

## EPA Submission to Monash Planning Scheme Amendment C129

10 August 2017

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## Introduction

The Environment Protection Authority (EPA) is pleased to assist Planning Panels Victoria in its consideration of Planning Scheme Amendment C129 ('the Proposal'). As Victoria's environmental regulator, EPA can provide its knowledge, expertise and experience to help the Panel achieve a balanced outcome.

EPA Victoria was established in 1971 under the *Environment Protection Act 1970* (EP Act). EPA aspires to create a healthy environment that supports a liveable and prosperous Victoria. By effectively regulating pollution in Victoria, EPA strives to improve human health by delivering clean air, healthy waterways, safe land and minimal disturbances from noise and odour for all Victorians.

EPA made a submission to the Proposal on 10 March 2017 and subsequently was notified of a Panel Hearing commencing 7th August 2017.

EPA is generally supportive of the Proposal and welcomes the opportunity to assist Planning Panels Victoria with their considerations. However, EPA seeks to provide advice to the Panel in relation to the proposed timing of the required Environmental Site Assessment (ESA) and Site Environmental Strategy Plan (SESP).

It is EPA's position that the ESA and SESP should be finalised and verified by an Environmental Auditor appointed under Part IXD of the EP Act, and submitted to Council's satisfaction prior to this Amendment being approved.

These assessment processes are acknowledged by EPA to be an acceptable alternative to the more rigorous environmental audit process often recommended at this stage of a planning process. EPA is satisfied with the proposal to defer the environmental audit, provided it is completed before buildings and works associated with a sensitive use are commenced on site.

EPA has evaluated the Proposal using a preventative approach. As such, EPA seeks a balance that is supportive of the intent of the Proposal while also emphasising the need for the Planning Authority to satisfy itself that the condition of the relevant land is suitable for the proposed residential use at the earliest stage in the planning process.

EPA's position will be further described in this submission.

## Overarching Legislative Framework

1. EPA highlights the following sections of overarching legislation that are relevant to the Proposal and the City of Monash (Council).
2. The *Planning and Environment Act 1987* includes Sections that are relevant to the Proposal. Pursuant to Section 12 of the *Planning and Environment Act 1987*:
  - (2) *In preparing a planning scheme or amendment, a planning authority—*
    - (b) *must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment*
3. In addition, pursuant to Section 60 of the *Planning and Environment Act 1987*:
  - (1) *Before deciding on an application, the responsible authority must consider—*
    - (e) *any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.*

## Other Legislative requirements – Potentially Contaminated Land

4. EPA has formed the view that the subject site is potentially contaminated land due to its former industrial use as a landfill and quarry and submits that the following legislative requirements, specific to contaminated land are relevant to this submission. The various requirements are consistent and complementary.
5. Potentially contaminated land is defined in *Ministerial Direction No. 1 – Potentially Contaminated Land* (Direction No. 1), as land used or known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel (if not ancillary to another use of land).
6. The *State Environment Protection Policy (Prevention and Management of Contamination of Land)* (SEPP PMCL) is a statutory policy made under the EP Act. SEPP PMCL establishes general uses of land in Victoria and provides a mechanism for determining whether these uses are being protected, such as indicators and objectives of use in assessing impacts. The goal of the policy is set out in Clause 6 as follows:

*The goal of this policy is to maintain and where appropriate and practicable improve the condition of the land environment sufficient to protect current and future beneficial uses of land from the detrimental effects of contamination by:*

  - (a) *preventing contamination of land; and*
  - (b) *where pollution has occurred, adopting management practices that will ensure:*
    - (i) *unacceptable risks to human health and the environment are prevented; and*
    - (ii) *pollution is cleaned-up or otherwise managed to protect beneficial uses.*
7. Clause 14 of SEPP PMCL outlines the following general obligations regarding planning scheme amendments, planning permits and change of land use:
  - (2) *In considering a request for a planning scheme amendment or an application for a planning permit in relation to potentially contaminated land, planning and responsible authorities:*
    - (a) *should require the applicant to provide sufficient information on the potential for existing contamination to have adverse effects on the future land use, to enable a decision regarding the suitability of the site for the proposed use or development;*
    - (b) *must consider any significant effects the environment, including any contamination of land, might have on any use or development, in accordance with section 12(2)(b) and section 60(1)(e) of the Planning and Environment Act 1987;*
    - (c) *should impose such conditions as it considers necessary to ensure any existing contamination identified in sub-clause (ii) is managed such that the site is suitable for the permitted use(s).*
    - (d) *should have regard to guidelines or guidance documents prepared by the Authority or the Department of Transport, Planning and Local Infrastructure, in fulfilling any obligations under this clause.*
8. Clause 14 of SEPP PMCL outlines the following specific obligations regarding planning scheme amendments, planning permits and change of land use:



(3) In preparing an amendment to a planning scheme which would have the effect of allowing potentially contaminated land to be used for a sensitive use, the planning authority must have regard to Minister's Direction No. 1 as amended from time to time under section 12(2)(a) of the Planning and Environment Act 1987.

(4) In meeting the general obligations set out in sub-clause (2), a responsible authority determining a planning permit application under the Planning and Environment Act 1987 which would have the effect of allowing potentially contaminated land to be used or developed for a sensitive use, should consider any significant effects contamination may have on a sensitive use by, where appropriate:

(a) requiring that a certificate of environmental audit be issued before any building or works associated with the sensitive use has commenced; or

(b) requiring that:

(i) a statement of environmental audit indicating that the environmental conditions of the site are suitable for the sensitive use, be issued before any building or works associated with the sensitive use has commenced; and either

(ii) the permit applicant satisfies the responsible authority that the statement of environmental audit (including any relevant conditions included in the statement) has been complied with before any building or works associated with the sensitive use commence; or

(iii) the permit applicant satisfies the responsible authority that the statement of environmental audit (including any relevant conditions included in the statement) will be complied with on completion of the permitted development.

9. Pursuant to Section 12 of the Planning and Environment Act 1987:

(2) In preparing a planning scheme or amendment, a planning authority—

(a) must have regard to the Minister's directions

10. Clause 13.03-1 Use of Contaminated and Potentially Contaminated Land, of the Monash Planning Scheme, is also of relevance to this submission:

#### *Objective*

*To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.*

#### *Strategies*

*Require applicants to provide adequate information on the potential for contamination to have adverse effects on the future land use, where the subject land is known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel.*

## Talbot Avenue Former Landfill - History

11. Please note that this section does not enter into a comprehensive discussion of the former uses of the subject site given that this has been explained in several other reports being submitted to the Panel.
12. EPA understands the subject site was previously used for intensive agriculture up to the 1950's. The subject site was subsequently used as a sand quarry, under DPI Work Authority No: 389. EPA also understands from Earth Resources Regulation (ERR), Victoria's resources and mining industry regulator, that the Work Authority still applies to the subject site.
13. It is understood ERR did not provide a formal submission to this Planning Scheme Amendment. However, on-going re-habitation works associated with the former quarry site and the rehabilitation plan endorsed under the Works Authority must be reviewed and coordinated by ERR.
14. The quarry voids at the subject site were subsequently used for landfilling (intermittently from the 1970's to mid-1990's), with waste including remnant slimes from the quarrying, putrescible and solid inert wastes. Landfilling occurred in the north-west corner and eastern sections with putrescible waste and slimes intermittently from the 1970's to mid-1990's. EPA understands that putrescible waste was deposited in the north west corner of the site (Zone 1) between
15. The subject site has never been subject to an EPA Works Approval or Licence and is not currently subject to EPA regulatory controls. EPA also understands that a previous Environmental Audit commenced in relation to this site in 2002 and was terminated in 2010. EPA is aware that landfill gas is present at the site, and from a number of reports prepared by consultants (submitted by the proponent for the Panel's consideration) that the site is considerably contaminated due to its former uses.

