of encumbered and unencumbered open space, including the identification of any conservation and heritage areas.
- Key infrastructure elements including access, transport connections, pedestrian/cycle and vehicle links.
- Details of the proposed pedestrian and cycle connection through the site to the Thomastown East Recreation Reserve over the Darebin Creek.
- Retention of vehicular access to the Yarra Valley Water site (149A McKimmies Road) and 121 McKimmies Road.
- The location of any Integrated Water Management infrastructure.
- A response to the recommendations and outcomes of other plans prepared in accordance with this schedule

A Precinct **Infrastructure Plan** that includes:

- The location of existing infrastructure and services including their capacity.
- An assessment of any future infrastructure and services upgrades required to support the proposed future development of the site.
- An assessment of community and recreation infrastructure required to support the anticipated residential population.

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- A staging plan for the delivery of site infrastructure and mechanisms for how staging is intended to occur and milestones for completion and delivery of infrastructure and land projects.
- The location and scope of infrastructure and land projects.
- The timing and conditions for transfer of open space and conservation land.

A Stormwater Management and Drainage Strategy that includes:

- Assessment of the pre and post development drainage conditions of the site.
- Assessment of impacts from flooding including impact on flood levels from the local drainage system.
- Water sensitive urban design principles, which provides for the protection of natural systems, integration of stormwater treatment into the landscape and protection of water quality.
- Stormwater quality and water sensitive urban design principles which limit the amount of impervious surfaces.
- A concept design response, including any proposed drainage reserve and / or infrastructure required to the satisfaction of Melbourne Water.
- Concept plan of proposed connections to the Darebin Creek.
- Consideration of natural systems, integration of stormwater treatment into the landscape and protection of water quality.
- Consideration and response to the habitat requirements for the Growling Grass Frog and any other threatened species which may inhabit or frequent the site.
- Requirements for future development including minimum floor heights with sufficient freeboard (which are to be minimum 600mm for habitable buildings and 300mm for non-habitable buildings except as approved by the responsible authority) above modelled flood levels.

An Open Space and Landscape Plan that includes:

- Details of the existing open space network in the adjacent and broader area and what opportunities there are for connection to those areas from the site.
- Identification of the location, features and embellishment of proposed parks, other publicly accessible open space areas and the pedestrian / cycle path network within the site.
- Identification of no less than 72,820 square metres as open space. The identified open space will comprise a combination of encumbered and unencumbered areas, including no less than 10,000 square metres of new unencumbered open space.
- Identification of encumbered open space along the Darebin Creek generally in accordance with the Framework Plan at Figure 1 that provides for a variable width waterway corridor which is at a minimum 30m from the top of the bank of the Darebin Creek, a minimum average width of 50m from top of the bank of the Darebin Creek and includes any other land encumbered by flooding, for conservation purposes or tree retention including mature River Red Gums.
- A scaled 'waterway corridor reserve' plan clearly showing the encumbered open space along Darebin Creek, environmental and cultural heritage features, the top of bank, interface treatments and any proposed embellishment including the location of shared paths and pedestrian/cycle crossing of the Darebin Creek.
- Location of all medium to very large trees and existing River Red Gums on the land (including dead trees). Identification of those trees to be retained and Tree Protection Zones (TPZs) in accordance with Council requirements for those trees nominated for retention..
- A tree canopy coverage plan which demonstrates a minimum 30 per cent coverage in the public realm and public open space (not including Darebin Creek waterway corridor or areas for conservation).

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- Retention of native vegetation In accordance with the Flora and Fauna Assessment prepared in accordance with this schedule.
- A preferred planting list for public and publicly accessible spaces, with consideration given to the suitability of planting within the Darebin Creek environs and the environmental and soil conditions of the site.
- Details of any cultural heritage features to be incorporated into open space areas.

A **Transport Strategy** which includes:

- A Traffic Impact Assessment Report detailing access and passage to the surrounding road network as well as within the development area.
- The Traffic Impact Assessment Report must include an assessment of the impacts of the proposed development on:
 - the function of the site access at Laurie Collins Drive; and
 - existing movements and site access from the bus depot at 121 McKimmies Road.

The assessment must make recommendations on mitigation measures to address the impacts, to the satisfaction of the Responsible Authority, including:

- The intersection treatment of the site access (Laurie Collins Drive and McKimmies Road) including a mitigating works package (intersection upgrade) which supports the total number of dwellings proposed and manages queues and delays at the intersection. The design of the intersection upgrade must have regard to AustRoads standards, identify the extent of additional land required outside the existing road reserves and be to the satisfaction of the responsible authority. If the design requires land outside of the existing road reserve, the land must be secured prior to commencement of the development to the satisfaction of the responsible authority.
- The timing for the delivery of the intersection upgrade at Laurie Collins Drive and McKimmies Road, which should include consideration of queues and delays on the southern approach of the intersection. The appropriate target for when the intersection upgrade should occur is occupation of 450 dwellings.
- A street network with a high degree of internal connectivity and permeability which ensures public transport and emergency services can be accessed within the development site.
- Location of proposed intersections and road upgrades.
- Indicative road cross sections.
- A proposed concept design and cross section, designed to AustRoads road design standard, for the reconstruction of Laurie Collins Drive which considers the access requirements of the adjoining bus depot at 121 McKimmies Road.
- The Laurie Collins Drive cross section adjacent to the bus depot at 121 McKimmies Road should comprise a 20m road reserve with 8 metre wide pavement and a footpath on one side
- A pedestrian and cycling movement plan, with a high degree of permeability and connectivity to the broader pedestrian and cycling network.
- Location of proposed pedestrian and cycle crossing/s of Darebin Creek.

An **Environmentally Sustainable Design Strategy** which:

- Sets out the energy efficiency and water conservation principles and requirements to guide the preparation of a Sustainability Management Plan to be applied to the design and construction of the development and buildings .

A **Flora and Fauna Assessment** which:

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- Provides for the management and protection of threatened species and ecological communities including any land required to be retained for conservation purposes.
- Has regard to existing ecological reports/plans for the site and Victoria's Guidelines for the removal, destruction or lopping of native vegetation or other legislative requirements relating to the removal of native vegetation and threatened species conservation.
- Must consider:
 - Scattered trees and patches of Riparian Woodland in the southern part of the site, adjacent to Darebin Creek.
 - Native vegetation including patches of Plains Grassy Woodland and scattered trees in areas prone to inundation.
 - Scattered trees or native vegetation patches within the Waterway Reserve under the development plan.
 - Any vegetation of high biodiversity or other value, including local biodiversity value.

An **Arborist Report** providing a survey prepared by a suitably qualified person, to the satisfaction of the responsible authority, of all existing trees on the site.

A **Kangaroo Management Plan** which includes

- Strategies to avoid land locking kangaroos, including staging of subdivision.
- Strategies to minimise animal and human welfare risks.
- Management and monitoring actions to sustainably manage a population of kangaroos within a suitable location.
- Actions to address the containment of kangaroos and to ensure adequate animal welfare.

