

Planning and Environment Act 1987

Panel Report

Monash Planning Scheme Amendment C131

256-262 Huntingdale Road, Huntingdale

14 March 2019

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Panel Report pursuant to section 25 of the Act

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Con Tsotsoros, Chair



Colin McIntosh, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
the Cluster	Monash National Employment and Innovation Cluster
Council	Monash City Council
GRZ2	General Residential Zone Schedule 2
MILUS	Monash Industrial Land Use Strategy (MILUS) adopted by Council on 29 July 2014
MILUS Background Report	Monash Industrial Land Use Strategy Background Analysis and Context Draft Report, 26 February 2014
Planning Scheme	Monash Planning Scheme
RGZ5	Residential Growth Zone Schedule 5

Overview

Amendment summary

The Amendment	Monash Planning Scheme Amendment C131
Brief description	The Amendment proposes to rezone the subject land from part Industrial 1 Zone and part General Residential Zone 2 to a Residential Growth Zone 5, delete the Design and Development Overlay Schedule 1 and apply the Environmental Audit Overlay
Subject land	256-262 Huntingdale Road, Huntingdale
The Proponent	Polykastron 4x4 Pty Ltd
Planning Authority	Monash City Council
Authorisation	6 June 2018
Exhibition	21 August to 24 September 2018
Submissions	<ol style="list-style-type: none"> 1. A and F Colosimo 2. Angelo Colosimo 3. Liz Li 4. Michael Brambleby 5. Perry and Linda Tremewen 6. Lee 7. Ho Lun Kelvin Yuen 8. Herman Lucas Ferra 9. Geoff Zielin 10. Joss Dimock 11. Julian and Ratih Millie 12. Punam 13. Suzanne Turner 14. Ida Mercuri 15. Transport for Victoria 16. Polykastron 4x4 Pty Ltd 17. James Donnelly 18. Environment Protection Authority

Panel process	
The Panel	Con Tsotsoros (Chair) and Colin McIntosh
Directions Hearing	Monash Civic Centre, 17 December 2018
Panel Hearing	Monash Civic Centre, 14 February 2019
Site inspection	Unaccompanied, 17 December 2018
Appearances	<ul style="list-style-type: none"> - Monash City Council represented by Sherry Hopkins, Coordinator Strategic Planning and Meghann Mackay, Strategic Planner - Polykastron 4x4 Pty Ltd represented by Paul Chiappi of Counsel, with Paul Little of Planning and Property Partners, and calling expert evidence on planning from Marco Negri of Contour Consultants - Angelo Colosimo represented by Herman Ferra - Herman Ferra and Katherine Macfarlane represented by Herman Ferra - Liz Li
Citation	Monash PSA C131 [2019] PPV
Date of this Report	14 March 2019

Executive summary

256-262 Huntingdale Road, Huntingdale (subject land) is an active industrial site located approximately 20 kilometres southeast of Melbourne's central city, about 650 metres north of Huntingdale Railway Station and 175 metres north of the closest shops in the Huntingdale activity centre.

The subject land is within walking distance to one of the industrial precincts in the Monash National Employment and Innovation Cluster (the Cluster) – the largest employment concentration outside Melbourne's central city. The subject land is connected by public transport to Monash University, Monash Medical Centre, business parks and other industrial precincts.

Monash Planning Scheme Amendment C131 (the Amendment) seeks to rezone the subject land from Industrial 1 Zone to Residential Growth Zone Schedule 5, apply the Environmental Audit Overlay, delete Design and Development Overlay Schedule 1 and make associated changes to enable future residential development. The Amendment was exhibited from 21 August to 24 September 2018 and received 18 submissions.

Key issues raised in submissions included the maximum building height and whether this height should be mandatory; residential standards such as setbacks; and the selection of residential zone. Other issues included potentially contaminated land; the interface between the proposed residential use and existing industry; traffic and car parking; and water, sewerage and drainage infrastructure capacity.

Strategic matters

The subject land is in the Industrial 1 Zone and abuts dwellings in the General Residential which may discourage investment and tenants. In line with planning policy, investment should be directed to revitalise larger and more appropriate industrial precincts in the Cluster rather than a relatively small single-site industrial precinct which abuts residential properties.

Rezoning the subject land for residential purposes would enable additional housing close to the Cluster. This implements other planning policy, including the 20-minute neighbourhood policy in Plan Melbourne. It also implements amenity-related planning policy by rezoning the subject land to a residential zone.

The Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is strategically justified and should proceed subject to addressing the more specific issues raised in submissions as discussed in this report.

Issues

Residential Growth Zone Schedule 5

Having considered all written submissions to the exhibited Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing, the Panel considers that the proposed building height of 14.5 metres (4 storeys) is appropriate and justified. This height is appropriate and justified as a mandatory provision.

The Clause 55 residential standards, with the proposed mandatory maximum building height and existing planning policy and provisions, provide an appropriate framework for a future planning permit application on the subject land. However, the exhibited residential standards specified in Residential Growth Zone Schedule 5 are not appropriate or justified. The Residential Growth Zone is justified and appropriate for considering any future planning permit application proposing to develop the subject land.

Other issues

The Environmental Audit Overlay appropriately responds to potentially contaminated land and should be applied to the entire subject land. The neighbouring Industrial 1 Zone and the existing industries do not preclude the subject land from being rezoned for residential purposes.

The proposed planning framework does not introduce any strategic traffic and car parking issues or strategic water, sewerage and drainage issues which need to be addressed through the Amendment. These potential issues will be assessment through any planning permit application when development proposal details are known.

From a drafting perspective, Residential Growth Zone Schedule 5 should be changed to refer to Clause 32.07 rather than 32.08.

Other matters raised in submissions are either not relevant, will not generate the identified potential issues or do not affect the ability for the Amendment to progress.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Monash Planning Scheme Amendment C131 be adopted as exhibited subject to the following:

- 1. Amend Residential Growth Zone Schedule 5, as shown in Appendix B, to:**
 - a) replace all residential standards in 1.0 (Requirements of Clauses 54 and Clause 55) with 'None specified' so that the default standards in Clauses 54 and 55 can apply**
 - b) replace Clause 32.08 with 32.07.**
- 2. Apply the Environmental Audit Overlay to all of 256-262 Huntingdale Road, Huntingdale.**

1 Introduction

1.1 The Amendment

The Amendment seeks to enable future residential development at 256-262 Huntingdale Road, Huntingdale (subject land) by:

- rezoning the subject land from part Industrial 1 Zone and part General Residential Zone 2 to Residential Growth Zone Schedule 5 (RGZ5)
- deleting Design and Development Overlay Schedule 1
- applying the Environmental Audit Overlay.

The subject land comprises 4,130 square metres, with street frontage of about 68 metres along Huntingdale Road and about 62 metres along Berkeley and Ross Streets, as shown in Figure 1.

Figure 1 Subject land



Source: <https://mapshare.maps.vic.gov.au/vicplan/> and Planning Panels Victoria

The Amendment was authorised subject to:

- rezoning the subject land to Residential Growth Zone rather than the General Residential Zone
- amending the proposed Design and Development Overlay Schedule 16 to remove any built form requirements, design objectives or decision guidelines found elsewhere in the Planning Scheme
- translating any appropriate design guidelines or decision guidelines from the proposed Design and Development Overlay Schedule 16 into the Residential Growth Zone schedule

- amending the Amendment’s Explanatory Report to reflect the change in the proposed rezoning and the refusal to authorise the planning permit application.

The Amendment proceeded without Design and Development Overlay Schedule 16.

1.2 Background

Council’s Part A submission referred to events which are replicated below.

Table 1 Chronology of events

Date	Event
2014	
29 July	Council adopted the Monash Industrial Land Use Strategy
28 October	Monash Housing Strategy completed
2016	
16 March	Environmental Site Assessment report completed for the subject land
2018	
27 March	Council resolved to request the Minister for Planning to authorise Council, pursuant to Sections 8A and 96A of the Act, to prepare Amendment C131 and the draft Planning Permit TPA/46581
1 May	Council requested that the Minister for Planning authorise a combined planning scheme amendment and planning permit application under section 96A of the Act
1 June	The objective “to facilitate the provision of affordable housing in Victoria” was introduced into the Act
6 June	The Department of Environment, Land, Water and Planning, under delegation from the Minister for Planning, authorised the Amendment, subject to conditions, but did not authorise the planning permit application
21 August	Amendment exhibition commenced
24 September	Amendment exhibited closed – 18 submission received
27 November	Council considered issues in submissions and resolved to request that the Minister for Planning appoint an independent Panel under Part 8 of the Act

1.3 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.