16. Due to EPA's awareness of the site's status as potentially contaminated land, EPA's comments and submissions made to Council on various planning applications have consistently recommended that the site be subject to an environmental audit pursuant to section 53X of the EP Act (53X Audit), prior to buildings and works associated with a sensitive uses commencing, to assess its suitability for sensitive developments and future sensitive land uses. Applications relating to the subject site which EPA has commented on have included:
  - Application for backfilling and site rehabilitation in October 2014
  - Application for subdivision referred to EPA in January 2015
  - Current Planning Scheme Amendment to rezone the subject site, referred to EPA in January 2017.
17. Relevant sections of EPA's comments on the above applications have been summarised by Council in paragraphs 82-87 of the Planning Authority's Submission to the Panel, presented on 8 August 2017.
18. EPA has also had several discussions with Council over the previous 3-4 years regarding this site, and EPA has maintained a consistent position in relation to its advice that Council, as the Responsible Authority, needs to satisfy itself that the condition of the subject site is suitable for the proposed residential use at the earliest possible stage in the planning process, consistent with SEPP PMCL and Direction No.1. This position is described in more detail in the sections below.

### Monash Planning Scheme Amendment C129 (The Proposal)

19. The Amendment applies to the land located at 1221-1249 Centre Road, Oakleigh South (the subject site).
20. EPA understands the Amendment to:
  - Rezone the subject site from part Special Use Zone Schedule 2 and General Residential Zone Schedule 2 to the Comprehensive Development Zone (CDZ) Schedule 2.
  - Introduce Schedule 2 of the CDZ to the Monash Planning Scheme.
  - Make a minor correction to the boundary of the existing Environmental Audit Overlay to incorporate the whole of the subject site within the Overlay.
  - Amend Clause 21.04 and Clause 22.04 within the Local Planning Policy Framework to refer to urban renewal sites, including the subject land.
  - Amend Schedule 81.01 (Incorporated Document) to include the Comprehensive Development Plan.
21. EPA understands the purpose of the exhibited Schedule 2 to the CDZ to be, among other things to:-
  - Recognize the past uses of the land (including as a former quarry and landfill) and the residual environmental conditions of the land.
  - Identify a range of land uses that may be suitable for potentially contaminated or filled land.
  - Provide an appropriate land use solution based on environmental management approaches to deal effectively with site contamination.
  - Allow for an integrated residential and mixed-use development which fosters social interaction, walkability and creates a sense of place and a new local identity.
  - Provide for a range of building densities and building types.
22. EPA also understands that Council has amended the proposed Schedule 2 to the CDZ post exhibition, and EPA's submission to the Panel refers to this revised version, provided by Council to EPA by email on 20 July 2017.
23. Under clause 2.1 of Schedule 2, EPA will be notified and have input into the approval of the 'Overall Development Plan' for the site.
24. The Decision Guidelines in clause 3.3 of Schedule 2 dictate that Council will have regard to any SESP prepared for the site and the ESA relating to the stage(s) impacting the proposed use.
25. EPA notes that the amendment, as exhibited, required a ESA and SESP to be submitted as part of a planning permit application (formally required in clause 3.2 'Application Requirements'), while the revised Schedule 2 instead requires the ESA and SESP to be submitted prior to the submission of a planning permit application (clause 2.2). EPA's primary advice to the Panel relates to this clause of the CDZ, and the timing of approval of the ESA and SESP. EPA's position is outlined in more detail in the following section.
26. EPA also advises the Panel to consider the wording of clause 3.4 of Schedule 2, which currently states that permit conditions



required for a sensitive use (residential, child care centre, pre-school centre or primary school), must contain the following conditions: -

- o **Before the permitted use commences**, the owner of the land must provide either:
  - A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
  - An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of that land are suitable for the sensitive use.
- o **Before the use permitted commences** the owner of the land must enter into and execute a Section 173 Agreement for the ongoing management of the site in accordance with the requirements of the certificate of environmental audit or the statement of audit and any conditions of permit use/operations.

27. EPA's position on the proposed wording of clause 3.4 is also outlined in the following section.

### Recommended timing for Environmental Audit and approval of the ESA and SESP

28. As outlined above, the revised Schedule 2 to the CDZ in this Amendment C129 requires an environmental audit to be completed 'before the permitted use commences' as per a future planning permit (clause 3.4), and the ESA and SESP to be submitted prior to the submission of a planning permit application (clause 2.2).
29. It is EPA's position that the Environmental Audit can be deferred to be required as a condition of a planning permit condition, but should be completed before works associated with a sensitive use are commenced on site, rather than 'before the permitted use commences' as currently drafted in clause 3.4. The reasons for this position are explained further in this section.
30. It is also EPA's position that the ESA and SESP should be finalised and verified by an Environmental Auditor appointed under Part IXD of the EP Act, and submitted to Council's satisfaction prior to this Amendment being approved. The reasons for this position are also explained further in this section.
31. In March 2012, the Potentially Contaminated Land Advisory Committee (appointed pursuant to section 151 of the *Planning and Environment Act 1987*) (Advisory Committee Report) made several recommendations in relation to the current planning processes that apply to potentially contaminated land. The recommendations of most relevance to this Proposal include:
- Recommendation 11: Amend the Ministerial Direction and Practice Note to adopt a risk-based approach and only require an audit early when there will be no further management options (or limited further management options) of the development process. This recommendation was supported by State Government in response to Advisory Committee Report.<sup>1</sup>
  - Recommendation 17: In the Practice Note, formalise a Site Remediation Strategy Plan as a way for councils to satisfy themselves that contamination can be managed. This recommendation was supported in principle by State Government in response to Advisory Committee Report.<sup>2</sup>
32. In relation to Recommendation 11, there is no question that an environmental audit is required for the subject site. The General Practice Note: Potentially Contaminated Land (June 2005) (Practice Note) lists sites with high potential for contamination, which includes landfilling. While the Advisory Committee Report suggested reviewing this list to make it easier to understand, there was no discussion of removing landfill sites from this list, and it is widely accepted that former landfill sites are at high risk of contamination.
33. Recommendation 11 did, however, discuss the timing of environmental audits, even for high risk sites, as it was seen as unnecessarily onerous for Direction No.1 to be requiring audits to occur as early as possible in the planning process (such as before the approval of an amendment), for sites which are proposed for:
- a higher density residential or mixed use redevelopment of an area where contamination issues can be dealt with as part of overall construction, there are options for ongoing management, and where there are reasonable development options for the site if some or all of the site it cannot be used for a sensitive use.*<sup>3</sup>
34. It is in this context that EPA has commented to Council and the proponent that it is acceptable for a 53X Audit to be required as a condition of a planning permit, rather than prior to the amendment being approved. EPA has also supported in principle the

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<sup>1</sup> Potentially Contaminated Land: State Government Response to the recommendations of the Potentially Contaminated Land Advisory Committee Report, April 2013.

<sup>2</sup> Potentially Contaminated Land: State Government Response to the recommendations of the Potentially Contaminated Land Advisory Committee Report, April 2013.

<sup>3</sup> Potentially Contaminated Land Advisory Committee Advisory Committee Report: 9 March 2012, p.43.



proposal for a staged audit, to promote the clean-up and remediation by supporting the financial viability of the development proposal. EPA's comments on the staged audit proposal are provided in Attachment 1: EPA comments to Ken Mival, 17 October 2014, extracted in Attachment 1 of Coffey's letter 'Response to Senversa Letter in relation to the Site Environmental Strategy Plan for 1221-1249 Centre Road Oakleigh South, dated 1 October 2015.