A **Built Form Analysis Plan** that identifies:

- The range of preferred housing typologies, building heights and indicative lot densities across the site.
- A design response to any buildings interfacing with the Darebin Creek corridor, open space, and any significant biodiversity retained on site.
- Key interface responses for McKimmies Road, Darebin Creek to the west and south, the E6 corridor and residential areas to the east and the bus depot at 121 McKimmies Road to the north, including noise and light spill treatments.
- Design response and guidelines which delivers tree canopy coverage in the public realm and on private residential lots and provides for their longevity.
- Design guidelines required to guide lot densities, street layout, siting and orientation and built form to deliver high quality streetscapes and buildings.

A **Housing Diversity Report** which includes:

- The range of housing types, densities and sizes which responds to demographic needs.
- The expected housing population and dwelling yield including a breakdown of dwelling types
- The delivery of 15 per cent of the overall housing stock as affordable housing, including 5 per cent as social housing.
- Principles to ensure that the social/affordable housing dwellings are well designed, provide for a range of housing types and are integrated with the remainder of the development.

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- Guidelines to deliver accessible and adaptable housing at a rate of 5 per cent of the total number of dwellings across the site.

A **Geotechnical Design Report** outlining the proposed design response to geotechnical issues affecting the development plan area,

Statement of Environmental Audit implementation summary table prepared by a suitably qualified environmental consultant which includes a response as to how each condition of the Statement of Environmental Audit issued 6th January 2023 will be complied with and implemented as part of the development or subdivision of the site and future planning permit applications.

An **Acoustic Assessment** report for the Primary and Secondary Interface Area, prepared by a suitably qualified acoustic engineer or other suitably qualified person to the satisfaction of the responsible authority, which specifies how the following noise criteria (**Noise Criteria**) will be met, and requiring that development within the Primary Interface Area must achieve the following Noise Criteria, to the satisfaction of the responsible authority:

- Noise received in a noise sensitive area, as defined in regulation 4 of the Environment Protection Regulations 2021 (**Noise Sensitive Area**), from the Dyson bus depot, that complies with EPA Publication 1826-4 '*Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*'; and
- For noise inside a building which is a Noise Sensitive Area, the following noise levels assessed internally near the centre of habitable rooms with the doors and windows closed:
 - low frequency noise from Dyson bus depot in accordance with the low frequency thresholds outlined in EPA Publication 1996.
 - maximum airborne noise from the Dyson bus depot to not exceed 55 dB LAmax in bedrooms.

Where the report recommends to rely on built form to provide acoustic shielding to achieve the Noise Criteria at any particular part of the land within the Bus Depot Interface Area, that built form must be constructed prior to occupation of the Protected Land for residential purposes.

The Acoustic Assessment shall also provide a response to road traffic noise impacts as follows:

- That all dwellings are designed to comply with Vicroads publication: *Requirements of Developers – Noise Sensitive Uses* where traffic noise from the Western Ring Road is shown to exceed the prescribed external noise objective (63dBA, L10,18hr) on a residential lot.
- That all dwellings are designed to not exceed the following internal noise levels with windows and doors closed:
 - 35dB(A) Leq,8hr when measured within sleeping areas between 10pm and 6am; and
 - 40dB(A) Leq,16hr when measured within a living area between 6am and 10pm.

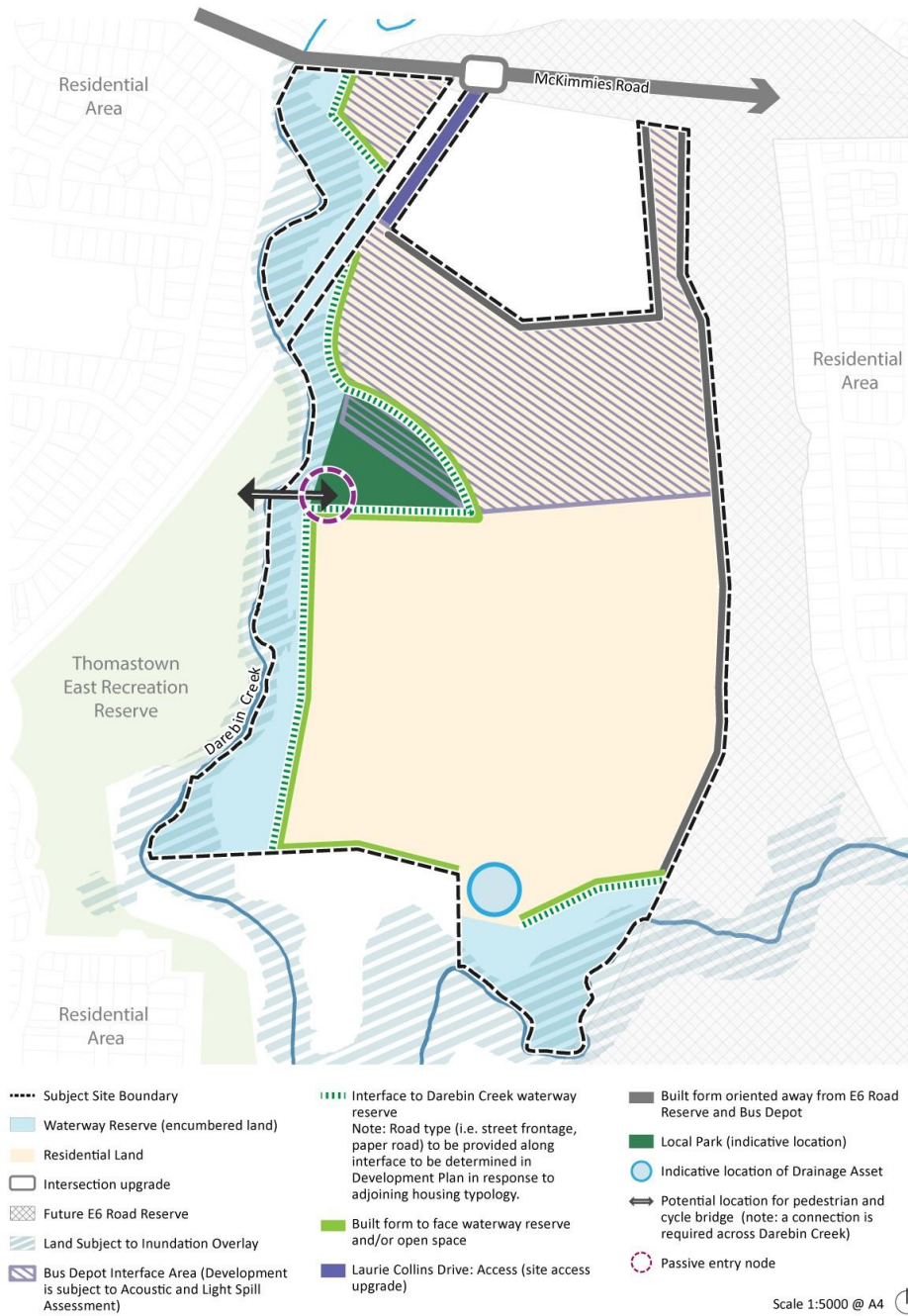
An **Air Quality Assessment** which assesses the potential impacts to air quality on sensitive uses located within 200m of the bus depot at 121 McKimmies Road, Bundoora concerning emissions from the bus depot a. The assessment should refer to and consider *Guidelines for assessing and minimising air pollution in Victoria* as appropriate.