This Report deals with the issues under the following headings:

- Planning context
- Residential Growth Zone Schedule 5
- Other issues.

1.4 Limitations

In its submissions, Council explained that a draft Huntingdale Activity Centre Precinct Plan is currently being prepared, outlined what the plan seeks to achieve and noted that there will be community consultation in a few months. Council did not rely on any of the draft plan's content to support its submissions. The Panel has not relied on the draft plan to inform itself because the document was not presented to any party and the final plan has not been adopted by Council.

At the Hearing, Council provided the development plans and elevations which formed part of the original combined amendment/permit application and referred to in several submissions. The Panel has not relied on these plans and elevations to form any conclusion or recommendation.

2 Planning context

2.1 Planning policy framework

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

(i) Victorian planning objectives

State planning objectives set out in section 4 of the Act and relevant to the Amendment are:

- (1) The objectives of planning in Victoria are:
- (a) to provide for the fair, orderly, economic and sustainable use, and development of land
 - ...
 - (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- (2) The objectives of the planning framework established by this Act are:
- ...
 - (d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.

The Amendment will assist in implementing the objectives set out in section 4 of the Act by:

- providing for the economic and sustainable use and development of land by rezoning an industrial precinct, identified as appropriate for rezoning to a residential use, so that residential development can be considered through a planning permit application (1a)
- allowing a relatively small island industrial site surrounded by residential land to be rezoned to a residential zone (1c)
- applying the Environmental Audit Overlay to industrial land proposed to be used for a sensitive land use (2d).

(ii) Planning Policy Framework

The following clauses in the Planning Policy Framework are relevant to the Amendment:

Clause	Objective/strategy
STATE	
11 Settlement	Supply of urban land (11.02-15) To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
13 Environmental risks and amenity	Contaminated and potentially contaminated land (13.04-15) To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

Clause	Objective/strategy
STATE	
<p>16 Housing</p>	<p>Housing opportunity areas - Metropolitan Melbourne (16.01-2R)</p> <p>Identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne.</p> <p>Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are: ...Urban-renewal precincts and sites.</p> <p>Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.</p> <p>Housing diversity (16.01-3S)</p> <p>To provide for a range of housing types to meet diverse needs.</p>
<p>17 Economic development</p>	<p>Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.</p>
LOCAL	
<p>21 Municipal Strategic Statement</p>	<p>Municipal profile (21.01)</p> <p>The City of Monash is one of Melbourne's most populous municipalities, with an estimated 189,000 residents in 2016. The population is expected to increase by over 26,000 to over 215,000 by 2031. (21.01-1)</p> <p>Competing interests, including the need for housing diversity while respecting neighbourhood character, require careful planning to ensure that development outcomes are of a high quality design standard and sympathetic to the existing or preferred neighbourhood character. (21.01-2)</p> <p>Residential development (21.04)</p> <p>To encourage the provision of a variety of housing styles and sizes that will accommodate future housing needs and preferences of the Monash community that complement and enhance the Garden City Character of the City.</p> <p>To provide accommodation for a diverse population that caters for different family and lifestyle preferences and a variety of residential environments and urban experiences.</p> <p>To recognise and provide for housing needs of an ageing population. (21.04-3)</p> <p>Business parks and industry (21.07)</p> <p>Ensure that any negative impacts from industrial uses on surrounding sensitive land uses are minimised or reduced where possible. (21.07-3)</p>

Clause	Objective/strategy
STATE	
22 Local planning policies	<p>Residential development and character policy (22.01)</p> <p>Generally, change across the municipality’s residential areas has been incremental. However there is a growing demand for greater variation of dwelling types such as villas, flats, apartments and aged persons accommodation. The changing form of development, by design, has significantly reduced both the canopy tree environment and landscaped area, while increasing the hard surface coverage of each development site. This adversely impacts on Garden City Character of the municipality. (22.01-1)</p> <p>It is policy that:</p> <ul style="list-style-type: none"> • Development complements the current character statement and contributory elements and satisfies the intent of the desired future character statement for the applicable residential Character Type identified in Clause 22.01-4. • The quality and style of surrounding development be respected, including the maintenance of consistent setbacks in areas where incremental change is expected. The treed character of areas be complemented and preserved. • The Garden City and streetscape character of the neighbourhood be maintained and enhanced. (22.01-3)

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne 2017-2050

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne’s development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven outcomes, which set out the aims of the plan. The outcomes are supported by Directions and Policies, which outline how the outcomes will be achieved. Table 2 sets out outcomes that are relevant to the Amendment.

Table 2 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
2: Melbourne provides housing choice in locations close to jobs and services	2.2: Deliver more housing closer to jobs and public transport	<p>2.2.1: Facilitate well-designed, high-density residential developments that support a vibrant public realm in Melbourne’s central city</p> <p>2.2.3: Support new housing in activity centres and other places that offer good access to jobs, services and public transport</p>
	2.5: Provide greater choice and diversity of housing	2.5.1: Facilitate housing that offers choice and meets changing household needs

Outcome	Directions	Policies
5: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1: Create a city of 20-minute neighbourhoods	<p>5.1.1: Create mixed-use neighbourhoods at varying densities</p> <p>Neighbourhoods need to offer more choice in housing so they can accommodate a more diverse population, create opportunities for local businesses and new jobs, and deliver better access to local services and facilities.</p> <p>...</p> <p>The application of zones, such as the Residential Growth Zone and the Mixed Use Zone, can facilitate diverse housing and a greater mix of uses at varying densities.</p>
	5.2: Create neighbourhoods that support safe communities and healthy lifestyles	5.2.1: Improve neighbourhoods to enable walking and cycling as a part of daily life

(ii) Monash Housing Strategy

The Monash Housing Strategy, 28 October 2014, establishes principles and directions to make decisions about future housing.

(iii) Monash Industrial Land Use Strategy

Council adopted the Monash Industrial Land Use Strategy (MILUS) on 29 July 2014. It provides strategic direction to support the future planning and development of industrial land in the municipality, including the rezoning of land for non-industrial uses. MILUS designates different industrial areas in the municipality into 28 precincts and identifies a vision, strategic direction and recommended zoning for each precinct. It assessed each industrial precinct using the following criteria:

- a) Demand for industrial land
- b) Accessibility and infrastructure
- c) Redevelopment potential
- d) Alternative land uses
- e) Economic development
- f) Urban renewal
- g) Amenity impact.

The subject land is identified as its own precinct – Precinct P17 (256-262 Huntingdale Road Huntingdale) and is directly opposite Precinct P15 (Oakleigh East Industrial Area).

MILUS is not referenced or incorporated in the Planning Scheme. It is supported by the Monash Industrial Land Use Strategy Background Analysis and Context Draft Report, 26 February 2014 (MILUS Background Report).

2.3 Planning scheme provisions

Existing provisions

The Industrial 1 Zone and Design and Development Overlay Schedule 1 currently apply to the subject land. The Industrial 1 Zone seeks 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*”. It prohibits the subject land from being used for accommodation, other than a caretaker’s house.

Design and Development Overlay Schedule 1 applies to industrial and commercial design and development areas in the municipality. It requires a minimum setback of 13.5 metres from Huntingdale Road, which can be varied through a permit. The Amendment proposes to delete Design and Development Overlay Schedule 1 from the subject land.

Proposed provisions

The Amendment proposes to apply the Residential Growth Zone and Environmental Audit Overlay to enable accommodation, specifically dwellings, to be considered through a future planning permit application. A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework. Table 3 shows the other zone and overlay purposes.

Table 3 Zone and overlay purposes

Residential Growth Zone	Environmental Audit Overlay
<p>To provide housing at increased densities in buildings up to and including four storey buildings.</p> <p>To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.</p> <p>To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.</p> <p>To ensure residential development achieves design objectives specified in a schedule to this zone.</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>	<p>To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.</p>

2.4 Ministerial Directions and Practice Notes

(i) Ministerial Directions

The following Ministerial Directions are relevant to the Amendment:

Ministerial Direction 1

Ministerial Direction 1 seeks to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination. The Direction is relevant because the Amendment proposes to rezone land to enable a sensitive land use.

Ministerial Direction 9

Ministerial Direction 9 seeks to ensure that planning scheme amendments in Metropolitan Melbourne have regard to Plan Melbourne 2017-2050.