35. However, contrary to the current proposed wording of clause 3.4 of Schedule 2 to the CDZ, EPA's view is that the environmental audit should be completed before buildings and works associated with a sensitive use are commenced on site, rather than 'before the permitted use commences'.
36. EPA has formed this view due to its experience with contaminated sites and the difficulty that Responsible Authorities can be presented with when seeking to determine whether 'buildings and works' are being undertaken that are associated with an environmental audit, or as part of the commencement of the sensitive use. Given the high likelihood that a statement of environmental audit will be issued at the completion of the audit for the subject site, rather than a certificate of environmental Audit, it is also critical that any works associated with the sensitive use proceed in accordance with the Statement conditions, and not prior to this being issued at the completion of the audit.
37. EPA's view on the wording of the permit condition is also consistent with EPA's advice to Council dated 14 August 2014 and 4 February 2015, as referred to in paragraphs 84 and 85 of the Planning Authority's submission to this Panel hearing, presented to the Panel on behalf of Council on 8 August 2017.
38. While Direction No.1 and the Practice Note provide two options as to how permit conditions requiring an audit can be written, stating that a statement or certificate of environmental audit must be issued 'before a sensitive use commences or before the construction or carrying out of buildings and works in association with a sensitive use commences', the Practice Note does provide more guidance on the distinction between works undertaken in association with an environmental audit, and works undertaken in association with the commencement of the sensitive use, as follows:
- The Practice Note specifies that, in relation to 'environmental audit works', an EAO 'does not prevent works or activities being undertaken that are associated with an environmental audit (such as soil sampling)';<sup>4</sup> and
  - The Practice Note specifies that, in relation to 'remediation works': '[w]here a permit has been issued for a development and a requirement for an environmental audit is a condition of permit, the responsible authority should consider carefully wording the permit conditions to allow early building works that facilitate remediation of the site.'<sup>5</sup>
39. EPA believes that the proposed wording of 'before buildings and works associated with a sensitive use commences' rather than 'before the use permitted commences' provides greater clarity on the types of works that would be permitted, such as 'environmental audit works. However, EPA encourages the Panel and Council to consider this further and determine whether 'remediation works' should also be permitted to occur prior to the completion of the audit, in which case the wording of the permit should be even more clearly drafted to specify this.
40. EPA's flexibility regarding the timing of the environmental audit, and allowing this to be deferred to be a condition of permit, has been dependent upon its understanding that any rezoning of the subject site would occur with the support of a SESP. It has been EPA's understanding since 2014 that the proponent intended to complete what was then referred to as a 'site remediation strategy plan' 'prior to notice being given of the proposed Planning Scheme Amendment', as an alternative to Council's then view that the environmental audit should be completed prior to the rezoning of the subject site.
41. In a letter from Urbis, acting for the proponent, to Council dated 8 June 2014 (Attachment 2), Urbis stated that:
- Whilst we are strongly of the view that the statutory controls governing the Huntingdale Site provide for the deferment of an audit, we would be prepared to adopt an alternative approach involving a Site Remediation Strategy Plan which is in line with the other recommendations of the Advisory Committee Report and the process adopted by other Councils.*
- We proposed that the SRS would:*
1. *Be prepared by a suitably qualified environmental consultant (Coffey Environments).*
  2. *Establish certainty for Council and EPA that the site is capable of being remediated to a standard suitable for the proposed sensitive uses, addressing proposed remediation options, staging, risk management and monitoring.*
  3. *Apply to the whole of the site (including the land already zoned for residential purposes); to ensure an integrated and comprehensive plan for site remediation is in place at the outset of the planning process.*
  4. *Be completed 'prior to the giving of notice for the proposed Planning Scheme Amendment', and before advertising of the permit application for Zone 4.*
  5. *Be signed off by EPA's appointed environmental auditor and lodged with Council at the time of lodgement of the PSA.*

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<sup>4</sup> General Practice Note: Potentially Contaminated Land (June 2005), p.6.

<sup>5</sup> General Practice Note: Potentially Contaminated Land (June 2005), p.6.



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6. *Include all of the requirements outlined in the Advisory Committee report for inclusion in a comprehensive SRS.*
  7. *Be exhibited alongside the Amendment/permit application for the community to review and be informed about the process and timing for site remediation.*<sup>6</sup>
42. As noted on page 6 of the Urbis letter, and in paragraph 84 of the Planning Authority's submission to this Panel hearing, EPA supported the approach proposed by Urbis, stating that 'we would see the Site Remediation Strategy (SRS) as a level of surety to the council that an acceptable audit can be produced following implementation of the SRS.'
  43. EPA was not aware until its discussions with Council in May 2017 that the proposed rezoning of the land was not intended to be supported the SESP/SRS, which is partly why EPA's submission to the Proposal dated 10 March 2017 does not provide as much as clarity as was needed on EPA position, and also why there was some confusion in EPA's responses to Council queries following this submission (included in Tab 6 of the Planning Authority's material submitted to the Panel).
  44. As noted in the Urbis letter, EPA's position is also consistent with the Advisory Committee Report's comment that if 'an audit is delayed the planning authority or responsible authority must still satisfy itself that the land can accommodate the proposed use or development.'<sup>7</sup>
  45. The Advisory Committee Report states that the primary role of a 'Site Remediation Strategy Plan' (equivalent to the SESP that is referred to in this submission and in the Proposal) 'would be for a land owner to convince a council that a clean up of the site is feasible' and that it should 'attempt to demonstrate with a reasonable degree of confidence that the site is capable of being remediated...based on the assumption that further site sampling, or health risk assessments, or feasibility studies of remediation processes need to be conducted at a later stage.'<sup>8</sup>
  46. As per the Advisory Committee's Recommendation 17, EPA has consistently recommended to Council that a SESP be used to provide guidance in relation to the use of the site and inform all stakeholders as to whether the site is capable of accommodate any sensitive uses and, if so, where, on the site, those sensitive uses could be located.
  47. In relation to the proposed ESA, and the proposed similar timing for submission of an ESA along with the SESP, EPA has not been asked to comment on this prior to the current Proposal. In response, EPA's submission on the Proposal dated 10 March 2017 stated that the rezoning should occur with the support of both the SESP and ESA. In EPA's experience, ESA's are regularly undertaken by suitably qualified professionals prior to an Audit being undertaken, and may be updated as an Audit progresses. Both the ESA and Audit will inform the SESP, so in this sense, the ESA and SESP should be seen as package of documents that will require updates subsequent to their initial verification by an environmental auditor.
  48. As also noted by the Advisory Committee, a 'Preliminary Site Assessment Phase 1 Environmental Site Assessment' should 'advise, having regard to the proposed use or development whether:
    - *no Environmental Audit is required, or*
    - *the level of contamination will prevent the proposed use or development of the land and the level of contamination cannot be remediated to a level that would enable the proposed use or development, or*
    - *subject to appropriate remediation, the land would be suitable for the proposed use or development.*'<sup>9</sup>
  49. Based on EPA's experience with ESA's, and the Advisory Committee's comments that an ESA should advise as to whether the subject site can be suitable for the proposed development, subject to remediation, it is EPA's view that the ESA should be finalised and verified by an environmental auditor, and submitted to Council's satisfaction alongside the SESP, prior to this amendment being approved.
  50. While it is acknowledged that the amendment, as exhibited, requires both an ESA and SESP as part of a planning permit application, and the draft amended documentation now requires an ESA and SESP prior to the submission of a planning permit application, EPA believes that if our position is not adopted, a false message may be sent to developers/land owners that contaminated land sites can eventually be developed for sensitive uses, which may not be the case depending on the findings of the section 53X Audit.
  51. EPA also believes that without a verified SESP and ESA being provided to Council's satisfaction prior to this rezoning, Council may not have the level of 'satisfaction' recommended by the Advisory Committee Report, or the level of 'sufficient information' required by clause 14(2) of SEPP PMCL on the potential for existing contamination to enable Council to make a decision on the suitability of the site for the proposed use envisaged by the amendment.

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<sup>6</sup> Letter from Sarah Horsfield, Urbis, to Sue Wilkinson, City of Monash re '1211-1249 Huntingdale Road & 22 Talbot Ave, Oakleigh South: Redevelopment of Former Quarry Site', dated 8 June 2014.

<sup>7</sup> Potentially Contaminated Land Advisory Committee Advisory Committee Report: 9 March 2012, p.45.

<sup>8</sup> Potentially Contaminated Land Advisory Committee Advisory Committee Report: 9 March 2012, p.46.

<sup>9</sup> Potentially Contaminated Land Advisory Committee Advisory Committee Report: 9 March 2012, p.38.