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A **Light Spill Assessment** which assesses, the impact of lighting from existing uses on abutting land on that part of the site within 200m of the bus depot at 121 McKimmies Road, Bundoora and makes recommendations for any measures required to mitigate the impacts.

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Figure 1: Framework Plan



Planning Scheme Amendment process

Proponent-led amendments



Attachment 6: Summary of Panel Report Recommendations and Council Officer Response.

Panel Recommendation	Officer Response
1 Amend Development Plan overlay Schedule 40 to:	
Clause 1.0 Objectives and general drafting	
a) Make drafting changes to provisions that clarify and improve their operation	Partially Supported. Panel Recommended wording in DPO40 Schedule is generally supported except for: <ul style="list-style-type: none"> • Deletion of details outlining timing and cost liability for the S173 Agreement relating to the geotechnical works • Deletion of requirement for the Built Form Analysis Plan to include design guidelines • Retention of reference to Native Vegetation Assessment 149 McKimmies Road, Bundoora Report No. 20196.2 (1.1) (Nature Advisory, November 2021).
b) Revise objectives at Clause 1.0 and maintain no more than five objectives, consistent with the Ministerial Direction on the Form and Content of Planning Schemes	Supported. Deletion of objective in the Panel recommended DPO40 Schedule is accepted.
Clause 2.0 (Requirement before a permit is granted)	
c) Include a requirement to ensure any permits issued are consistent with the Statement of Environmental Audit	Supported. Amended wording in the Panel recommended DPO40 Schedule is accepted.
d) Enable a permit to subdivide land if each lot is no less than 10,000 square metres in area	Supported. Amended provision in the Panel recommended DPO40 Schedule is accepted.
Clause 3.0 (Conditions and requirements of permits)	
e) Delete requirement requiring the preparation of a section 173 agreement to secure obligations under the Statement of Environmental Audit	Supported. Deletion of requirement in the Panel recommended DPO40 Schedule is accepted.
Clause 4.0 Requirements for development plan	
f) Require the concept plan to be consistent with the conditions of the Statement of Environmental Audit	Supported. Amended wording of requirement in the Panel recommended DPO40 Schedule is accepted.
g) More clearly explain the matters that need to be considered when determining the final width of the waterway reserve	Supported. Amended wording and detail in the Panel recommended DPO40 Schedule is accepted.

h) Include requirements for the acoustic assessment which better respond to the interface between 121 and 149 McKimmies Road, Bundoora	Supported. Amended wording and detail in the Panel recommended DPO40 Schedule is accepted.
i) Revise the acoustic assessment to include requirements which better respond to offsite road noise	Supported. Amended wording and detail in the Panel recommended DPO40 Schedule is accepted.
j) Revise the air quality assessment requirements to refer only to the bus depot and apply to land within 200 metres of the depot	Supported. Amended wording and detail in the Panel recommended DPO40 Schedule is accepted.
k) Require a light spill assessment on land within 200 metres of the bus depot at 121 McKimmies Road, Bundoora, that recommends measures to mitigate any impact	Supported. Amended wording and detail in the Panel recommended DPO40 Schedule is accepted.
l) Revise the Transport Strategy requirements to add more direction for assessing impacts and designing and delivering intersection upgrade and other road works.	Generally supported. Additional wording has been added to make clear the Strategy must outline the additional land required for the Laurie Collins Drive and McKimmies Road intersection upgrade. Additional wording has been added to the Precinct Infrastructure Plan clause to require this plan to specify the trigger and mechanism for securing the land and delivering the intersection upgrade.
m) Revise the Transport Strategy requirements, including the Traffic Impact Assessment Report, to assess potential impacts on access at 121 and 149 McKimmies Road, Bundoora	Supported. Amended wording and detail in the Panel recommended DPO40 Schedule is accepted.
n) Specify that only 1 development plan may be prepared for the subject land	Supported. Amended detail in the Panel recommended DPO40 Schedule is accepted.
Figure 1 (Framework Plan)	
o) Show a wider waterway reserve (particularly in the south-western part of the subject land)	Supported. Panel recommended Framework plan at Figure 1 is adopted.
p) Reflect the wider waterway reserve width (particularly in the south-western part of the subject land) with a more generic line around the River Red Gums	Supported. Panel recommended Framework plan at Figure 1 is adopted.
2. If Whittlesea City Council has received formal written notice from the Proponent and the Dyson Group that this area has or will become in common ownership with 121 McKimmies Road, Bundoora (bus depot) and irrespective of other Panel recommendations:	Supported. However, Council officers have not received this formal written notice. Hatched area is to be rezoned as originally exhibited.
a) The hatched area in Figure 4 should not be rezoned from the Industrial 1 Zone	As above.

b) Amend Development Plan Overlay Schedule 40 to not reference this area of land	As above.
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INFORMATION REGARDING ENVIRONMENTAL AUDIT REPORTS

August 2007

VICTORIA'S AUDIT SYSTEM

An environmental audit system has operated in Victoria since 1989. The *Environment Protection Act 1970* (the Act) provides for the appointment by the Environment Protection Authority (EPA Victoria) of environmental auditors and the conduct of independent, high quality and rigorous environmental audits.

An environmental audit is an assessment of the condition of the environment, or the nature and extent of harm (or risk of harm) posed by an industrial process or activity, waste, substance or noise. Environmental audit reports are prepared by EPA-appointed environmental auditors who are highly qualified and skilled individuals.

Under the Act, the function of an environmental auditor is to conduct environmental audits and prepare environmental audit reports. Where an environmental audit is conducted to determine the condition of a site or its suitability for certain uses, an environmental auditor may issue either a certificate or statement of environmental audit.

A certificate indicates that the auditor is of the opinion that the site is suitable for any beneficial use defined in the Act, whilst a statement indicates that there is some restriction on the use of the site.

Any individual or organisation may engage appointed environmental auditors, who generally operate within the environmental consulting sector, to undertake environmental audits. The EPA administers the environmental audit system and ensures its ongoing integrity by assessing auditor applications and ensuring audits are independent and conducted with regard to guidelines issued by EPA.

AUDIT FILES STRUCTURE

Environmental audit reports are stored digitally by EPA in three parts: the audit report (part A), report appendices (part B) and, where applicable, the certificate or statement of environmental audit and an executive summary (part C). A report may be in colour and black-and-white formats. Generally, only black-and-white documents are text searchable.

Report executive summaries, findings and recommendations should be read and relied upon only in the context of the document as a whole, including any appendices and, where applicable, any certificate or statement of environmental audit.

AUDIT REPORT CURRENCY

Audit reports are based on the conditions encountered and information reviewed at the time of preparation and do not represent any changes that may have occurred since the date of completion. As it is not possible for an audit to present all data that could be of interest to all readers, consideration should be made to any appendices or referenced documentation for further information.