Ministerial Direction 11

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

Ministerial Direction – The form and content of planning schemes

This Ministerial Direction is enabled through section 7(5) of the Act and applies to the form and content of all planning schemes prepared under Part 3 of the *Planning and Environment (Planning Schemes) Act 1996* and any amendment to those planning schemes. For simplicity, this Direction is referred to as Ministerial Direction 7(5) in this report.

(ii) Planning Practice Notes

The following Planning Practice Notes are relevant to the Amendment:

- Planning Practice Note 27 (Understanding the residential development standards (ResCode), June 2015)
- Planning Practice Note 30 (Potentially contaminated land), June 2005
- Planning Practice Note 46 (Strategic Assessment Guidelines), August 2018
- Planning Practice Note 59 (The role of mandatory provisions in planning schemes), September 2018.

2.5 Strategic matters

(i) Evidence and submissions

Council submitted that the Amendment is consistent with the Planning Policy Framework by:

- ensuring sufficient available land supply for residential, commercial, retail, industrial, recreational, institutional and other community uses (11.02-1S)
- ensuring that the potentially contaminated land has been assessed for its intended use and development and is safely used (13.04-1S)
- ensuring adequate redevelopment opportunities in the established urban area to reduce the pressure for fringe development (16.01-2R)
- identifying this site as being one that offers opportunities for higher density housing to be provided due to its location near employment and transport (16.01-3S)
- ensuring that industrial uses are clustered in more appropriate locations within the Monash National and Innovation Employment Cluster
- recognising that the municipality is one of Melbourne's most populous in Melbourne's fastest growing population corridor where the population is: ageing; expected to increase by over 26,000 from 2016 to 2031; and will require at least 10,000 new dwellings over that period (21.01-1)

- proposing increased housing density through RGZ5 in a manner which provides housing diversity that complements the surrounding neighbourhood character (21.01-2)
- allowing a greater housing diversity by rezoning the subject land to RGZ5 with a maximum building height of 4 storeys – the proposed maximum building height, side and rear setbacks and landscaping requirements will help to ensure that future residential development is appropriate when having regard to the neighbourhood character and amenity of the area (21.04-3)
- potentially allowing more residential development which is of a greater diversity and with a high quality in the Huntingdale activity centre (21.06-1, 21.06-2 and 21.06-3)
- rezoning the subject land to the Residential Growth Zone so that residential and other sensitive uses may be developed on the site – as the site is opposite a large existing industrial precinct, the detrimental impact of the already existing industry may have on a residential use on the site needs to be considered and possibly mitigated (21.07-3)
- having the location, site characteristics and strategic planning context which support the subject land being rezoned to RGZ5 with a mandatory maximum building height of 14.5 metres (4 storeys) (22.01-1 and 22.01-3).

At the Hearing, Council referred to the subject land as ‘underutilised’ while the Proponent referred to it as ‘redundant’. When questioned by the Panel, Council said that the subject land had a “*thriving business*” but had the potential for more activity, especially when considering that the land has three street frontages.

The Proponent said that the subject land was redundant to the business because it sought to move to more suitable land to meet expanding needs. It employs 13 people involved in importing and retailing vehicle parts, between Monday to Friday 8.00am to 5.00pm. The Proponent added that the term ‘redundant’ did not refer to using the land for industrial purposes.

The Proponent called planning expert evidence from Mr Negri of Contour Consultants. Mr Negri found that the Amendment to be strategically justified after reviewing, among other matters, the Planning Policy Framework, MILUS and Plan Melbourne. Regarding Plan Melbourne, he noted that the Amendment:

- promotes the renewal of redundant industrial land (Direction 1.3)
- supports redevelopment of the subject land in an appropriate location and in line with population growth trends and sustainability principles (Direction 2.1)
- will promote greater choice and diversity of housing (Direction 2.5)
- supports the principle of a 20-minute neighbourhood and the creation of safer communities and healthy lifestyles (Direction 5.2).

Mr Negri noted that MILUS recommends the subject land be rezoned for residential development.

While objecting submissions opposed the extent of development enabled by the Amendment, no submitter questioned the Amendment’s strategic basis.

(ii) Discussion

Plan Melbourne designates the Monash National Employment and Innovation Cluster (the Cluster) which includes precincts within an area bounded by Monash Freeway, Springvale Road, Heatherton Road and Huntingdale Road. The subject land is located within walking distance to one of the Cluster's industrial precincts and is connected through public transport to other parts including Monash University, Monash Medical Centre, business parks and other industrial precincts. The Cluster has 75,000 jobs and is the largest employment concentration outside Melbourne's central city.

The Amendment aligns with State and regional (Plan Melbourne) planning policies which seek to appropriately locate industrial and industrial land supply to support employment and investment opportunities. The subject land is in the Industrial 1 Zone and abuts dwellings in the General Residential Zone without a buffer zone such as the Industrial 3 Zone. This may discourage the degree of investment needed to modernise or replace the existing building to attract future tenants. In line with planning policy, investment should be directed to revitalise larger and more appropriate industrial precincts in the Cluster rather than a relatively small single-site industrial precinct which abuts residential properties.

Rezoning the subject land for residential purposes would provide an opportunity for additional housing close to the Cluster. This implements other planning policy, including the 20-minute neighbourhood policy in Plan Melbourne.

The Amendment also implements amenity-related planning policy. Rezoning the Industrial 1 Zone the subject land to a residential zone would:

- prohibit industry, especially heavier industry which is currently permitted to locate next to surrounding residents and which may affect their amenity
- introduce a 20-metre separation distance between the subject land and P15 Industrial Precinct compared to the existing zero separation between the subject land and residential properties to its east
- align with planning policy such as Clause 13.07-1S which seeks to direct land uses to appropriate locations.

Since being adopted by Council in 2014, MILUS has not been implemented through the Planning Scheme to introduce local planning strategies which guide future rezoning and planning permit decisions. It is not referenced or incorporated in the Planning Scheme. Amendment C122 (Parts 1 and 2) rezoned land in five industrial precincts to implement specific MILUS recommendations. The Panel has given MILUS less weight than a document which is referenced or incorporated in the Planning Scheme.

MILUS is supported by a Background Report which states that floorspace available from declining manufacturing employment provides supply for industries with expanding employment. It highlights that:

- there is identified industrial land, including the subject land, which can be rezoned without affecting future demand
- there are larger industrial precincts in the municipality which would benefit from further investment.

The Background Report states that, while the subject land could continue to meet the needs of some businesses in the future, potentially redeveloping the land for industry or office may not be the best strategic outcome. It directs this investment towards larger neighbouring industrial precincts rather than a single industrial site. From a planning perspective, the Panel does not consider that the subject land is underused or redundant.

Whether redundant or not, the Panel has no reason to question MILUS which considers that losing 4,130 square metres of Industrial 1 Zone land at 256-262 Huntingdale road, Huntingdale will not negatively affect Monash's ability to meet future demand.

The subject land is located outside the Huntingdale activity centre therefore any planning policy for using and developing land in activity centres does not apply to the Amendment.

(iii) Conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is strategically justified and should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Residential Growth Zone Schedule 5

The Amendment proposes to apply RGZ5 to the subject land with a mandatory maximum building height of 14.5 metres and specify residential standards. In this chapter, the Panel considers:

- whether the proposed maximum building height of 14.5 metres is justified and appropriate
- whether the appropriate height should be applied as a mandatory provision
- whether the proposed specified residential standards are justified and appropriate
- which residential zone should be applied to implement the intended outcome.

3.1 Maximum building height

(i) The issue

The issue is whether the exhibited maximum building height of 14.5 metres (four storeys) in RGZ5 is justified and appropriate.

(ii) Evidence and submissions

Council submitted that a maximum building height of 14.5 metres (4 storeys) is appropriate because the subject land is 4,130 square metres, on a main road and has three frontages. It added that the land *“is located within the environs of the Huntingdale Activity Centre, which has been identified as a location which will be undergoing change and is suitable for a greater intensity of development”*. It noted that General Residential Zone Schedule 2 (GRZ2), which applies to surrounding residential land, enables a maximum building height of 11 metres (3 storeys). RGZ5 proposes one additional storey to the surrounding residential area.

Council provided plans and elevations for the subject land which formed part of the original combined amendment/permit application. It showed that a 4-storey development, which reduces in height towards abutting residential properties, was possible within a 14.5 metre maximum height.