### Current status of the proponent's ESA and SESP

52. EPA believes it is relevant for the Panel to consider the current status of the proponent's ESA and SESP in its consideration of the proposed timing for approval of these documents.
53. EPA understands that a Section 96A Application to rezone and subdivide part of the subject site was submitted to Council in December 2014. As part of that proposal, a SESP, dated November 2014, was undertaken and submitted to Council in the supporting documentation. This SESP was verified by Ken Mival, Environmental Auditor appointed under Part IXD of the EP Act, on 28 November 2014.
54. Council commissioned a Review of Environmental Matters at the site prepared by Senversa on 27 August 2015 to provide an assessment of the environmental reports and arrangements to date. This report provided a useful overview of the environmental risks of development within the subject site. The report highlighted several environmental risks and longer term logistical risks at the site. The Review of Environmental Matters also commented on the status of the SESP, and noted that there was some ambiguity in the SESP, and highlighted aspects of the SESP that required further assessment.
55. EPA is also aware that an ESA was submitted in relation to Zone 4 of the subject site, as part of the proponent's application for backfilling and site rehabilitation submitted to Council in October 2014.
56. EPA also understands from the proponent's material submitted to the Panel, that an ESA for the whole of the subject site was undertaken, dated 8 July 2014, however, EPA has no record of this being submitted to EPA for comment, and is unclear of the status of this document.
57. EPA also notes that since the SESP and ESA were prepared in 2014, backfilling works have been undertaken in Zone 4 of the subject site, as per the proponent's application for backfilling and site rehabilitation submitted to Council in October 2014.
58. It is EPA's position that a revised SESP and ESA should be required to be verified by the subject site's Auditor and submitted to Council prior to this amendment being approved if conditions at the site have changed since 2014.
59. EPA also notes that a 53X Audit was commenced on the subject site by Ken Mival in August 2013 (with a proposed completion date on 31 December 2016). EPA understands that further assessment works (soil, groundwater and landfill gas) are ongoing at the subject site under this Audit and are expected to continue at least until December 2017. EPA also understands that preparation of the various audit reports for the site, along with a CUTEP report for submission to EPA is likely to commence in early 2018.
60. In summary, while EPA understands there to be a verified SESP for the subject site, and an ESA (that has not been verified by the Auditor but would presumably be used in correlation with the works progressing under the Audit), it is EPA's view that these documents in their current form are insufficient to inform the current Proposal to rezone the land. The current SESP and ESA should be finalised, possibly revised in light of the recent works occurring on site, and verified by the Auditor to be submitted to Council's satisfaction prior to this amendment being approved.

### Conclusion

61. Given the definition of Potentially Contaminated Land within Minister's Direction 1, and the legislation that underpins it, EPA has formed the view that the subject site is potentially contaminated land.
62. EPA is generally supportive of the Proposal. However, EPA encourages the Panel to consider EPA's position that the ESA and SESP should be finalised and verified by an environmental auditor appointed under Part IXD of the EP Act, and submitted to Council prior to this amendment being approved. This approach ensures that a qualified assessment of risk, remediation potential and future uses are reasonably understood at the outset of the planning process. It is also recognised that this work provides a solid foundation to a s.53X Audit required as part of the Planning Permit.
63. It is also EPA's view that the ESA and SESP that have previously been prepared by the proponent in 2014 require review to assess whether the conditions at the subject site have changed since 2014.
64. The ESA and SESP are acknowledged by EPA to be an acceptable alternative to the more rigorous environmental audit process often recommended at this stage of a planning process. EPA is satisfied with the proposal to defer the environmental audit, provided it is completed before buildings and works associated with a sensitive use are commenced on site.

**Attachment 1 - EPA comments to Ken Mival, 17 October 2014, extracted in Attachment 1 of Coffey's letter 'Response to Senversa Letter in relation to the Site Environmental Strategy Plan for 1221-1249 Centre Road Oakleigh South, dated 1 October 2015**







Level 1, 436 Johnston Street  
Abbotsford  
VIC 3067 Australia

t: 03 9290 7000

coffey.com

1 October 2015

Our ref: ENAUABTF00751AA\_L11

Sinclair Brook Pty Ltd  
Level 1, 460 Bourke Street  
Melbourne, VIC 3000

Attention: Glen Slimmon

Dear Glen

**Response to Senversa Letter in relation to the Site Environmental Strategy Plan for 1221-1249 Centre Road, Oakleigh South**

In response to the Senversa letter dated 27 August 2015, title '1221-1249 Centre Road, Oakleigh South, Review of Environmental Matters – Site Environmental Strategy Plan', (the Site), Coffey has reviewed the letter and offers the following comments.

General:

- Senversa note in Section 6 of their letter that '*Significant assessment work has been completed over the years at the site and the site is subject to environmental audit. As such it is expected that management of environmental issues can, with sufficient investment and associated engineering controls, address environmental risks. However, given the site is a former landfill and located adjacent to a former landfill, any redevelopment which brings with it special conditions likely to require site-wide implementation and long term management to confirm performance*'. Coffey concur with this assessment, and we consider that the Auditor endorsed Site Environmental Strategy Plan (SESP) provides a robust strategy to address the environmental risks. Further, the strategy proposed is based on redevelopment of similarly filled land in Victoria, discussed in more detail below, and although it must be recognised that every site is different and represents its own challenges, the overall strategy is considered appropriate and based on similar models.

Section 3:

- '*Varying portions of the site have been subject to landfilling by putrescible waste*'. To clarify this statement, it is known that Zone 1 was a putrescible waste landfill, however other parts of the site were reportedly only subject to filling with construction and demolition waste. The ground investigation works have largely confirmed this, although it is recognised that there is potential for landfill gas production in Zone 2, due to degrading organic matter within the construction and demolition waste.

- Reference to the Brooklands Green Estate development is not appropriate. Brooklands Green Estate was a recently closed landfill with inadequately operating landfill gas infrastructure. The waste present at the Site was placed in the early 1970s and is considered to have passed its peak gas generating phase. We consider it is more relevant to compare this site to other aged former landfills that have been successfully redeveloped for sensitive uses under the Statutory Audit system in Victoria. For example, we are aware of the following landfill sites in Victoria which have been redeveloped with a Section 53X Audit being required:
  - Tooronga Village Redevelopment – Remainder of Site – 350-352 Tooronga Road Glen Iris Vic (EPA ref 49712-3 dated 3 June 2011, Audited by Ken Mival): former brick quarry and solid inert landfill with some putrescible waste which was redeveloped to a high density residential development in part, with carpark and sportsfield.
  - 1 Heller Street – Brunswick Victoria – (EPA ref 62070-1, Audited by Ken Mival): Former clay pit and landfill followed by plant nursery, remediated and partially capped. Partially developed for a high density low rise townhouse development.
  - Environmental Audit Report, 98-116 Cavanagh Street Cheltenham, Victoria (EPA ref 18435-3\_C dated 31 May 2011, Audited by Phil Sinclair): former quarry in Cheltenham landfilled with solid inert waste and some putrescible waste, with the current use being for approximately 200 units and town houses of low to high density residential, constructed over the former landfill. The Statement of Environmental Audit required that development occur in accordance with the site environmental management plans and placed responsibility on the owner's corporation to maintain the site in accordance with those plans. There has been auditor verification of compliance with the two plans.
- In addition to these sites, there are several other case studies that can be drawn on to support the redevelopment of old landfilled areas for sensitive uses. Second dot point notes that *'further soil assessment is required, particularly of imported soil stockpiles and the 'fill platform' located in Zone 4'*. Please note that further soil assessment of the main stockpile in Zone 1 and the fill platform in Zone 4 has been completed, and this soil was found to be suitable for reuse on site for sensitive uses. The relevant data is provided in Appendix C of the SESP.
- Third dot point notes *'no groundwater results were supplied in the SESP'*. All existing groundwater results were included in Appendix C of the SESP (in CD format). An additional copy of this information can be provided if required.
- Third dot point notes *'the auditor would be required to seek CUTEPA determination from EPA'*. This is true for the potential source areas on site (eg Zone 1), however for non-source zones (such as Zone 4), EPA has provided advice that an Auditor determined CUTEPA is appropriate. We have attached the EPA correspondence to this letter.
- Third dot point notes *'The effect of water table rebound will need to be considered when Zone 4 is filled as currently this feature is controlling groundwater flow, creating an inward hydraulic gradient thereby limited site sourced ground impact migration'*. This is correct, and has been considered in the SESP by two mechanisms:
  - The geotechnical design of the Zone 4 quarry backfill includes the installation of higher permeability drainage layers to prevent groundwater mounding in Zone 4; and
  - If groundwater mounding eventuates in Zone 1 as the result of backfilling Zone 4, then groundwater extraction bores would be operated near the boundary of Zone 1 and 4 to control groundwater levels (and leachate migration).

Any predictions of increasing groundwater levels would need to be verified by groundwater level monitoring during and after backfilling of Zone 4, and appropriate engineering controls implemented as necessary (such as groundwater extraction bores). It is further noted that the approach regarding groundwater rebound has been considered and accepted by the auditor



and will require off-site groundwater monitoring to assess potential for changes in groundwater flow regime, as detailed in the SESP.