When information regarding the condition of a site changes from that at the time an audit report is issued, or where an administrative or computation error is identified, environmental audit reports, certificates and statements may be withdrawn or amended by an environmental auditor. Users are advised to check [EPA's website](#) to ensure the currency of the audit document.

PDF SEARCHABILITY AND PRINTING

EPA Victoria can only certify the accuracy and correctness of the audit report and appendices as presented in the hardcopy format. EPA is not responsible for any issues that arise due to problems with PDF files or printing.

Except where PDF normal format is specified, PDF files are scanned and optical character recognised by machine only. Accordingly, while the images are consistent with the scanned original, the searchable hidden text may contain uncorrected recognition errors that can reduce search reliability. Therefore, keyword searches undertaken within the document may not retrieve all references to the queried text.

This PDF has been created using the Adobe-approved method for generating Print Optimised Output. To assure proper results, proofs must be printed, rather than viewed on the screen.

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FURTHER INFORMATION

For more information on Victoria's environmental audit system, visit EPA's website or contact EPA's Environmental Audit Unit.

Web: www.epa.vic.gov.au/envaudit

Email: environmental.audit@epa.vic.gov.au

53X ENVIRONMENTAL AUDIT REPORT: 149 MCKIMMIES ROAD, BUNDOORA, VICTORIA

CARMS No: 55556-2 / Service Order No: 8005544

Report reference number: 754-MELEN295816_R01

6 January 2023

PREPARED FOR


Tav Bundoora Pty Ltd & New Urban Projects Pty Ltd
Level 6, 580 St Kilda Road
Melbourne
VIC 3004

PREPARED BY

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QUALITY INFORMATION

Revision history

Revision	Description	Date	Authorised by
R01	Final	6 January 2023	 Phil Sinclair Environmental Auditor (appointed pursuant to the Environment Protection Act 1970).

Distribution

Report Status	No. of copies	Format	Distributed to	Date
R01	1	PDF	Tav Bundoora Pty Ltd & New Urban Projects Pty Ltd	6 January 2023
R01	1	PDF	Whittlesea City Council	6 January 2023
R01	1	PDF	EPA Victoria	6 January 2023

Re: Uncertainties and Use of Data

Please refer to the Statement of Uncertainties provided after the text of this report.

53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria

Executive summary¹

Table E1. Summary of Audit Information

Auditor	Phil Sinclair
Auditor account number	75667
Auditor appointment end date	16 May 2024
Audit Type	53X
Date EPA notified of audit	11 September 2017
Audit service order number	8005409
Name of person requesting audit	1. Initial engagement: 5 September 2017: James Groom of Groom Kennedy Lawyers on behalf of GB Landfill Pty Ltd 2. Novation of audit to land purchaser: 1 September 2021: Hamish Macdonald of Intrapac Property Pty Ltd for and on behalf of Tav Bundoora Pty Ltd & New Urban Projects Pty Ltd (ABN 88 973 103 441) Level 6, 580 St Kilda Rd, Melbourne, 3004
Relationship of person requesting audit to site	1. Legal representative of site owner: GB Landfill Pty Ltd. 2. Representative of site owner/developer.
Name of premises owner	Tav Bundoora Pty Ltd & New Urban Projects Pty Ltd
Date of auditor engagement	1. 5 September 2017 2. Novation: 3 September 2021
Completion date of the audit	6 January 2023
Reason for Audit	Voluntary
Audit Categorisation	Risk
Environmental Segments	Air, Land, Groundwater, Surface water
If the audit was required by an EPA notice, licence or other, please provide EPA reference number	-
Current land use zoning	Industrial 1 Zone, Urban Floodway Zone, General Residential Zone (Whittlesea Planning Scheme)
EPA Region	Metro
Municipality	Whittlesea City Council
Dominant Lot on title plan	Lot 1 on Plan of Subdivision 446134Q
Additional Lot on title plan(s)	-
Site / Premises name	149 McKimmies Road, Bundoora
Building / complex sub-unit No	
Street / Lot – Lower No.	149
Street / Lot – Upper No.	
Street Name	McKimmies
Street type	Road

¹ This executive summary must be read in the context of the full report and the attached limitations.

53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria

Street suffix	
Suburb	Bundoora
Postcode	3083
GIS Coordinate of Site centroid	
Latitude (GDA 94)	-37.681479
Longitude (GDA 94)	145.045037
Site area (in square metres)	Approximately 45,980 m ²
Plan of site/premises showing the audit site boundary attached	Yes – Refer attached Figure 1
Plan of site/premises showing the audit site boundary attached in a spatial data format	No. Defined by Title boundaries (refer Appendix B)
Members and categories of support team utilised	The following members of the Auditor’s approved Expert Support Team were involved in completing this Environmental Audit: Nick Woodford – Expert support with regard to landfill gas risks and mitigation and report drafting (as instructed)
Further works or requirements	<ul style="list-style-type: none"> • Groundwater must not be extracted for beneficial use without testing. • The development must include installation of a ground gas mitigation system over parts of the former quarry area as detailed in the <i>Bundoora Project – Final Ground Gas Control Strategy</i> (November 2022). • The design of the ground gas mitigation system must be undertaken by a suitably qualified professional and verified by an Environmental Auditor; • Prior to issuing of a statement of compliance for any stage of the development the ground gas mitigation system for that stage must be verified as being in good working order by an Environmental Auditor; • The ground gas mitigation system must be maintained and operated until an Environmental Auditor verifies it is no longer required. • Prior to development, a Construction Environmental Management Plan (CEMP) must be developed and verified by an Environmental Auditor. • The site redevelopment must comply with the CEMP. • Aesthetically unsuitable material should be managed in accordance with the CEMP. • Prior to the issuing of a statement of compliance for the first stage of the development, an Environmental Management Plan (EMP) must be developed by a suitably qualified professional and verified by an Environmental Auditor.
Nature and extent of continuing risk	<p>Fill materials within the former quarry pit were the predominant source of relatively low concentrations of soil, groundwater and ground gas contaminants listed above that could potentially affect on-site surface workers, utility and trench workers and ecological receptors and (potentially) off-site residents, surface and trench workers, recreational users and ecological receptors (terrestrial and aquatic).</p> <p>The majority of pathways to receptors were assessed as either currently incomplete, acceptable or if potentially unacceptable, able to be made acceptable for future on-site receptors, including residents under a low density residential land scenario, provided suitable control measures are implemented.</p>

Potential beneficial uses of land (including some theoretical risks not relevant to the proposed development) are affected as follows:

- *Maintenance of ecosystems* would be precluded where relevant to either an *Areas of Ecological Significance (Natural Ecosystem)* or a *Residential and Urban Open Space (Modified Ecosystem)* land use by concentrations of ethylbenzene, xylenes, TRH F1-F3, benzo(a)pyrene, arsenic and lead.
Maintenance of ecosystems is not precluded for 'Commercial and Industrial' land use.
- *Human Health* would not be compromised under either a *Residential (High Density or Other Sensitive Use)* or *Recreational / Open Space* land use by concentrations of contaminants present in soil but is potentially compromised by ground gas in the absence of management measures via the vapour intrusion / inhalation exposure pathway..
Human Health is not precluded for 'Commercial and Industrial' land use.
- The beneficial use of land for *Buildings and Structures* is considered to be protected at the site.
- *Production of Food, Flora & Fibre* is considered to be precluded at the site. Concentrations of ethylbenzene, xylenes, TRH F1-F3, benzo(a)pyrene, arsenic and lead were identified above the maintenance of ecosystems criteria (adopted to assess Production of Food, Flora & Fibre). This beneficial use is unlikely to be realised given the site zoning.
- The beneficial use of land for *Production of Food, Flora & Fibre* is not considered to be precluded at the site.
- The beneficial use of land for *Aesthetics* is potentially compromised by the presence of some fill containing traces of industrial waste trace waste fragments for any land use where there is access to soil, because of the presence of fill material and potentially odorous soils.