Mr Negri gave evidence that he generally accepted that a maximum four storey building height was acceptable for the subject land. He considered that this height should be specified as a discretionary provision to enable a permit application to propose a greater height. Mr Negri noted that this could be achieved by not specifying a maximum building height in RGZ5 so that the default discretionary height of 13.5 metres in the Residential Growth Zone applied.

There were submissions from neighbouring residents which opposed the proposed maximum building height because the height enabled through RGZ5 would be inappropriate to the neighbourhood character. Huntingdale was described as a suburb with predominantly low-scale 1950s weatherboard houses. Many submitters considered two storeys to be appropriate because it is consistent with surrounding residential land. Mr Zielin disagreed with Council that the proposed maximum building height is marginally taller and submitted *“I fail to see how this would be remotely close”*. Several submissions were

concerned about building bulk, privacy, overlooking and balconies when referring to the proposed maximum building height.

Mr Ferra referred to Clause 22.01 (Residential development and character policy) of the Planning Scheme which states that it is policy that:

Development complements the current character statement and contributory elements and satisfies the intent of the desired future character statement for the applicable residential Character Type identified in Clause 22.01-4.

He submitted that it is 'illogical' to achieve a 14.5 metre four storey apartment building while respecting the surrounding residential style and complementing existing neighbourhood character. Mr Ferra referred to an apartment development on the south-east corner of Huntingdale Road and Princes Highway as an existing 4 storey building in Huntingdale. He explained that other newer residential buildings along Huntingdale Road were generally 2 storeys.

In response to Mr Colosimo's further submission, the Proponent considered the subject land's large size could accommodate 4 storeys while reducing potential amenity impacts on adjoining properties.

(iii) Discussion

The Panel has considered whether the exhibited maximum building height in RGZ5 is justified and appropriate irrespective of whether it should be mandatory or which zone it should be implemented through. These are discussed in subsequent chapters.

Is the maximum building height justified?

Council referred to existing planning policy which encourages development in neighbourhood activity centres which is moderately taller than height found in the surrounding residential area. While there is no defined activity centre boundary, the Panel considers that the subject land is outside the Huntingdale activity centre, so it has not relied on local activity centre policy to justify the proposed height.

The Panel agrees with submissions and evidence that there is support through Plan Melbourne for some dwelling density beyond the existing low density in the surrounding residential area. Enabling an additional floor, compared to height permitted in the surrounding area, would increase housing supply and diversity which will help serve the needs to Monash's changing population. This is supported by State, regional and local planning policy.

The subject land has attributes which, in combination, justify additional capacity through the proposed maximum building height. These include:

- Huntingdale train station, about 520 metres south of the subject land which connects to locations, including activity centres and employment areas, along railway lines to Melbourne's Central City, Dandenong, Pakenham and Cranbourne.
- bus stops in the front of, and opposite of, the subject land which connects to:
 - locations between Clayton South and the Oakleigh activity centre, including the Clayton activity centre (Route 704)

- locations between Caulfield and Rowville including Caulfield Railway Station, Monash University (Caulfield and Clayton campuses), Oakleigh activity centre, Chadstone shopping centre and Stud Park shopping centre (Smart bus route 900).

Applying the standard building height in GRZ2 would:

- restrict the degree to which the subject land can achieve what is sought through Plan Melbourne
- miss an opportunity to enable more housing on the only available property in the residential area bounded by the major roads with over 4,000 square-metres, three street frontages, main road location and distance to the train station.

A majority proportion of properties in the residential area are approximately 620 square metres.

Is the maximum building height appropriate?

Having determined that there is strategic support for the exhibited maximum building height, the Panel then turned its mind to whether the height is appropriate as part of a planning framework for any future planning permit application.

Clause 22.01 of the Planning Scheme is Monash's residential development and character policy which applies to all residential land except land in the Heritage Overlay. This policy would apply to the subject land if it is rezoned to residential land. Clause 22.01 designates land surrounding the subject land as Residential Character Type B, which is described as 1945-1965 development with flat topography and a grid subdivision pattern.

GRZ2 applies to the Residential Character Type B area bounded by Huntingdale Road, Princes Highway, Clayton Road and North Road. The zone has mandatory maximum building height of 11 metres (3 storeys). The subject land has a street frontage on Berkeley and Ross Streets of approximately 62 metres.

Berkeley and Ross Streets are approximately 800 metres long and the existing character of the first 62 metres from Huntingdale Road, being the subject land, already differs in built form, setbacks and landscaping to the remainder of the street. The Panel considers that the existing variation to the first 62 metres of each 800-metre street does not negatively impact the overall character.

Should the GRZ2 be applied as sought by resident submitters, the subject land could have built form of up to 12 metres. This is because the parent General Residential Zone allows a building to exceed the maximum 11-metre building height by up to 1 metre if the land slopes more than 2.5 degrees at any cross section wider than 8 metres.

At the Hearing, the Proponent advised that the subject land achieves the threshold for the additional metre. The difference between the proposed maximum building height of 14.5 metres in RGZ5 and the 12 metres enabled through GRZ2 is 2.5 metres. A building height of up to 2.5 metres greater than GRZ2 can be offset through design, setbacks and landscaping which are sought by other planning provisions in the Planning Scheme.

The subject land is a suitable candidate for the additional 2.5 metres because it has an area of 4,130 square metres, frontage of about 68 metres and a depth of 62 metres. The

property dimensions enable different design responses such as a larger rear setback or a transition in building height between Huntingdale Road and neighbouring properties.

Enabling a permit application to propose a building of up to 14.5 metres (4 storeys) does not guarantee that this height will be approved on all or part of the subject land. The appropriateness of any proposed height will be assessed against planning policy and provisions through a planning permit application when specific proposal details are known. This includes assessing whether the proposed development appropriately responds to surrounding neighbourhood character. Surrounding residents will have an opportunity to formally comment on the actual proposed building heights through the permit application process.

(iv) Conclusion

The Panel concludes:

- The proposed building height of 14.5 metres (4 storeys) is appropriate and justified.

3.2 Mandatory building height provision

(i) The issues

The issue is whether the proposed maximum building height is appropriate and justified as a mandatory provision.

(ii) Relevant planning practice advice

Planning Practice Note 59 advises on criteria that can be used to decide whether mandatory provisions may be appropriate in a planning scheme. It states that a planning scheme is predominantly performance based and that mandatory provisions are the exception. The Practice Note includes the following criteria for assessing whether the benefits of the proposed mandatory provision outweigh any lost opportunity and the flexibility inherent in a performance-based system:

- Is the mandatory provision strategically supported?
- Is the mandatory provision appropriate to the majority of proposals?
- Does the mandatory provision provide for the preferred outcome?
- Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?
- Will the mandatory provision reduce administrative costs?

(iii) Evidence and submissions

Council submitted that it originally sought that the Amendment be authorised with a mandatory maximum building height through General Residential Zone Schedule 7. The mandatory provision was translated to RGZ5 when the Amendment was authorised on 6 June 2018 conditional to the subject land being rezoned to the Residential Growth Zone. Council added that the mandatory provision is justified, given the scale of development around the subject land and its proximity to the Huntingdale activity centre. This would provide some certainty to residents who directly abut the subject land.

Mr Negri gave evidence that applying the maximum building height as a mandatory provision is unnecessary and unjustified. He added that the circumstances of the subject land are not so sensitive or particularly unique to justify this level of prescription. Mr Negri referred to Planning Practice Note 59 and found that the Amendment does not meet the guiding criteria for applying mandatory provisions in the practice note.

The Proponent adopted Mr Negri's evidence.

(iv) Discussion

The Panel supports a maximum building height of up to 14.5 metres (4 storeys) because of the subject land's main road location, near the Huntingdale Railway Station and activity centre. The question is whether expressing this height as a mandatory provision is justified and appropriate. Planning Practice Note 59, while not statutorily enforceable, offers useful guidance when considering a mandatory planning provision.

The Panel was not presented with information, including urban design evidence, to explain how built form greater than 14.5 metres or 4 storeys could be considered in an existing low-rise residential area which is limited to three storeys. Based on available information, the Panel considers that applying the maximum building height as a mandatory provision is appropriate because it:

- implements Planning Scheme policies and their objectives, particularly Clause 22.01
- continues to enable flexible built form options
- remove unacceptable proposals because exceeding the exhibited maximum building height would:
 - be too inconsistent with Huntingdale Road and other street frontages
 - have insufficient distance to appropriately transition towards existing abutting residential properties.