- Fourth dot point notes that no investigations (of landfill gas) appear to have been conducted within the centre of Zones 1 and 2, where landfilling has occurred. This is not entirely correct; in that landfill gas bores have been installed within the waste areas of Zones 1 and 2, and this has confirmed the presence of methane and carbon dioxide at concentrations typical of putrescible waste in Zone 1, and some elevated methane and carbon dioxide within a part of Zone 2 (at GB28), but not at concentrations typically associated with recently closed putrescible waste landfills in that zone. As detailed in Section 6.3 of the SESP, and shown on Figure 9, further landfill gas investigation is required and proposed to understand the distribution of landfill gas in these zones, and particularly the gas generation potential of the aged waste by measuring bore hole gas flow rates. Following these further investigations, the conceptual designs in the SESP are to be updated into detailed design measures, taking into account the additional data.
- Fourth dot point notes *'This creates site-wide management requirements that can be difficult to be confident that individual property entities can manage such risks'*. To address this issue, an Owner's Corporation is proposed for the entire development, which will include legal requirements for infrastructure management and other site controls. Details of these controls are provided in Section 9.3 of the SESP.

#### Section 4:

- This section appears to provide Senversa's opinion of what gas and leachate mitigation measures could entail, rather than address what is provided in the SESP. The following points are noted to reiterate the measures contained in the SESP:
  - No impermeable walls are proposed. Venting bores and venting trenches are proposed.
  - A gas treatment system is not proposed in the SESP; however we note that the gas mitigation measures are conceptual, and the need for gas treatment would depend upon the results of further investigations of gas generation rates.
  - Passive venting is proposed in the SESP, not active extraction; however again this is subject to detailed design. No pump house is shown on Figure 14.
  - No subsurface horizontal pipework arrangement is proposed for leachate collection. Leachate collection (if required) is proposed by installing vertical extraction bores into the drainage layer of Zone 4, as shown on Figures 11 and 14.
  - No pump house is shown on Figure 14, however it is correct that pumping infrastructure would be required to extract and potentially treat leachate prior to disposal.

#### Section 5:

- Senversa note that the proposed staging appears to address the most significant/difficult issues at the site first. Coffey concur with this observation, and we consider that this should give EPA and Council comfort that the staging within the SESP is sound. It is also noted that EPA has provided support for the proposed staging, as detailed in Attachment 1 to this letter.

#### Section 6:

- The SESP requires that the site development is subject to an Owner's Corporation. We note that Senversa has recommended that Council fully explore the nature of likely requirements to manage environmental risk. Given that the SESP is a strategic document it contains indicative site management and monitoring controls that will be necessary following each clean up activity. Specific details of landfill gas infrastructure and leachate treatment infrastructure will be completed as part of the detailed design phase. The SESP sets overarching strategy for development of the site. Specific details of the Owner's Corporation rules would be drafted for inclusion in the Statement of Environmental Audit conditions.

- It is understood that EPA South-east Metro office has discussed the site development with EPAs landfill gas expert (Nick Simmons).
- Given that the site is subject to an active 53X Environmental Audit, we do not consider that EPA issuing a Post Closure Pollution Abatement Notice is necessary, and this does not form part of the SESP.
- In relation to the 500 m buffer for consideration of landfill gas risks, we note that the SESP includes for boundary gas control and venting, which would provide an effective gas mitigation measure at the boundary.
- Senversa has noted that under a staged development that '*This timing would not allow for verification of the system performance and that any statement of environmental audit conditions for the construction of Zone 4 are appropriate.*' The SESP includes an approach whereby the installation of gas control infrastructure would be subject to further auditor verification, as to its performance, prior to allowing final occupancy of buildings. If the auditor requires further assurance that the control measures are sufficient to control environmental risks, then proof of performance testing (eg via pilot trials of systems) in selected parts of the site could be conducted prior to issuing of the Statement of Environmental Audit.
- Coffey confirms that three audit stages are proposed, not four.
- Senversa has noted that '*vertical/boundary gas venting systems and leachate management systems should be installed on common land...*'. Where feasible, this infrastructure will be installed on common land and will require the establishment of easements to contain any such gas venting and leachate management systems. However in some areas this is not feasible, and is proposed to be managed through an Owner's Corporation. We note that this has previously been completed for at least one other Audit site in Melbourne, that is, the Cheltenham site referred to above, although in that case the passive system required no easements.
- Lot density: we consider that the issue in relation to landfill gas mitigation infrastructure is not related to lot density, but rather to whether there are appropriate controls in place. For example, a medium density lot density without Owner's Corporation rules and management controls would be a less desirable outcome than a low density residential development with Owner's Corporation rules, as it proposed in the SESP.
- Senversa has noted that '*Figure 11 of the SESP presents areas requiring high gas protection measures, but Figure 12 only shows low and medium gas hazard protection measures*'. Figure 12 contains the correct notation. Figure 11 will be updated to remove reference to high gas protection, as currently the gas risk ranking is low (under the Gas Screening Value methodology), however further assessment is required to define the gas risk ranking within the former landfilled areas. We have included two scenarios of landfill gas hazard protection on Figure 12 (low and moderate risk ranking). We do not anticipate that the gas risk will classify as high under the Gas Screening Value approach due to the age of the landfill, however as detailed in the SESP, further assessment of landfill gas is required within the central parts of Zones 1 and 2.
- Senversa note that EPA's expectations regarding Statement of Environmental Audit conditions for low density residential is that management measures need to be passive and relatively simple. Coffey is aware of the EPA requirement for Statement conditions to be, amongst other things, '*clear, practicable and easily understood*' (as per EPA Guideline 759, Section 12.3), however we aren't aware of an EPA requirement for management measures to be passive and relatively simple.



Section 7:

- In-ground infrastructure: Senversa has recommended to Council that in ground infrastructure such as vertical/boundary gas venting systems and leachate management systems should be installed before completion of any audit. We note however that the SESP does not include this approach, but rather includes for two stages of Auditor involvement, the first being issuing of a Statement of Environmental Audit with conditions for the installation of required infrastructure, and then secondly, auditor verification that the infrastructure has been installed correctly and is operating as per the design requirements, prior to building occupancy. This should address Senversa's concern about the protection of adjacent zones of development. If the Auditor requires proof of performance of the in-ground infrastructure prior to issuing the Statement of Environmental Audit, then this could be done by selected pilot trials.
- Institutional Controls: the SESP includes a requirement that an Owner's Corporation would be established with legal responsibility for ongoing operation and maintenance of any in-ground or building infrastructure. The Owner's Corporation rules would be included in the Statement of Environmental Audit via conditions. We do not see the need for a PC PAN on the site, given that the site is already subject to a section 53X Environmental Audit, and the likely requirement for the establishment of a Section 173 agreement with Council. It is noted that the Auditor supports this approach as part of potential future Statement of Environmental Audit conditions
- Housing Density: we consider that under an Owner's Corporation that appropriate management of infrastructure can be achieved successfully for low density residential lots, as has been achieved on other audit sites with landfill gas issues. It is further noted that site development is constrained in some respects by the existing neighbours, in that the planning controls will not allow medium or high density residential development on boundaries where existing low density residential development exists.

In summary, Coffey considers that the existing SESP addresses the majority of issues raised in Senversa's review. Where further detail is required to ensure that the mitigation measures and institutional controls are appropriate to manage any environmental risks, the SESP provides a process to incorporate these as the project progresses through additional stages of investigation, detailed design and implementation.

We would be happy to discuss any aspects of the SESP and this response to Senversa's review, with the relevant parties.

For and on behalf of Coffey



Stephen Cambridge  
Principal Environmental Engineer



Phil Sinclair  
Principal

1. EPA correspondence with respect to CUTEP.





**Attachment 2 - Letter from Sarah Horsfield, Urbis, to Sue Wilkinson, City of Monash re '1211-1249 Huntingdale Road & 22 Talbot Ave, Oakleigh South: Redevelopment of Former Quarry Site', dated 8 June 2014**





8 July 2014

Sue Wilkinson  
 Director City Development  
 City of Monash  
 PO Box 1  
 GLEN WAVERLEY VIC 3150

Dear Sue,

**1121-1249 Huntingdale Rd & 22 Talbot Ave, Oakleigh South  
 Redevelopment of Former Quarry Site**

I refer to your letter of 13<sup>th</sup> June 2014, outlining Council's response to our proposal for rezoning and development of the former quarry site. Our client has invested considerable time and resources in briefing Council officers on the proposal over the past 6-8 months, including conducting design workshops, briefings on the environmental context and remediation plans for the site (including a site visit to the Central Park Project in Cheltenham in a former landfill site), as well as a number of discussions on the proposed planning control framework. We are somewhat disappointed that the process now outlined in Council's letter represents a substantial departure from the parallel planning process discussed over the past 6 months, and imposes a significant burden on our client that we do not believe is warranted given the existence of the EAO control.