With regard to groundwater pollution:

- The site is considered to be a source of ammonia, nitrate, cyanide, PFHxS & PFOS, TDS, sulfate, metals (such as arsenic, cobalt, iron and manganese and nickel) and methane.
- Elevated nitrate concentrations are present in groundwater on parts of the site and is considered to be representative of background / regional pollution. Copper, nickel and zinc also elevated and considered to be naturally occurring. Groundwater pollution on-site precluded the following beneficial uses:
 - *Water dependent ecosystems and species* (however, this beneficial use is not considered to be precluded at the point of discharge).
 - *Agriculture and irrigation (irrigation);*
 - *Agriculture and irrigation (stock watering);*
 - *Industrial and Commercial use;*
 - *Water-based recreation (primary contact recreation);*
 - *Traditional Owner cultural values;* and
 - *Cultural and spiritual values.*
- Clean-Up to the Extent Practical has been achieved and a determination of CUTEP was made by the auditor and the site is recommended to be within a GQRUZ.

With regard to ground gas:

- The site is identified as a source of methane and carbon dioxide generated from ASS and other minor inclusions of organic material in fill imported to the site;

53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria

	<ul style="list-style-type: none"> Risks to off-site receptors from ground gas generated at the site are considered to be low and acceptable; Ground gas generated at the site may pose a risk to future on-site receptors without the implementation of control measures. Details are provided within the audit report. 																										
Outcome of the audit	<p>Statement of Environmental Audit conditionally allows</p> <ul style="list-style-type: none"> Commercial and Industrial; Recreational / Public Open Space uses, subject to conditions, Medium and High Density residential land uses, subject to conditions, Low Density residential land uses, subject to conditions Ecological uses consistent with the above land uses. 																										
Has EPA determined CUTEP at this site?	No																										
Has the Auditor determined CUTEP at this site?	Yes																										
Has a GQRUZ been identified at the site/beyond the site by EPA?	Yes																										
Does NAPL remain at the site?	No																										
Please indicate which of the Protected Beneficial Uses of groundwater are precluded due to pollution	<table border="1"> <thead> <tr> <th>Protected Use</th> <th>Precluded?</th> </tr> </thead> <tbody> <tr> <td>Water dependent ecosystems and species</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Potable water supply (desirable)</td> <td>Not Relevant (Segment B)</td> </tr> <tr> <td>Potable water supply (acceptable)</td> <td>Not Relevant (Segment B)</td> </tr> <tr> <td>Potable mineral water supply</td> <td>Not Relevant (site not in mineral spring water area)</td> </tr> <tr> <td>Agriculture and irrigation (irrigation)</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Agriculture and irrigation (stock watering)</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Industrial and commercial</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Water-based recreation (primary contact recreation)</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Traditional Owner cultural values</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Cultural and spiritual values</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Buildings and structures</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Geothermal properties</td> <td>Not Relevant (groundwater temperature has been measured to be consistently below 30 °C)</td> </tr> </tbody> </table>	Protected Use	Precluded?	Water dependent ecosystems and species	<input type="checkbox"/>	Potable water supply (desirable)	Not Relevant (Segment B)	Potable water supply (acceptable)	Not Relevant (Segment B)	Potable mineral water supply	Not Relevant (site not in mineral spring water area)	Agriculture and irrigation (irrigation)	<input checked="" type="checkbox"/>	Agriculture and irrigation (stock watering)	<input checked="" type="checkbox"/>	Industrial and commercial	<input checked="" type="checkbox"/>	Water-based recreation (primary contact recreation)	<input checked="" type="checkbox"/>	Traditional Owner cultural values	<input checked="" type="checkbox"/>	Cultural and spiritual values	<input checked="" type="checkbox"/>	Buildings and structures	<input type="checkbox"/>	Geothermal properties	Not Relevant (groundwater temperature has been measured to be consistently below 30 °C)
	Protected Use	Precluded?																									
	Water dependent ecosystems and species	<input type="checkbox"/>																									
	Potable water supply (desirable)	Not Relevant (Segment B)																									
	Potable water supply (acceptable)	Not Relevant (Segment B)																									
	Potable mineral water supply	Not Relevant (site not in mineral spring water area)																									
	Agriculture and irrigation (irrigation)	<input checked="" type="checkbox"/>																									
	Agriculture and irrigation (stock watering)	<input checked="" type="checkbox"/>																									
	Industrial and commercial	<input checked="" type="checkbox"/>																									
	Water-based recreation (primary contact recreation)	<input checked="" type="checkbox"/>																									
	Traditional Owner cultural values	<input checked="" type="checkbox"/>																									
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	Buildings and structures	<input type="checkbox"/>																									
Geothermal properties	Not Relevant (groundwater temperature has been measured to be consistently below 30 °C)																										

53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria

Table E2. Physical Site Information

Historical land use	The site operated as a basalt quarry (with a concrete plant off-site to the northeast) from 1964 to 1999 (prior to which it was predominantly vacant or utilised for agricultural grazing). After closure the site operated as a 'Clean Fill' and acid sulfate soil (ASS) disposal site until 2017. Infrastructure (all located off-site to the east) included a vehicle maintenance workshop, a waste oil UST and diesel AST (inferred removed), a rainwater tank, an in-ground septic system and one deep groundwater well.
Current land use	Vacant
Proposed future land use	Residential uses, consistent with General Residential – Schedule 1 (GRZ1).
Surrounding land use – north	Bus Depot, McKimmies Road, vacant land followed by residential
Surrounding land use – south	Darebin Creek and Yarra Valley Water allotment
Surrounding land use – east	Low density residential including some open space parklands
Surrounding land use – west	Darebin Creek, sporting facilities followed by residential
Proposed land use zoning	General Residential – Schedule 1 (GRZ1)
Nearest surface water receptor – name	Darebin Creek
Nearest surface water receptor – distance (m)	0 km
Nearest surface water receptor – direction	West and south
Likely point of groundwater discharge	Darebin Creek
Site aquifer formation	Newer Volcanics basalt aquifer and the 'clean fill' materials within the quarry pit
Groundwater flow direction	Based on the groundwater elevation contours, groundwater flow is generally to the south and southeast.
Groundwater TDS range (mg/L)	TDS in the regional aquifer is within the range 1,000 to 7,000 mg/L.
Groundwater Segment	Segment B
Are there multiple aquifers impacted by pollution at the site	No
Perched groundwater depth – upper (metres below ground level (mbgl))	NA
Perched groundwater depth – lower (mbgl)	NA
Regional groundwater depth – upper (mbgl)	0.3
Regional groundwater depth – lower (mbgl)	7.7
Number of bores within 2 km	23
Closest extractive use (distance in m)	950 m west
Zone of groundwater plume influence (m from site boundary)	200 m to the southwest (approx)
Year groundwater last monitored	2022

Have you attached electronic copies of Current Groundwater Analytical Results presented as a summary table?