The Panel finds that a mandatory 4-storey maximum building height would provide an appropriate framework for considering any future permit application. There is insufficient strategic support for a greater building height, which would facilitate the tallest residential building in Huntingdale.

The Panel therefore does not share Mr Negri's view regarding mandatory provisions.

(v) Conclusion

The Panel concludes:

- The maximum building height is appropriate and justified as a mandatory provision.

3.3 Residential standards

(i) The issue

The issue is whether the exhibited residential standards specified in RGZ5 are appropriate and justified.

(ii) Relevant policy and provisions

The importance of neighbourhood character is highlighted throughout planning policy, residential zones and other planning provisions.

Planning policy

Clause 11.02-1S (Supply of urban land) of the Planning Scheme seeks to plan for urban growth while considering:

- opportunities to consolidate, redevelop and intensify existing urban areas
- neighbourhood character and landscape.

Clause 15.01-5S (Neighbourhood character) seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place. Clause 16.01-3S (Housing diversity) seeks to provide for a range of housing types to meet diverse needs, with a strategy to encourage well-designed medium-density housing that:

- Respects the neighbourhood character
- Improves housing choice
- Makes better use of existing infrastructure
- Improves energy efficiency of housing.

Clause 16.01-3R seeks to create mixed-use neighbourhoods at varying densities that offer more choice in housing.

Planning provisions

Clauses 54 (one dwelling on a lot) and 55 (two or more dwellings) seek to:

- implement the Municipal Planning Strategy and the Planning Policy Framework
- achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character
- encourage residential development that provides reasonable standards of amenity for existing and new residents
- encourage residential development that is responsive to the site and the neighbourhood.

Clauses 54 and 55 include objectives which must be met and standards which should be met to achieve their purposes. The Residential Growth Zone enables its schedule to specify residential standards which differ to those in Clauses 54 and 55. The Amendment proposes to specify residential standards in RGZ5, as shown in Table 4.

Table 4 RGZ5 residential standards

Standard	Requirement
A3 and B6	Front setback – 7.6 metres Side street setback as specified in the Tables to Standard A3 and Standard B6 continue to apply.
A5 and B8	56%
A6 and B9	25%
B13	Provision of at least 2 large canopy trees within each street frontage setback

Standard	Requirement
A10 and B17	Any building should be setback a minimum of: <ul style="list-style-type: none"> - 3 metres from Berkeley Street at the point closest to Huntingdale Road, increasing to 7.6 metres at the eastern most point of the building. - 3 metres from Ross Street at the point closest to Huntingdale Road, increasing to 7.6 metres at the eastern most point of the building.
A11 and B18	Walls should not be constructed on rear boundaries.
A17	A dwelling should have private open space consisting of an area of 50 square metres, with one part of the private open space to consist of secluded private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum dimension of 5 metres, convenient access from a living room and clear of all structures and services.
B28	A dwelling or residential building should have private open space consisting of: <ul style="list-style-type: none"> - An area of 50 square metres, with one part of the private open space to consist of secluded private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum dimension of 5 metres, convenient access from a living room and clear of all structures and services; or A balcony or roof top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room. (This option is only available for apartments developments)
A20 and B32	A front fence within 3 metres of a street should not exceed 1.2 metres

(iii) Evidence and submissions

Council submitted that the exhibited residential standards specified in RGZ5 are based on the development proposal in the planning permit application which formed part of the combined amendment/permit application. It considered the standards to be appropriate because they can be varied, and the scale of development proposed in the original permit application is what Council envisages for the subject land.

Mr Negri gave evidence that some of the RGZ5 residential standards “*go beyond the point of being necessary or reasonable and should be reviewed*”. He reviewed these standards further at the Hearing. Mr Negri questioned why the RGZ5 standards were needed rather than the default standards in Clauses 54 and 55, specifically:

- a 7.6 metre setback rather than the default 6 metres (Standard A3 and B6)
- 56 per cent site coverage rather than the default 60 per cent (Standard A5 and B8)
- 25 per cent permeability rather than the default 20 per cent (Standard A6 and B9)
- not having walls constructed on rear boundaries (Standard A11 and B18)
- private open space minimum area and dimensions (Standard A17 and B28).

Mr Negri also questioned the specificity of the side and rear setback provisions (Standard A10 and B17). He noted that the varied setbacks appear to side street setbacks rather than side and rear boundary setbacks. At the Hearing, he said that he did not have an issue with specifying at least two trees for each street frontage setback, but he questioned why a minimum of two large canopy trees were specified for frontages of about 68 metres along Huntingdale Road and about 62 metres on Berkeley and Ross Streets.

The Proponent adopted Mr Negri’s evidence.

No other submission specifically referred to any of the exhibited RGZ5 residential standards. They raised broader concern about associated matters such as dwelling density and neighbourhood character. At the Hearing, Ms Li submitted that the proposed building would overshadow and overlook her property. The Proponent responded that indicative development plans and elevations, which do not form part of the Amendment, showed that one square metre corner of Ms Li's backyard would be overshadowed for part of the day.

(iv) Discussion

The Panel acknowledges that land surrounding the subject land is zoned GRZ2, which enables buildings of up to 11 metres (3 storeys) and specifies residential standards for minimum street setback, private open space and front fence height. GRZ2 relies on the default Clauses 54 and 55 for all other residential standards.

As discussed in Chapter 3.1, the Panel considers that varying the design response for the first 62 metres of an 800-metre street is unlikely to negatively impact the overall character. Irrespective, there may strategic reasons to apply specific residential standards in RGZ5. However, the Panel was not provided with such reasons through any submission. It does not agree with Council's reasons for considering the RGZ4 standards appropriate because:

- the development proposal in the original permit application and Council's vision for the subject land do not explain how the RGZ5 standards are strategically supported
- the ability to vary residential standards through a permit application could equally apply as a reason for relying on the default Clause 55 standards.

The Clause 55 residential standards, with the proposed mandatory maximum building height, planning policy (including Clause 22.01) and provisions, provide an appropriate framework for guiding and assessing any future planning permit application proposing multi-dwelling development on the subject land. Within this context and without strategic reasons for different standards, the Panel agrees with Mr Negri that the proposed RGZ5 residential standards are not "*necessary or reasonable*".

Residential Growth Zone Schedule 1 in the Planning Scheme also relies on the default Clauses 54 and 55 residential standards rather than specifying different standards. The zone applies to 1-13 Renver Road, Clayton (former school site), which comprises approximately 10,000 square metres, has 118 metre frontages along two local streets, and is surrounded by GRZ2.

Surrounding residents can be assured that any permit application will propose built form no greater than 14.5 metres (4 storeys), will meet all Clause 55 residential objectives and will apply either the default or varied standards which still achieve the objectives. Residential objectives include:

- Overshadowing open space objective – *To ensure buildings do not significantly overshadow existing secluded private open space.*
- Overlooking objective – *To limit views into existing secluded private open space and habitable room windows.*

These objectives are supported by very detailed standards. Matters such as overshadowing and overlooking can therefore be addressed during the planning permit application when development details are known.

(v) Conclusions and recommendations

The Panel concludes:

- The Clause 55 residential standards, with the proposed mandatory maximum building height and existing planning policy and provisions, provide an appropriate framework for a future planning permit application on the subject land.
- The exhibited residential standards specified in RGZ5 are not appropriate or justified.

The Panel recommends:

1. **Amend Residential Growth Zone Schedule 5, as shown in Appendix B, to:**
 - a) **replace all residential standards in 1.0 (Requirements of Clause 54 and Clause 55) with 'None specified' so that the default standards in Clauses 54 and 55 can apply.**

3.4 Residential zone selection**(i) The issue**

Having considered the appropriate built form provisions, the issue is whether the Residential Growth Zone is justified and appropriate for the subject land.

(ii) Relevant policies, strategies and guidelines

The subject land is located approximately 170 metres north of the Huntingdale activity centre. Clause 21.06 designates the Huntingdale activity centre as a neighbourhood centre. Among other strategic directions, it encourages development in neighbourhood centres that is of a moderately higher scale than surrounding residential areas.

MILUS identifies the subject land as Precinct P17 (256-262 Huntingdale Road Huntingdale) and states the following vision, strategic direction and recommended zoning:

This precinct offers the opportunity to act as a catalyst for new housing development within the surrounding residential area. Facilitating its redevelopment for residential uses also enables industrial activity to be consolidated into the nearby core industrial precincts to support their revitalisation.