We understand that Council's primary concerns are in relation to:

1. The satisfaction of Ministerial Direction No. 1 – Potentially Contaminated Land, and in particular managing the potential environmental risk to future communities.
2. The proposed application of a Development Plan Overlay control to the site, and the consequential removal of 3<sup>rd</sup> party appeal rights through future planning permit processes.
3. Various development related issues concerning traffic, drainage, building height and interface issues.

We believe each of these issues can be satisfactorily addressed in a manner that enables the current proposal to be lodged for consideration in the next 1-2 months. We set out our response to these matters below.

**1 Ministerial Direction No. 1 – Potentially Contaminated Land**

**1.1 COUNCIL'S APPLICATION OF MINISTERIAL DIRECTION NO. 1**

We understand Council has applied Ministerial Direction No. 1 – Potentially Contaminated Land and Potentially Contaminated Land General Practice Note (June 2005) in considering our proposal to lodge a planning scheme amendment application for the part of the Site zoned SUZ and a planning permit application for the part of the Site zoned R1Z.

In so doing, we understand Council has assessed the Site as 'High Risk Category A', using the Assessment matrix in the General Practice Note and has elected to apply Clause 5 (1) of Ministerial



Direction No.1 which requires the more onerous condition that an audit under Part XIX of the Environmental Protection Act 1970 be issued prior to giving notice of an amendment.

We have a number of concerns with the way Council has interpreted Ministerial Direction No. 1 and applied a rigid 'audit first' approach to the remediation of the Site because:

- An Environmental Audit Overlay already exists across the entire Site.
- It is inconsistent with the recommendations of the Potentially Contaminated Land Advisory Committee Report of 9 March 2012 which has largely been supported by the State Government.
- It is out-of-step with the approach taken by several other municipalities and panel decisions in assessing rezoning application for significant urban infill site with potential contamination.
- Council's 'audit first' approach involves significant costs and site disruption without the certainty of a development approval, which may ultimately prevent anyone from rehabilitating the Site.

We expand on the first three points below.

## 1.2 ENVIRONMENTAL AUDIT OVERLAY

The Site is currently subject to an Environmental Audit Overlay ('EAO').

The purpose of an EAO is to ensure that potentially contaminated land is suitable for a use which could be adversely affected by any contamination and requires that an audit under Part XIX of the Environmental Protection Act 1970 be issued *'before a sensitive use commences or before construction or carrying out of building and works in association with a sensitive use commences'*.

The General Practice Note provides clarity on the purpose and application of an EAO.

In the section 'When should an Environmental Audit Overlay be applied?' the Practice note states:

*"The Environmental Audit Overlay is a mechanism provided in the Victoria Planning Provisions and planning schemes to defer the requirements of Direction No.1 for an environmental audit until the site is developed for a sensitive use."*

*"The planning authority is also determining that the requirements of Direction No.1 may be deferred. The EAO is a statutory mechanism to provide for that deferment."*

In the section 'When is an environmental audit necessary for a planning permit application' the Practice note states:

*"If an environmental audit is required because an EAO is applied over the land, a Certificate or Statement of Environmental Audit must be issued before the sensitive use or buildings and works associated with the sensitive use can commence."*

*"If an EAO has been applied, the planning authority has already made an assessment that the land is potentially contaminated..."*

With respect to:

1. Council recently applying Table 1 and Table 2 of the General Practice Note to assess if the site is potentially contaminated, we believe this assessment is unnecessary as the existence of an EAO means the potential for contamination assessment has already been made.
2. Council determining that completion of an environmental audit is required prior to both a rezoning and planning permit application, we believe that the application of Ministerial Direction No.1 is not required because of the existence of an EAO and further that the land owner is not required to





complete an audit for the Site until prior to a sensitive use commences or the construction or carrying out of building and works in association with a sensitive use commences.

### 1.3 POTENTIALLY CONTAMINATED LAND ADVISORY COMMITTEE REPORT

In March 2012, the Potentially Contaminated Land Advisory Committee (appointed pursuant to Section 151 of the *Planning and Environment Act 1987*) made a number of recommendations in relation to the current planning process for potentially contaminated land.

The Committee Report made the following comments in relation to determining the need for completion of an audit before the giving of notice for an amendment:

*"Developers can be understandably reluctant to begin clean up without some form of approval for the proposed development. While the cost of clean-up might be uncertain, the potential exists to provide certainty about the development outcome by granting permission before clean up begins (Advisory Committee Report; p.13)"*

*"The emphasis needs to be on risk management and the phasing of approvals so that costly investigations are not required for a proposal that has no prospects of being approved."*

*A deferral may be justified for a site specific amendment with land in one-ownership where the proponent seeks approval prior to undertaking an audit due to the significant cost involved.*

*An audit after the approval of an amendment may be appropriate when:*

- *The site is a higher density residential or mixed use redevelopment of an area where, contamination issues can be dealt with as part of overall construction, there are options for ongoing management, and where there are reasonable development options for the site if some or all of the site it cannot be used for a sensitive use." (Advisory Committee Report; p.43)"*

The State Government's Response to the recommendations of the Potentially Contaminated Land Advisory Committee Report (April 2013) was in support of the Committee Recommendation to amend the Ministerial Direction and Practice Note to adopt a risk-based approach and only require an audit early when there will be no further management options (or limited further management options) of the development process.

It is worth pointing out that these comments were made in the context of a site not being covered by an EAO – which as noted earlier already provides for the deferment of an audit on the Huntingdale Site. However, if the Huntingdale Site was not covered by an EAO, we believe that the circumstances of the site present a strong fit with the Advisory Committee's guidelines for deferral of the audit completion. The contamination issues are entirely capable of being dealt with through the construction process, and there are ample opportunities for incorporating conditions through both the rezoning and permit processes.

### 1.4 SITE REMEDIATION STRATEGY PLAN

In relation to complex sites, the Advisory Committee recommended the use of a "Site Remediation Strategy Plan", as a tool to provide the planning authority with greater certainty that a site is capable of being remediated if an audit is delayed.

The SRS is a document that is ultimately approved by the EPA auditor, providing confidence to all parties that the land can be made suitable for the proposed use and a clear plan/program is in place to realise a 'clean' site.





The Advisory Committee made the following comments in relation to the use of the SRS:

*"A number of panels have considered proposals for a Site Remediation Strategy Plan. The aim of the Site Remediation Strategy Plan is to set out a 'road map' for the clean-up process.*

*A Site Remediation Strategy Plan is a broad overview of the realistic options available and the preferred remedial approach to carry out clean up of the site to ensure suitability of use. It is usually based on site history and some preliminary site assessment."  
(Advisory Committee Report; p.47)*

The Committee went on to recommend that the Practice Note be amended to formalise the opportunity for Councils to require completion of an SRS as follows:

***"We recommend in the Practice Note, formalise a Site Remediation Strategy Plan as a way for councils to satisfy themselves that contamination can be managed."***

*Possible standards for a Site Remediation Strategy Plan are set out below.*

Figure 1: Possible standards for a Site Remediation Strategy Plan

The purpose of a Site Remediation Strategy Plan is to show that based on known issues and techniques that a site is highly likely to be capable of being remediated so that it is suitable for the proposed use or development.

A Site Remediation Strategy Plan should be prepared by a suitably qualified environmental professional.

The Site Remediation Strategy Plan should:

- (1) Provide an overview of the:
  - (a) The types and location of possible land or groundwater contamination on the site.
  - (b) Potential impacts of any land or groundwater contamination (including the potential for vapour intrusion or gas migration) on the proposed land use, the arrangement of land use across the land, and any particular design requirements the development may be subject to.
  - (c) Heritage issues (if any) relevant to the remediation strategy.
  - (d) Feasibility of clean up achieving a certificate or statement of environmental audit.
- Provide an assessment of the:
  - (a) Broad options available for the remediation of soil and groundwater including remediation options taking into account logistics, technology availability, estimated cost, and likely effectiveness.
  - (b) Identify points at which construction would need to stop to ensure appropriate clean up had taken place.
- (3) Make recommendations in relation to the:
  - (a) Preferred approach to the remediation of soil and groundwater.
  - (b) Proposed land use of the site, or for large sites, the proposed pattern of land uses across the site.
  - (c) Proposed condition after clean up of the site to suit the proposed uses.
  - (d) Locations across the site of proposed clean up work.
  - (e) Schedule of activities including any staging of the work.
  - (f) Expected pattern/staging and indicative timeframes for signed certificates or statements of environmental audit across the site following the clean up of the site (or parts of the site).
  - (g) Indicative site management and monitoring controls that will be necessary following each clean up activity.
- (4) Identify the Parties responsible for key activities and for subsequent site management and monitoring.
- (5) A Site Remediation Strategy Plan does not need to include:
  - a 'Clean Up Plan' or 'Remediation Action Plan',
  - engineering design of remediation work,
  - specific contaminant treatment procedures,
  - quantities of work, or
  - validation procedures.