Yes (refer to Table 7.2)

Summary²

The primary purpose of the environmental audit is to support the rezoning of the site from its current Industrial zoning (IN1Z) to a zoning allowing residential use.

The audit site is part of a larger former basalt quarry operation formerly owned by Boral Pty Ltd and which has been partly developed to the north (bus depot) and to the east beyond the PAO land for residential use.

It is located to the south of McKimmies Road, Bundoora and the excised bus depot land (formerly part of the quarry) and has an easement running through the northwest corner which separates the site into two separate areas (Figure 1). The site is vacant following closure of the quarry operations, with the surface comprising a variety of unconsolidated fill materials and natural soil with spontaneous vegetation cover. Darebin Creek forms the western and southern boundaries of the site.

The quarry pit comprised one main excavation area in the Newer Volcanic basalt, with the floor of the quarry at a depth of approximately 67 m AHD. The deeper areas of excavation correlate with the northern and southern ponds. The natural surface levels are approximately 100 m AHD at the northern site boundary, dropping to about 95 m AHD in the partly filled central area of the former quarry pit. The former owner, GB Landfills Pty Ltd, purchased the land and operated it as a 'Clean Fill' and acid sulfate soil (ASS) disposal site until 2017.

The fill materials in the quarry pit have a thickness of between about 22 m and 28 m and were reported to be predominantly high plasticity clayey soils with silt, sand, gravel and siltstone/basalt boulders, and frequent inclusions of trace levels of industrial waste (ash, bricks, concrete, plastic, glass, runner wood), rootlets and organic materials.

Depth to groundwater in the quarry pit ranged from 0.3 mbgl to 7.7 mbgl. Outside the quarry pit groundwater depth varied from 2.9 mbgl to 5.6 mbgl. Groundwater is assessed to be Segment B (TDS in the range 1,201 mg/L to 3,100 mg/L).

Assessment of contamination at the site has occurred since the late 1990s with the most recent phase occurring between 2017 and 2022; which included assessment of soil, groundwater, the surface waters of Darebin Creek and ground gas.

The key site contaminants identified from the various investigations were those sourced from fill materials placed in the quarry pit and from 'clean fill' stockpiles present along the eastern site boundary. Common contaminants identified included petroleum hydrocarbons (later assessed as being biogenic), coke and ash and ACM, with pesticides, phenolic compounds, cyanide, solvents, PCBs and nutrients occurring less commonly. Placement of Coode Island Silt (an Acid Sulfate Soil, ASS) in the deeper parts of the quarry pit is associated with some metals (e.g. arsenic, iron, manganese), PFAS and methane generation.

Chemical species which were considered have the more extensive impacts in groundwater are: ammonia, iron and manganese, methane, sulfate and to a lesser extent TRH (subsequently assessed to be biogenic in origin after use of silica gel sample clean up). Potential impacts to groundwater from off-site sources were identified; in particular a sewer present along McKimmies Road may be associated with elevated concentrations of nitrate in groundwater on the western part of the site.

² To be read in conjunction with the complete audit report taking into account the Statement of Uncertainties.

53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria

As with soil and site-sourced groundwater contaminants at the site, ground gases (predominantly methane and carbon dioxide) were associated with fill material in the former quarry pit. While the gas generation potential is generally considered low, relatively high concentrations of methane above action levels (1% v/v) were measured with the higher levels being associated with the southern ponds where the majority of the accepted Coode Island Silt (ASS) is believed to have been disposed.

A conceptual site model (CSM) was developed by Senversa which identified key sources, pathways and receptors under the current land use and proposed future land uses. Fill materials within the former quarry pit were the predominant source of relatively low concentrations of soil, groundwater and ground gas contaminants listed above that could potentially affect on-site surface workers, utility and trench workers and ecological receptors and (potentially) off-site residents, surface and trench workers, recreational users and ecological receptors (terrestrial and aquatic). The majority of pathways to receptors were assessed as either currently incomplete, acceptable or if potentially unacceptable, able to be made acceptable for future on-site receptors, including residents under a low-density residential land scenario, provided suitable control measures are implemented

Given the nature and extent of contamination in soils at and beneath the site and the conclusions of the contamination risk assessment in Senversa (2022b), the following conclusions are made regarding impacts to potential beneficial uses of land to be protected under the SEPP (PMCL).

- *Maintenance of ecosystems* would be precluded where relevant to either *Areas of Ecological Significance (Natural Ecosystem)* or a *Residential and Urban Open Space (Modified Ecosystem)* land use due to the presence of ground gas / methane, without mitigation measures being implemented.
- *Maintenance of ecosystems is not precluded for 'Commercial and Industrial' land use.*
- *Human Health* would not be compromised under either a *Residential (High Density or Other Sensitive Use)* or *Recreational / Open Space* land use by concentrations of contaminants present in soil but is potentially compromised by ground gas in the absence of management measures via the vapour intrusion / inhalation exposure pathway.
- *Human Health* is not precluded for *'Commercial and Industrial'* land use by anyway exposure pathway .
- The beneficial use of land for *Buildings and Structures* is considered to be protected at the site.
- The beneficial use of land for *Production of Food, Flora & Fibre* is not considered to be precluded at the site.
- The beneficial use of land for *Aesthetics* is potentially compromised by the presence of some fill containing traces of industrial waste trace waste fragments for any land use where there is access to soil, because of the presence of fill material and potentially odorous soils.

To address this the Statement of Environmental Audit will require development of a CEMP for the site which will have the management of any aesthetically unsuitable fill as one of its purposes.

With regard to groundwater pollution:

- The site is considered to be a source of ammonia, nitrate, cyanide, PFHxS & PFOS, TDS, sulfate, metals (such as arsenic, cobalt, iron and manganese and nickel) and methane.
- Elevated nitrate concentrations are present in groundwater on parts of the site and is considered to be representative of background / regional pollution. Copper, nickel and zinc also elevated and considered to be naturally occurring;
- Groundwater pollution on-site precludes the following beneficial uses:
 - *Water dependent ecosystems and species* (however, this beneficial use is not considered to be precluded at the point of discharge).
 - *Agriculture and irrigation (irrigation);*
 - *Agriculture and irrigation (stock watering);*

53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria

- *Industrial and Commercial use;*
- *Water-based recreation (primary contact recreation);*
- *Traditional Owner cultural values;* and
- *Cultural and spiritual values.*
- Groundwater at and adjacent to the site does not preclude the Buildings and Structures beneficial use. Clean-Up to the Extent Practical has been assessed and a determination of CUTEP made by the Auditor and the site is recommended to be within a GQRUZ (or equivalent).