An appropriate residential zone is recommended for this precinct to facilitate residential development consistent with the immediate residential area.

A Practitioner's Guide to the Victorian Planning Schemes Version 1.1, October 2018 sets out key rules for when preparing a planning scheme provision. It advises that the land, intended planning outcomes, and the zone's purposes and provisions should be considered when selecting a zone. The Guide states:

Residential Growth Zone – intended for locations near activity centres, train stations and other areas suitable for increased housing. Encourages medium density residential development in order to make optimum use of available services and facilities.

General Residential Zone – generally the main zone to be applied in new or established residential areas where there are minimal constraints to residential development. It provides for moderate growth and diversity of housing.

Planning Practice Note 78 (Applying the residential zones) was removed after Amendment VC110 changed the residential zones on 27 March 2017. A new practice note will be prepared in the future.

(iii) Evidence and submissions

Council noted that it originally requested that the Amendment be authorised with the General Residential Zone on the subject land. The Amendment was authorised conditional to the subject land being rezoned to the Residential Growth Zone. The purposes of each zone were explored at the Hearing.

Council submitted that the Residential Growth Zone is justified for the subject land. It explained that the Huntingdale activity centre is designated as an activity centre in Clause 21.06 of the Planning Scheme and the Monash Housing Strategy 2014. Noting that the subject land is in the Huntingdale activity centre environs, Council added:

Activity centres are identified as areas with future redevelopment potential, including residential development. Therefore, the site is appropriate for higher density residential development rather than single storey detached dwellings that predominantly surround the site. Accordingly, rezoning the site to the Residential Growth Zone 5 is appropriate given the site's strategic location, large size (4,130 square metres) and location abutting three streets.

Mr Negri gave evidence that the Residential Growth Zone is appropriate for the subject land, given the Amendment's purpose and intention, which include:

- the Planning Policy Framework which generally supports the zone's outcomes
- support for increased residential densities in buildings up to 4 storeys (14.5 metres)
- opportunity to achieve greater housing diversity near services including public transport
- provisions which enable transition between the residential area to the east and industrial land to the west
- provisions which seek to implement design objectives for a respectful and responsible design and built form outcome.

There were submissions which supported residential development on the subject land, however, they opposed the Residential Growth Zone because of the scale of potential development which it enabled. They considered GRZ2 to be more appropriate because it is the zone which applies to surrounding residential land.

At the Hearing, Mr Ferra submitted that properties among the industrial and commercial zones closer to the railway line or west of Huntingdale Road were more suitable for RGZ5. He said that the grounds for his objections would not apply to these sites.

(iv) Discussion

Planning Practice Note 78 (Applying the residential zones) would have been relevant and useful. The Panel is cognisant that while a purpose of the Residential Growth Zone is to "*provide housing at increased densities in buildings up to and including four storey buildings*", Ministerial Direction 7(5) only allows a schedule to specify a height greater than 13.5 metres (4 storeys).

Council and the Proponent supported the Residential Growth Zone while several resident submitters supported the General Residential Zone. The Panel has referred to their purposes to inform itself. Both zones seek to:

- encourage a diversity of housing types in areas with good access to services and transport
- allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The Residential Growth Zone specifically refers to activity centres and town centres as locations with good access to services and transport. The General Residential Zone seeks to encourage development that respects neighbourhood character while the Residential Growth Zone does not. The Residential Growth Zone seeks to *“encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas”* and to *“ensure residential development achieves design objectives specified in a schedule to this zone”*, while the General Residential Zone does not.

The Panel does not agree with Council’s justification for the zone. The subject land is located outside of the Huntingdale activity centre. Moderately higher scale development (than surrounding residential areas) is encouraged in the centre – not outside.

To further inform itself, the Panel reviewed the extent of development enabled through each residential zone.

Ministerial Direction 7(5) states that:

- a Residential Growth Zone schedule *“must not specify a height lower than the height specified in the zone”*
- a General Residential Zone schedule *“must not specify a height and number of storeys lower than the height and number of storeys specified in the zone”*.

Ministerial Direction 7(5) allows both zones to specify a maximum building height of 13.5 metres. It does not allow a maximum building height of less than 11 metres (3 storeys) through either zone schedule.

The Panel finds that the General Residential Zone and Residential Growth Zone are both suitable for the subject land because they can achieve the intended outcomes. However, considering the subject land’s attributes and its ability to accommodate more development, the Residential Growth Zone is more appropriate and justified.

(v) Conclusion

The Panel concludes:

- The Residential Growth Zone is justified and appropriate for the subject land.

4 Other issues

4.1 Potentially contaminated land

(i) The issue

The Amendment proposes to apply the Environmental Audit Overlay to the subject land to recognise its existing land use and proposal to transition to a sensitive land use. The issue is whether the Amendment appropriately responds to potential land contamination.

(ii) Relevant policies, strategies and studies

Clause 13.04-1S of the Planning Scheme seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

Clause 21.13 (Sustainability and environment) identifies the following as a key issue:

Previous work practices, particularly associated with industrial activities, may have resulted in soil or water contamination. Planning procedures should ensure that areas undergoing renewal and redevelopment are investigated for the presence and extent of contamination and appropriate actions taken to remediate the site.

An associated strategy is to ensure that soil conditions are compatible with the intended use and development of sites.

Ministerial Direction 1 (Potentially contaminated land) seeks to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination.

Planning Practice Note 30 (Potentially contaminated land) provides guidance about how to identify if land is potentially contaminated; the appropriate level of assessment of contamination for a planning scheme amendment or planning permit application; appropriate conditions on planning permits; and circumstances where the Environmental Audit Overlay should be applied or removed.

(iii) Evidence and submissions

Five submissions considered that the industrial activities on the subject land may have contaminated the site. Mr Colosimo submitted that a steel and brass foundry and metal work, car service and repair centre and car service and auto wreckers and recyclers have operated on the subject land over the past 60 years.

Council acknowledged that the subject land may be potentially contaminated and submitted:

To ensure that the environmental conditions of the land is suitable for sensitive uses, such as residential uses (which are permitted in the Residential Growth Zone), an Environmental Audit Overlay is proposed to be applied to the site and was exhibited as part of the Amendment. This is to ensure that the requirement of an environmental audit is triggered prior to the commencement of a sensitive use or the construction or carrying out of building and works associated with a sensitive use.

EPA supported the Environmental Audit Overlay because it will ensure that the subject land will be environmentally suitable for the proposed sensitive uses.

Mr Negri gave evidence that applying the Environmental Audit Overlay aligns with Ministerial Direction 1. He highlighted that the overlay was intended to apply only to the part of the subject land in the Industrial 1 Zone and that land in GRZ2 also appears to have been used for industrial purposes. Mr Negri stated that it may be beneficial to investigate whether the Environmental Audit Overlay should be applied to all of the subject land.

Council subsequently agreed to apply the Environmental Audit Overlay to the entire subject land.

(iv) Discussion

The Panel acknowledges that, while some residents were concerned about the subject land's potential land contamination, nobody objected to the Environmental Audit Overlay being applied. Regarding Ministerial Direction 1, the subject land's existing and previous industrial uses meet the definition of 'potentially contaminated land' and the proposed residential use is defined as a 'sensitive uses'.

Applying the Environmental Audit Overlay to the subject land, including the portion in GRZ2, appropriately responds to potentially contaminated land because it will ensure that the land is suitable before being used for residential purposes.

(v) Conclusion and recommendation

The Panel concludes:

- The Amendment appropriately responds to potentially contaminated land and the Environmental Audit Overlay should apply to the entire subject land.

The Panel recommends:

- 2. Apply the Environmental Audit Overlay to all of 256-262 Huntingdale Road, Huntingdale.**

4.2 Industrial and residential interface

(i) The issue

The subject land is directly opposite industry in the Industrial 1 Zone. The zone's purpose is:

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.

The issue is whether the Amendment appropriately responds to the industrial and residential interface between the subject land and industry west of Huntingdale Road on matters such as odour, dust and noise.

(ii) Relevant policies, strategies and studies

Clause 13.05-1S of the Planning Scheme (Noise abatement) seeks to:

Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.06-1S (Air quality management) seeks to:

Ensure, wherever possible, that there is suitable separation between land uses that reduce air amenity and sensitive land uses.

Clause 13.07-1S (Land use compatibility) seeks to safeguard community amenity while facilitating appropriate industrial uses with potential off-site effects through the following strategy:

Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:

- Directing land uses to appropriate locations.
- Using a range of building design, urban design, operational and land use separation measures.