*(Advisory Committee Report; pps.47,48)*

We note that the SRS has been successfully used by a variety of Councils across Melbourne to support the rezoning of large, potentially contaminated sites, both with and without EAO controls being in place. The Amcor site in Fairfield (City of Yarra) and Bradmill site in Yarraville (City of Maribyrnong)

are two cases where the use of the SRS was endorsed by a Panel as a robust approach to dealing with the complex contamination issues affecting these sites. In both circumstances, the SRS was included as a requirement in the DPO schedule, for completion before a Development Plan was approved (ie: it was not a pre-requisite for the rezoning of the land).

In each case, the appointed Panels did not believe there was sufficient justification for requiring the completion of an environmental audit *prior to* the preparation of the Development Plan. Similar to the findings of the Advisory Committee, they did not consider the requirement to complete the audit upfront was warranted having regard to the disruption and costs associated with carrying out the works.

The SRS requirements as set out in the DPO schedules for the Amcor and Bradmill sites are included at Appendix 1 to this letter. Section 5 of the Bradmill Precinct Panel Report is included in Appendix 2.

#### 1.5 ALTERNATIVE ENVIRONMENTAL PROCESS FOR THE HUNTINGDALE SITE

Whilst we are strongly of the view that the statutory controls governing the Huntingdale Site provide for the deferment of an audit, we would be prepared to adopt an alternative approach involving a Site Remediation Strategy Plan which is in line with the recommendations of the Advisory Committee Report and the process adopted by other Councils.

We propose that the SRS would:

1. Be prepared by a suitably qualified environmental consultant (Coffey Environments).
2. Establish certainty for Council and EPA that the site is capable of being remediated to a standard suitable for the proposed sensitive uses, addressing proposed remediation options, staging, risk management and monitoring.
3. Apply to the whole of the site (including the land already zoned for residential purposes); to ensure an integrated and comprehensive plan for site remediation is in place at the outset of the planning process.
4. Be completed prior to the giving of notice for the proposed Planning Scheme Amendment, and before advertising of the permit application in Zone 4.
5. Be signed off by EPA's appointed environmental auditor and lodged with Council at the time of lodgement of the PSA.
6. Include all of the requirements outlined in the Advisory Committee report for inclusion in a comprehensive SRS.
7. Be exhibited alongside the Amendment/permit application for the community to review and be informed about the process and timing for site remediation.

#### 1.6 DISCUSSIONS WITH EPA

We have recently met with Leigh Bryant at EPA to discuss the merits of using an SRS for the Huntingdale site. EPA is supportive of this approach as a means of providing a robust foundation of information for authorities to rely upon in further considering the site's appropriateness for rezoning.

The auditor's sign off on the SRS should also provide comfort to Council and the community that the proponent is actively working towards the obligations of the EAO, with the SRS establishing an important milestone in the fulfilment of the EAO.

We believe the proposed SRS approach responds to Council's concerns with respect to the site being 'fit for purpose', with no risk to future communities. We submit that the circumstances surrounding the





Brookland Greens estate are entirely different to the Huntingdale site, and cannot reasonably be compared, on the basis that:

- the waste present at Cranbourne was in its early stages of decay and generating much greater flows of landfill gas than is the case on the part of the Huntingdale Road, Clayton site that was used as a landfill.
- there has been specific assessment of the risk posed by landfill gas at the Huntingdale Road site and based on concentrations and flows of gas, with the risk is assessed to be in the low category, similar to the R.Corporation development at Cheltenham.
- the development proposal includes gas protection measures where they are assessed to be necessary.
- the environmental assessment of the site is subject to auditor input and review at every step; and
- Council and EPA have been and will be regularly updated with respect to assessment findings and necessary changes to the development proposal by the proponent.

## 2 Proposed Planning Controls

We note Council's support for our proposed zoning framework, which seeks to apply a residential and mixed use zone to the site. We further understand that Council is not supportive of the Development Plan, and has repeatedly expressed concern with the use of this control on the basis of its removal of 3<sup>rd</sup> party rights.

While our client's strong preference is to proceed with the application of a DPO, we would be prepared to consider an alternative approach involving a Section 96A application, in which the rezoning of the whole site would be considered alongside a planning permit for subdivision of the land into super lots, and the construction of buildings and works (dwellings) within a defined 'stage 1' area.

This approach would enable the community to review the overall layout and concept plan for site development, as well as detailed dwelling proposals for the stage 1 area, with the opportunity for independent review by Panel if required. Residents would also enjoy rights to seek review of any subsequent permit applications at VCAT if desired. We believe this approach responds directly to Council's concerns regarding presentation of third party rights.

## 3 Development Issues

We believe the development issues raised in Council's letter are essentially matters of detail that are entirely capable of being addressed through further master planning discussions with Council's planning, urban design, traffic and engineering teams as part of our pre-application process. We appreciate this detailed feedback and look forward to progressing our discussions with the relevant teams in Council.

Our client is keen to further discuss the above matters at our forthcoming meeting on 11<sup>th</sup> July, and look forward to receiving Council's responses to the proposal set out above.

Yours sincerely

A handwritten signature in black ink that reads "Sarah Horsfield".

Sarah Horsfield  
Director



## Appendix 1 - DPO Schedules for Amcor and Bradmill site

18/07/2013  
C200

## SCHEDULE 11 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO11**.

### AMCOR SITE, HEIDELBERG ROAD, ALPHINGTON

This schedule applies to the Amcor site which is bounded by Heidelberg Road, Parkview Road (including No 28 Parkview Road) Chandler Highway and the Yarra River.

#### 1.0

18/07/2013  
C200

#### Requirements before a permit is granted

A permit may be granted before a development plan has been approved for the following:

- Earthworks and site preparation works provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- The removal or demolition of any building provided the demolition or works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- The construction of minor buildings or works provided the buildings or works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- Consolidation or subdivision of land; and
- Removal or creation of easements or restrictions.

Before granting a permit the responsible authority must be satisfied that the permit will not prejudice the future use and development of the land in an integrated manner and will contribute to the vision for the Amcor site.

The land may be developed in stages.

#### 2.0

18/07/2013  
C200

#### Conditions and requirements for permits

Except for a permit issued as provided for under Clause 1.0, a permit must contain conditions or requirements which give effect to the provisions and requirements of the approved Development Plan.

Before granting any permit in accordance with an approved development plan, the owner/s of the land must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987 which must provide, to the satisfaction of the responsible authority that the owners will:

- Provide 5% of the total number of dwellings for the purpose of affordable housing developed in association with an accredited housing association;
- Provide the first 30 metres of land from the Yarra River, measured from the edge of the river bank, to maintain ongoing public access, protect riparian vegetation and maintain landscape values along the Yarra River; and
- Construct a pedestrian and bicycle path along the Yarra River frontage of the site connecting with existing pedestrian and bicycle accessways.

The cost of preparing and lodging the agreement, including any Land Titles Office registration fees, must be paid for in full by the owner(s).

Prior to the commencement of any permitted demolition, buildings or works, a detailed Construction Management Plan as relevant demolition or those buildings or works must be prepared to the satisfaction of the responsible authority. In considering the Construction



Management Plan, the responsible authority must take into account any comments received from VicRoads and Public Transport Victoria within 21 days of the date of referral of the Construction Management Plan to the relevant authorities. The Construction Management Plan must include, but is not limited to, the following:

- Staging of construction;
- Protection of heritage fabric consistent with any conditions attached to any permit or exemption issued for the relevant demolition, subdivision, buildings or works;
- Protection of identified significant vegetation;
- Management of public access and linkages around the site during construction;
- Site access, parking and traffic management;
- Any works within the Heidelberg Road, Chandler Highway, LaTrobe Avenue, Lugton Street or Parkview Road road reserve;
- Sediment control and site drainage;
- Hours of construction;
- Control of noise, dust and soiling of roadways;
- Discharge of polluted waters;
- Demolition & excavation;
- Storage of construction materials;
- Location of site offices, & cranes;
- Public safety;
- Management of potentially contaminated materials;
- Collection and disposal of building and construction waste;
- Methodology for responding to complaints associated with the construction works; and
- Site manager contact details.