With respect to ground gas:

- The site is identified as a source of methane and carbon dioxide generated from ASS and other minor inclusions of organic material in fill imported to the site;
- Risks to off-site receptors from ground gas generated at the site are considered to be low and acceptable;
- Ground gas generated at the site may pose a risk to future on-site receptors without the implementation of control measures:
 - The area requiring mitigation is defined by the ground gas CS₂ extent as shown in Figure 7.3.
 - Control measures as described in *Bundoora Project - Final Ground Gas Control Strategy* (Ref: 017466.4000 dated 18th November 2022) should be implemented.

Given the above impacts to beneficial uses, the Auditor has concluded that a Certificate of Environmental Audit cannot be issued for the site.

The Auditor considers that the site may be used for certain types of development, subject to conditions that ensure exposure to the residual contamination at and surrounding the site can be adequately managed by implementation of a construction environmental management plan during construction to manage exposure of site users to contamination and an environmental management plan (post-construction) which addresses the parties responsible for implementation, how right-of -access arrangements are to be made for ongoing monitoring and maintenance of the ground gas mitigation system and sets out the methodology to verify decommissioning of the system.

The proposed development of the site does not include basements. If a basement is to be included in future developments an environmental auditor verification procedure is required to determine that it is suitable.

The uses for which the site is considered suitable include:

- Commercial and Industrial;
- Recreational / Public Open Space uses, subject to conditions,
- Medium and High Density residential land uses, subject to conditions,
- Low Density residential land uses, subject to conditions, and
- Ecological uses consistent with the above land uses.

A Statement of Environmental Audit has been issued (under the EP Act 1970), confirming the above conclusions.

Section 53X Environmental Audit Report – 149 McKimmies Road, Bundoora

APPENDIX A – STATEMENT OF ENVIRONMENTAL AUDIT

Tetra Tech Coffey
Report reference number: 754-MELEN295816_R01
Date: 6 January 2023

Statement of Environmental Audit
Environment Protection Act 1970
Environment Protection Act 2017

I, Phillip Leigh Sinclair, of Tetra Tech Coffey Pty Ltd, a person appointed by the Environment Protection Authority ("The Authority") under the *Environment Protection Act 1970*¹ ("the Act") as an environmental auditor for the purposes of the Act, having:

1. been requested by Mr Hamish Macdonald on behalf of Intrapac Property Pty Ltd (Intrapac), to issue a certificate of environmental audit in relation to the site located at 149 McKimmies Road, Bundoora, Victoria (comprising Lot 2 PS900718), as shown in Figure 1 attached to this Statement, ('the site') owned by Tav Bundoora Pty Ltd & New Urban Projects Pty Ltd.
2. had regard to, among other things,
 - i. guidelines issued by the Authority for the purposes of Part IXD of the Act
 - ii. the beneficial uses that may be made of the site
 - iii. relevant State environment protection policies/industrial waste management policies, namely

SEPP	Waters
SEPP	Ambient Air Quality and Air Quality Management
IWMP	Prescribed Industrial Waste
SEPP	Prevention and Management of Contamination of Land

in making a total assessment of the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to, any beneficial use made of the site by any industrial processes or activity, waste or substance (including any chemical substance), and completed an environmental audit report in accordance with Section 53X of the Act, a copy of which has been sent to the Authority and the relevant planning and responsible authority.

HEREBY STATE that I am of the opinion that

The site is suitable for the beneficial uses associated with low density (single dwelling) residential, medium and high-density residential land uses, recreation / public open space use and commercial and/or industrial uses, subject to the following conditions attached thereto:

1. This statement is directly referable to and based upon the layout, types of construction and gas mitigation measures proposed for the development, as shown and described in the *Bundoora Project - Final Ground Gas Control Strategy* (Ref: 017466.4000 dated 18th November 2022), prepared by Tonkin and Taylor Pty Ltd and attached to this Statement of Environmental Audit. Any development plan prepared to the satisfaction of the responsible authority under a Development Plan Overlay (if it affects the site) must be consistent with the layout and general pattern of land use as contemplated in the aforementioned report or any subsequent substantive changes to that layout and general pattern of land use as contemplated in the aforementioned report, must be verified by an environmental auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017 to ensure that it conforms with the intent of this Statement of Environmental Audit, and this verification advised in writing to EPA and the responsible planning authority.
2. Ground gas at the site may pose a potential risk to future users. The *Bundoora Project - Final Ground Gas Control Strategy* (Ref: 017466.4000 dated 18th November 2022) report, referenced in Condition 1, must be implemented during site redevelopment, including the following:
 - a. Installation of a ground gas mitigation system over the former quarry area located between the base of the former quarry and the future residential buildings (consistent with the drawings in Attachment 1), including a separation layer of at least 2.7m (consisting either of exclusively

¹ Note that the environmental audit has been completed in accordance with Section 53X of the Environment Protection Act 1970 (EP Act 1970); since superseded by the Environment Protection Act 2017 (EP Act 2017). Audits commenced under the EP Act 1970 can be completed under the pre-1 July 2021 requirements and guidelines as permitted by the transition arrangements set out in Section 478 of the EP Act 2017.

Statement of Environmental Audit
Environment Protection Act 1970
Environment Protection Act 2017

engineered fill or a containment layer at least 0.5 m thick and an engineered fill layer at least 2.2m thick) and active venting system.

- b. Detailed design (including preparation of a suitable construction quality assurance (CQA) plan), construction and validation of the gas mitigation system described in 2(a) must be undertaken by a suitably qualified professional and verified by an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017, and this verification advised in writing to EPA and the responsible planning authority.
 - c. At the completion of civil works and prior to the issuing of a statement of compliance for any development stage at the site, the ground gas mitigation system for that stage must be in good working order as verified by an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017, and this verification advised in writing to EPA and the responsible planning authority.
3. Prior to commencement of construction activities at the site, a *Construction Environmental Management Plan (CEMP)* must be developed by a suitably qualified professional that includes the Ground Gas Mitigation Detailed Design and CQA plan (as required by Condition 2 b), outlines the responsible parties, site contamination management measures to be implemented at the site during construction, the required staging of works for implementation of the ground gas mitigation system and management of any aesthetically unsuitable fill. The CEMP should incorporate the requirements of the following documents:
- a. *Ground Improvement within Quarry Footprint 149 McKimmies Road, Bundoora* prepared by Tonkin and Taylor Pty Ltd (dated April 2022).
 - b. Procedures consistent with those contained in *Soil Acceptance and Compliance Protocol (SACP) for importation of reusable Fill Material at the McKimmies Road, Bundoora Fill Reveal Site* prepared by Earth Solutions Group, DRC Environmental Pty Ltd and Tonkin and Taylor Group Ltd – dated 22nd November 2021.

The CEMP and any subsequent variations to the document must be verified by an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017, and this verification advised in writing to EPA and the responsible planning authority.