(iii) Evidence and submissions

EPA did not object to the Amendment but noted in its submission the importance of considering interface issues such as air emissions and noise impacts that may arise when there is inadequate separation between industrial and sensitive land use. EPA requested that Council consider “*reverse buffers*” as the Amendment involves sensitive use near an industrial zone.

The Panel directed Council to identify any known complaints over the past three years from residents east of Huntingdale Road to either Council or the Environment Protection Authority attributed to industry opposite the subject land. In its Part B submission, Council advised that there were no known complaints from any resident in the area bounded by Huntingdale Road, Hargraves and Shafton Streets and the back fences of properties on the north side of Greville Street.

Council submitted that Assa Abloy, a manufacturer of locks and security devices, on industrial land opposite the subject land was notified of the proposed amendment and that it did not object to the Amendment. It considered Assa Abloy to be a modern manufacturing use which is likely to have low amenity impact. Council referred to Clause 53.10 of the Planning Scheme (Uses with adverse amenity potential) and explained:

In the table of threshold distances in Clause 53.10, works producing iron or steel products up to one million tonnes per year must have a threshold distance of 100 metres from land in a residential zone.

Regarding whether the 100 metres threshold distance is satisfied, Council stated that the front portion of the Assa Abloy site is used for car parking and an office. It added that the manufacturing use is located to the rear of the site, approximately 100 metres from the subject land.

Council submitted that noise standard B40 of Clause 55.07 of the Planning Scheme specifies that apartment buildings within 300 metres of Industrial 1 zone:

should be designed and constructed to achieve the following noise levels:

- Not greater than 35dB(A) for bedrooms, assessed as an L_{Aeq} , 8h from 10pm to 6am.
- Not greater than 40dB(A) for living areas, assessed L_{Aeq} , 16h from 6am to 10pm.

It considered that this would somewhat protect future residents in apartments on the subject land.

(iv) Discussion

A key consideration is whether the Amendment appropriately responds to the industrial and residential interface between the subject land and industry west of Huntingdale Road on matters such as odour, dust and noise. Interface issues can be caused when there is insufficient separation between the source that generates the offending emissions and a sensitive land use, or when there are insufficient controls to mitigate emissions.

The Panel acknowledges that rezoning the subject land to allow residential development will enable people to reside within 20 metres of the Industrial 1 Zone. Two blocks of two storey flats exist along Huntingdale Road in a similar distance from the manufacturing area of Assa Abloy as the subject land. They are located in an area where there are no known complaints. This may be because the source of any potential emission, the manufacturing area, is located to the rear of Assa Abloy site, approximately 100 metres from the subject land.

Any future apartment on the subject land would need to be designed and constructed in line with Clause 55.07 noise standards to protect the amenity of residents. Before deciding on an application for an apartment development on the subject land, Council would assess whether it has been demonstrated that the *“design treatment incorporated into the development meets the specified noise levels or an acoustic report by a suitably qualified specialist submitted with the application”*.

The Panel is satisfied the Amendment does not need to be changed to address the residential and industrial interface because there is sufficient distance between the subject land and Assa Abloy’s manufacturing area, any apartment on the subject land would need to meet specified noise levels, and there is no known complaint from a resident in the surrounding area.

(v) Conclusions and recommendations

The Panel concludes:

- The Amendment appropriately responds to the industrial and residential interface between the subject land and industry west of Huntingdale Road on matters such as odour, dust and noise.

4.3 Traffic and car parking

(i) The issue

The issue is whether the Amendment has appropriately considered traffic and car parking.

(ii) Evidence and submissions

Local residents submitted that enabling denser residential development on the subject land would add cars and increase parking demand which would exacerbate existing street congestion and reduce available on-street parking.

Mrs Li and Mr Colosimo were concerned about traffic congestion and noise in Ross Street and requested that any future development vehicular access points be located on Huntingdale Road to minimise any potential impact on Ross Street residents.

Council referred to the Transport Impact Assessment Report¹ prepared by GTA Consultants, which formed part of the original combined permit/amendment application. The report concluded:

The Huntingdale Road/Ross Street intersection can be expected to operate satisfactory post development, with similar performance to existing conditions. The proposed development is anticipated to result in only minor increases to the existing average delays (up to three seconds)... It is considered that the proposed development traffic can be accommodated on the road network surrounding the subject site with no material impact on its performance or safety.

Council explained that it referred the original development application to Transport for Victoria and VicRoads because Huntingdale Road is in the Road Zone and classified as a Category 1 road. Neither objected to the proposed development.

Regarding on-site and off-site car parking, Council submitted:

Any development on the site would be required to meet the car parking requirements as set out in Clause 52.06 of the Monash Planning Scheme. The impact that any future development has on car parking capacity in the surrounding area would be considered in the planning permit application process. It is worth noting that any car parking restrictions that apply in the surrounding streets would also apply to future residents and visitors in the site.

The Proponent's submissions at the Hearing and in response to Mr Colosimo's further submission aligned with Council's view.

(iii) Discussion

The Amendment seeks to establish an assessment framework to consider any future permit application proposing to develop the land. Traffic and car parking will be considered through any such future planning permit application. The ability to accommodate car parking and the impact on the surrounding street network and parking is one of the many considerations which often dictate the extent of development on the subject land. However, without specific proposal details, it is not possible to understand the potential traffic and car parking impacts at this stage of the planning process.

While a transport analysis indicates that post development traffic volumes from one potential development option can be absorbed within the street network, a Transport and

¹ Document 7

Traffic Assessment Report should be provided as part of planning permit application for an apartment style development on the subject land.

Care will need to be exercised in the design of a future development to ensure that it does not adversely affect the amenity of the local area by creating safety issues, unreasonable congestion or and unreasonable impact on on-street parking.

(iv) Conclusions and recommendations

The Panel concludes:

- The proposed planning framework does not introduce any strategic traffic and car parking issues which need to be addressed through the Amendment.
- Potential traffic and car parking issues will be assessment through any planning permit application when development proposal details are known.

4.4 Water, sewerage and drainage infrastructure

(i) The issue

The issue is whether the Amendment has appropriately considered water, sewerage and infrastructure.

(ii) Evidence and submissions

Four submissions considered that the extent of potentially development enabled through RGZ5 would or may not be supported by water, sewerage and drainage infrastructure.

Council explained that the relevant water authority, South East Water, did not object to the Amendment through a formal submission. However, South East Water advised that works may be required, including the upgrading of existing infrastructure, depending on the number of lots proposed through a permit application.

(iii) Discussion

The Panel notes that no infrastructure organisation submitted that existing infrastructure cannot cope with additional demand from the subject land, or if found to be deficient, cannot be upgraded to meet future demand. Irrespective, the Amendment seeks to rezone the subject land and does not include any proposal to develop the land. As such any assessment of the adequacy of water, sewerage and drainage infrastructure will be part of any future planning permit application.

(iv) Conclusion

The Panel concludes:

- The proposed planning framework does not introduce any strategic water, sewerage and drainage issues which need to be addressed through the Amendment.
- Potential water, sewerage and drainage issues will be assessment through any planning permit application when development proposal details are known.

4.5 Other matters

(i) The issues

The issues are the extent to which other matters raised in submissions are relevant and if the Amendment will generate identified potential issues.

(ii) Evidence and submissions

There were submissions which considered that the scale of development potentially enabled through RGZ5 would or may:

- devalue surrounding properties
- not be supported by local amenities
- negatively impact local small businesses because new residents will encourage larger retail operators
- have a negative social or psychological impact
- create a safety risk and encourage crime
- generate increased hard rubbish and rubbish bins on the street
- generate a health issue when removing asbestos from the existing building
- overshadow neighbouring properties or affect their privacy
- result in a loss of heritage buildings.

Mr Negri identified a drafting error in RGZ5 which referred to Clause 32.08 (General Residential Zone) instead of Clause 32.07 (Residential Growth Zone).

(iii) Discussion

Property value

There was no information presented to the Panel to show a relationship between the Amendment and property value. Property value is determined by many, and often complicated and intersecting, factors. It is often difficult to isolate one from the other. Irrespective, the Panel considers that the Amendment will result in social, economic and environmental benefit for the broader community which would outweigh any unlikely impact on an individual.

Impact on Huntingdale activity centre

Having more residents within walking distance to the Huntingdale activity centre may be positive for some retailers. The Oakleigh and Clayton activity centres have full line supermarkets and it is unlikely that the number of people envisaged for the subject land will encourage any investor to attempt to purchase and consolidate smaller Commercial 1 Zone parcels to attract larger retail operators.

Asbestos removal

Environmental regulations and guidelines, outside of the *Planning and Environment Act 1987*, ensure that asbestos in buildings can be safely removed.

Local amenity and garbage collection

There was no information to suggest that Council cannot respond to local amenity and garbage collection needs in response to a larger population.

Social and psychological impact, safety and crime

There was no information to support claims that the Amendment would have a negative social and psychological impact or increase crime. The increased lighting from the new dwellings and the passive surveillance from residents being on the subject land after hours is likely to discourage potential offenders.

Built form and heritage

The Amendment does not propose any building which would significantly overshadow or overlook a neighbouring property. These details will be known through a future permit application.

The Heritage Overlay does not apply to the subject land, nor the residential neighbourhood area (with the exception of the former Oakleigh Motel site on the Princes Highway) bounded by Huntingdale Road, Princes Highway, Clayton Road and North Road. The Panel considers that heritage is not relevant to the Amendment.

(iv) Conclusions and recommendation

The Panel concludes:

- Residential Growth Zone Schedule 5 should be changed to refer to Clause 32.07 rather than 32.08.
- Other matters raised in submissions are either not relevant, will not generate the identified potential issues or do not affect the ability for the Amendment to progress.

The Panel recommends:

- 1. Amend Residential Growth Zone Schedule 5, as shown in Appendix B, to:**
 - a) replace Clause 32.08 with 32.07.**

Appendix A Document list

No.	Description	Provided by
7 February 2019		
1	Part A Submission	Council
2	Expert witness statement – Marco Negri of Contour Consultants	Mr Little
14 February 2019		
3	Part B Submission	Council
4	Plans and elevations – Potential residential development, CHT Architects	Council
5	Monash Industrial Land Use Strategy, February 2014	Council
5A	Monash Industrial Use Strategy – extract showing Precinct 17	Council
6	Victoria Planning Provisions – Clause 53.01 extract	Council
7	Transport Impact Assessment, GTA Consultants	Council
8	Submission – Polykastron 4x4 Pty Ltd	Mr Chiappi
9	Monash National Employment and Innovation Cluster draft framework plan, March 2017	Mr Chiappi
10	Architectural Drawing Set Residential Development, CHT Architects	Marco Negri
11	Submission – Liz Li	Ms Li
12	Submission – Herman Ferra and Katherine Macfarlane	Mr Ferra
13	Submission – Angelo Colosimo	Mr Ferra
14	Extract showing map of Monash National Employment and Innovation Cluster	Council
15	Map – Monash activity centres	Council
16	Monash Planning Scheme – Clause 22 extract	Council
20 February 2019		
17	Further submission – Angelo Colosimo	Mr Colosimo
28 February 2019		
18	Response to further submission from Mr Colosimo	Paul Little
5 March 2019		
19	Reply to further submission from Mr Colosimo and the Proponent	Council

Appendix B Panel preferred version of Residential Growth Zone Schedule 5

Tracked Added

~~Tracked Deleted~~

SCHEDULE 5 TO CLAUSE 32.07 RESIDENTIAL GROWTH ZONE

Shown on the planning scheme map as **RGZ5**.

256-262 HUNTINGDALE ROAD, HUNTINGDALE

1.0 Design objectives

- To facilitate housing diversity and growth in the form of unit, townhouse and apartment developments of a high quality design and finish.
- To ensure developments are constructed within an open garden setting through the retention and planting of vegetation, including canopy trees.
- To ensure that the height, scale and form of development respects any sensitive residential interfaces and minimises the appearance of visual bulk.

2.0 Requirements of Clause 54 and Clause 55

	Standard	Requirement
Minimum street setback	A3 and B6	<u>None specified</u> Front setback — 7.6 metres Side street setback as specified in the Tables to Standard A3 and Standard B6 continue to apply.
Site coverage	A5 and B8	<u>None specified</u> 56%
Permeability	A6 and B9	<u>None specified</u> 25%
Landscaping	B13	<u>None specified</u> Provision of at least 2 large canopy trees within each street frontage setback
Side and rear setbacks	A10 and B17	<u>None specified</u> Any building should be setback a minimum of: <ul style="list-style-type: none"> • 3 metres from Berkeley Street at the point closest to Huntingdale Road, increasing to 7.6 metres at the eastern most point of the building. • 3 metres from Ross Street at the point closest to Huntingdale Road, increasing to 7.6 metres at the eastern most point of the building.
Walls on boundaries	A11 and B18	<u>None specified</u> Walls should not be constructed on rear boundaries.
Private open space	A17	<u>None specified</u> A dwelling should have private open space consisting of an area of 50 square metres, with one part of the private open space to consist of secluded private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum dimension of 5 metres, convenient access from a living room and clear of all structures and services.

	Standard	Requirement
	B28	<p><u>None specified</u></p> <p>A dwelling or residential building should have private open space consisting of:</p> <ul style="list-style-type: none"> ▪ An area of 50 square metres, with one part of the private open space to consist of secluded private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum dimension of 5 metres, convenient access from a living room and clear of all structures and services; or <p>A balcony or roof top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room. (This option is only available for apartments developments)</p>
Front fence height	A20 and B32	<p><u>None specified</u></p> <p>A front fence within 3 metres of a street should not exceed 1.2 metres</p>

3.0 Maximum building height requirement for a dwelling or residential building

A building used as a dwelling or a residential building must not exceed a height of 14.5 metres and 4 storeys

4.0 Application requirements

The following application requirements apply to an application for a permit under clause 32.07~~8~~, in addition to those specified in clause 32.07~~8~~ and elsewhere in the scheme:

- Plans showing existing vegetation and any trees proposed to be removed.
- Plans showing proposed landscaping works and planting including tree species and mature height.
- A schedule of materials and finishes to be used in the development.
- A plan identifying service areas, such as waste and recycling areas, utilities and services (including antennas, air conditioning units, fire fighting equipment and letterboxes).

5.0 Decision guidelines

The following decision guidelines apply to an application for a permit under clause 32.07~~8~~, in addition to those specified in clause 32.07~~8~~ and elsewhere in the scheme:

- Whether development contributes to and enhances the garden city character of the area. Specifically, whether the proposal:
 - Provides sufficient and well located open space, primarily unencumbered by easements, to provide for large trees to be retained or planted within front, side and rear setbacks, and secluded open space areas. Environmental weeds and artificial grass should be avoided.
 - Provides vegetation in the front setback that softens the appearance of built form and contributes to the public realm.
 - Sites buildings to minimise the need to remove significant trees, and protect significant trees on the site and adjoining properties.
 - Minimises hard paving throughout the site by limiting driveway widths and lengths, providing landscaping on both sides of driveways, and restricting the extent of paving within open space areas.

- Maximises planting opportunities adjacent to the street by excluding hard paving such as car parking, turning circles and driveways, and minimising basement car parking, within the front setback.
- Whether the building retains human scale and, by the inclusion of significant breaks and recesses in building massing, is designed to avoid large block like structures dominating the streetscape.
- Whether the development uses robust and low maintenance materials and finishes that complement the neighbourhood, withstand weathering and create minimal adverse impacts (for instance, safe walking surfaces and limited reflective materials).
- How the development minimises the visual and amenity impact of utility areas, such as waste and recycling areas, and services including antennas, air conditioning units, fire fighting equipment and letterboxes.
- Whether the development minimises the impact to neighbouring properties, through suitable setbacks from adjacent secluded private open space to enable the provision of screening trees, and scaling down of building form to the adjoining properties.
- Whether the development will positively contribute to the development of local urban character, enhancing the overall public realm, whilst minimising detrimental impact on neighbouring properties and existing or proposed public spaces.
- Whether the building will create a diverse and interesting streetscape and skyline, that maintains adequate sunlight access to streets and primary public spaces at ground level.
- Whether the buildings create a sense of address with active, attractive, functional and pedestrian-friendly interfaces at street level.
- Whether the development incorporates design measures to maximise accessibility, safety and amenity for the occupants and visitors, including those with limited mobility, as well as providing for the safety and amenity of those using the public streets. These measures could include:
 - Legible, accessible and sheltered pedestrian entrances.
 - Ground and upper floor windows and doors facing the street.
 - Low or no front fencing.
 - The ability for cars to exit the site in a forward direction.