4. The site redevelopment, including backfilling of the existing quarry void (and any associated importation and temporary stockpiling of fill material) must comply with the *CEMP* referred to in Condition 3 and that compliance be verified by an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017 and this verification advised in writing to EPA and the responsible planning authority..
5. Prior to the issuing of a statement of compliance for the first completed development stage, an ongoing (post construction) *Environmental Management Plan (EMP)* must be developed by a suitably qualified professional to document any ongoing management requirements at the site. The EMP must include the responsible parties for implementation, control/right-of-access arrangements necessary for ongoing monitoring and maintenance of the ground gas mitigation system and the methodology to verify decommissioning. The EMP and any subsequent variations to the document must be verified by an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017, and this verification advised in writing to EPA and the responsible planning authority.
6. The ground gas mitigation system required by Conditions 1 and 2 must remain in place and be adequately maintained and operated in accordance with the *CEMP* (referenced in Condition 3 and 4) during construction, and *EMP* (referenced in Condition 5) following construction, until such time as an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017 verifies that it is no longer required, and this verification advised in writing to EPA and the responsible planning authority.

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7. The proposed site redevelopment (referred to in Condition 1) does not include basements. If a basement is incorporated in a future development at the site, an Environmental Auditor appointed under Division 1 of Part 8.3 of the Environment Protection Act 2017 must be engaged to conduct an environmental audit of the site (under section 208 of the Environment Protection Act 2017, to determine the suitability of this use.
8. Groundwater at the site is polluted and is not suitable for any use. Groundwater should not be used without prior testing and confirmation of its suitability for the proposed use. It may be extracted for the purposes of dewatering, environmental monitoring, or remediation.
9. The proposed separation layer required across the quarry void footprint (as required by Condition 2a of this Statement) is expected to provide a suitable control to prevent future site occupants from encountering any potentially contaminated fill soils and aesthetically unsuitable material. Where any aesthetically unsuitable fill is present outside of the quarry footprint, this should be managed by placing the material within the quarry void, removal off-site, or the placement of a separation layer of a suitable thickness to prevent future site occupants from accessing the soil. The process for the management of any aesthetically unsuitable fill encountered during the site development should be outlined in the *CEMP* required by Condition 3 of this Statement.

The condition of the site is detrimental or potentially detrimental to any (one or more) beneficial uses of the site. Accordingly, I have not issued a certificate of environmental audit for the site in its current condition, the reasons for which are presented in the environmental audit report. The terms and conditions that need to be complied with before a certificate of environmental audit may be issued are set out as follows:

1. Soil at the site would need to be cleaned up or removed to the extent that all beneficial uses of land are restored;
2. Groundwater on the site would need to be cleaned up to the extent that all precluded beneficial uses of groundwater are restored;
3. Removal of all waste materials with potential to generate unacceptable levels of ground gas would need to occur.

Other related information:

- a) Elevated concentrations of ground gas originating from fill are present beneath the site and ongoing mitigation and management of ground gas will be necessary for the foreseeable future. The attached *Final Ground Gas Control Strategy* contains further information about the management of ground gas at the site during and post construction and should be consulted when applying the conditions contained in this Statement of Environmental Audit. It is expected that the management requirements are also clearly set out in the *CEMP* and *EMP* required as a condition of this Statement of Environmental Audit.
- b) Prior to occupancy of the site, the relevant responsible planning authority may require the owner of the site to enter into a Section 173 Agreement under the Planning and Environment Act 1987. The Section 173 Agreement is expected to include any management and monitoring requirements and restrictions on basement construction.
- c) The recipient of this Statement of Environmental Audit contained in this report is advised that, under the requirements of section 53ZE of the Environment Protection Act 1970 and Section 214 of the Environment Protection Act 2017, any future owners or occupiers of the subject land must be furnished with a copy of this Statement.

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- d) Groundwater beneficial uses are precluded both on-site and off-site by regional groundwater conditions and on-site groundwater pollution, which includes elevated concentrations of ammonia, nitrate, cyanide, PFHxS & PFOS, TDS, sulfate, metals (such as arsenic, cobalt, iron and manganese and nickel) and methane. However, several of these beneficial uses are unlikely to be realised both on-site and down-gradient of the site.
- e) Groundwater at the site contains naturally elevated concentrations of copper, molybdenum, nickel, silver and zinc. The levels are considered typical of the regional natural groundwater quality surrounding the site and do not constitute pollution.
- f) Based on the groundwater investigations undertaken at and surrounding the site, the groundwater beneficial use Water Dependent Ecosystems and Species at the nearest receptor is considered likely to be protected.
- g) The Auditor has determined that groundwater at the site has been cleaned up to the extent practicable (CUTEP) and has recommended to the EPA that the site is located within a Groundwater Quality Restricted Use Zone (GQRUZ) or equivalent. The extent of the recommended GQRUZ is shown in Figure 12 of the audit report.
- h) In accordance with the Environment Protection Act (2017), the EPA may require periodic reassessment of the practicability of groundwater clean-up.
- i) Groundwater monitoring bores present at the site should be decommissioned within 12 months of cessation of use in accordance with the requirements of "Minimum Construction Requirements for Water Bores in Australia", published by the National Uniform Drillers Licensing Committee (2020).
- j) There remains existing in-situ soils at the site with contaminant concentrations that exceed Fill Material criteria for soil waste classification for off-site disposal. If in-situ soil is proposed to be removed from the site during any future development, the soil waste classification should be assessed using relevant EPA guidance and soil disposed of accordingly.
- k) Some limited isolated occurrences of bonded asbestos containing materials (ACM) have been found on site and were subsequently removed so far as reasonably practicable. Small quantities of bonded asbestos cement (AC) fragments may remain within the soil and be uncovered during excavation works. These AC fragments are not anticipated to represent a health risk to occupiers of the completed development, particularly given the separation layer required by Condition 2. If encountered during future development or use of the site, any fragments should be handled and disposed in accordance with the relevant regulations. This process should be outlined in the CEMP required by Condition 3.
- l) This audit does not directly address all possible duties in relation to management of contaminated land; the owner or any other person in management or control of the site at any time must have regard to the recent environmental protection legislation and any associated duties.

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This Statement forms part of environmental audit report *53X Environmental Audit Report: 149 McKimmies Road, Bundoora, Victoria* (ref 754-MELEN295816-R01 dated 6 January 2023, EPA References SO: 8005544, CARMS No. 55556-2). Further details regarding the condition of the site may be found in the environmental audit report.

Dated 6 January 2023

Signed:



Phil Sinclair
Environmental Auditor (Contaminated Land)

Attachments:

1. *Figure S-1 Boundaries of audit site showing former quarry extent*
2. *Property Title*
3. *Bundoora Project - Final Ground Gas Control Strategy*
4. *Ground Improvement within the Quarry Footprint*
5. *Soil Acceptance and Compliance Protocol (SACP) for importation of reusable Fill Material at the McKimmies Road, Bundoora Fill Receiving Site*



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FIGURE S1

Site Locality Plan, Boundaries and Relevant Features

SOURCE
 Senversa (2022)



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