All development must be carried out in accordance with the approved Construction Management Plan to the satisfaction of the responsible authority.

### 3.0

18/07/2013  
C200

#### Requirements for development plan

A development plan must be generally in accordance with the *Indicative Framework Plan* as shown in Figure 1 to the satisfaction of the responsible authority.

The development plan must be consistent with the following vision for the site:

#### *Vision*

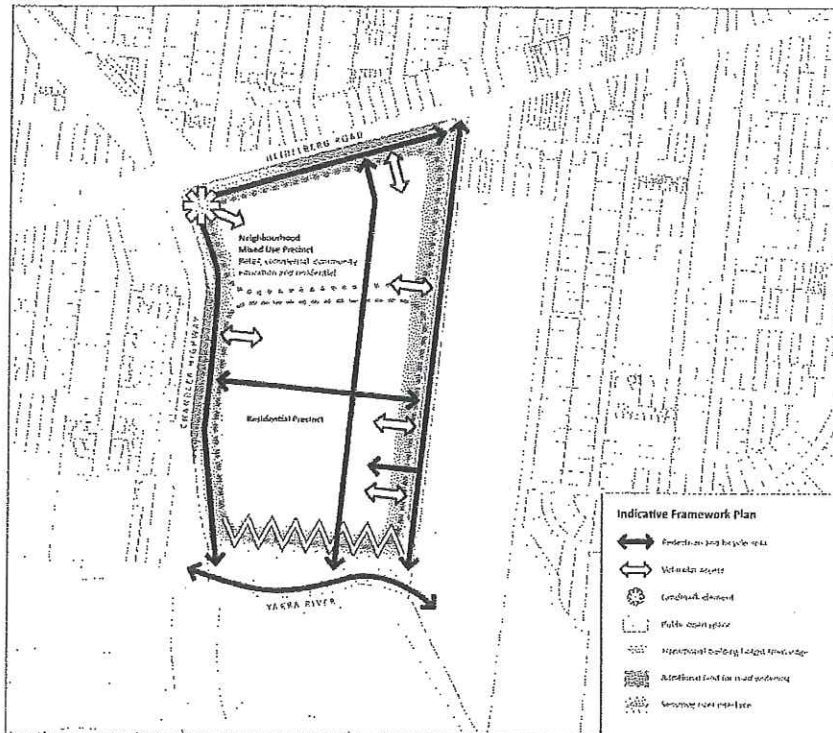
- The Amcor site will become a sustainable, predominantly residential community.
- The Amcor site will be redeveloped to provide a predominantly medium to higher density residential development, providing homes for a diversity of households including affordable housing, supported by convenience retailing services and community facilities, with employment opportunities in offices and showrooms along the Heidelberg Road frontage.
- The development will provide a transition in the scale of buildings from Heidelberg Road and Chandler Highway stepping down to the Yarra River in the south and Parkview Road as appropriate.

YARRA PLANNING SCHEME

- The development will demonstrate a high quality architectural response, implement innovative ESD features, provide opportunities for best practice in environmental management, and provide a high standard of internal amenity.
- The development will protect and enhance the Yarra River environs.
- The development will create a cohesive community across south Alphington and south Fairfield.
- The development will retain some links to the site's industrial past.

The development plan may be prepared in stages.

**Figure 1 Indicative Framework Plan**



The development plan must include the following documents, reports, guidelines and plans, prepared to the satisfaction of the responsible authority:

**Planning Report**

A planning report that includes:

- A site analysis that identifies the key attributes of the land, its context, the surrounding area and its relationship with existing or proposed uses on adjoining land;
- A context analysis identifying the surrounding area, existing or proposed uses on adjoining land, and other neighbourhood features such as public transport, neighbourhood centres, walking and cycling connections;
- Identification of important views to be protected and enhanced, including views of the site and views from the site;
- Details of any known contamination (a certificate or statement of environmental audit for the land covered by the Environmental Audit Overlay will be required to be prepared by a suitably qualified environmental auditor before any construction associated with a sensitive use can commence);

## YARRA PLANNING SCHEME

- Demonstrates how the recommendations of the Conservation Management Plan, Housing Diversity Report, Community Infrastructure Report, ESD Strategy, and Site Remediation Strategy have been incorporated into the proposed development of the land; and
- An assessment of any air emissions and odour buffer requirements affecting the site.

### *Site Master Plan*

A site master plan must be provided that includes, but is not limited to:

- The proposed uses of each building and estimated floor area for each use;
- An indication of the approximate residential yield for the site, comprising a range of residential development densities and dwelling types as identified in the Housing Diversity Report, and including affordable housing;
- The location of a neighbourhood based community hub consisting of a range of community uses including meeting rooms and community spaces and facilities;
- The location of neighbourhood retail facilities to service new and existing residents, and small offices/commercial development to generate employment opportunities;
- An interface with the Yarra River that:
  - Enhances the bushland character of the river corridor;
  - Protects significant stands of remnant and native vegetation present in various locations abutting the site; and
  - Integrates with planting along the Yarra River wetlands;
- The location of open space and recreation facilities to be provided on the site, including areas available to the public; and.
- The location of heritage buildings and significant vegetation.

### *Design Guidelines*

Design guidelines and principles for the site (or part of the site) must include, but are not limited to:

- Development concept plans including indicative:
  - Building heights and setbacks;
  - Elevations and cross sections;
  - Building materials, treatments, including reflectivity details, and architectural styles throughout the site;
  - Siting and orientation of buildings having regard to passive energy efficiency techniques and spacing between buildings;
  - Treatments for key interface areas – between open space areas and proposed development, within existing streetscapes, and between residential and non-residential land uses and the proposed development; and
  - Viewlines from the Yarra River (north side from the portion of the path in Willmere Park opposite the Amcor Site), Chandler Highway, Heidelberg Road and Parkview Road.
- Shadow diagrams internal and external to the site for the equinox between 11.00am and 2.00pm based on the building envelopes or arrangement shown in the proposed Development Plan;
- Indicative waste storage and collection points;
- Interfaces between the site and adjacent sites and streets;



YARRA PLANNING SCHEME

- Any particular and relevant design measures recommended by the Activity Centre Design Guidelines (DSE 2005), the Design Guidelines for Higher Density Residential Development (DSE 2004) and Safer Design Guidelines for Victoria (Crime Prevention Victoria and DSE 2005); and
- Any particular and relevant design measure recommended by the Heritage Plan, FSD Strategy, Transport Management Plan and the Site Remediation Strategy, as appropriate.

The Guidelines must be consistent with the Vision for the site and the following objectives:

- To promote urban legibility and public access to and through the site;
- To ensure new buildings are well spaced and offset to distribute access to outlook and sunlight between built forms and manage overlooking between habitable room windows where possible;
- To provide for diverse built form;
- To demonstrate high quality built form outcomes that contribute to the built form character of the neighbourhood and its surrounds;
- To ensure that building heights consider and respond to the over shadowing effects within the site and on adjoining land;
- To ensure that building heights provide an appropriate transition to site interfaces;
- To incorporate a landmark building element which displays design excellence to mark the Heidelberg Road and Chandler Highway intersection;
- To ensure street level interface treatments contribute to high levels of pedestrian amenity and safety;
- To provide wind climate design to ameliorate adverse wind conditions at street level, public spaces, balconies and adjoining properties;
- To provide acoustic design treatments that addresses the impact of existing and potential noise particularly from road traffic;
- To collectively form a coherent and identifiable precinct;
- To provide for safe and convenient vehicular and pedestrian access;
- To minimise, where practical, the impact of vehicles on public space;
- To ensure that above ground parking is suitably concealed by appropriate building features such as active podium frontages or within buildings that display a high level of architectural resolution;
- To improve the amenity of and accessibility to the Yarra River frontage of the site; and
- To incorporate recognised and proven FSD measures to aid in the reduction of energy and water consumption, the generation of waste and greenhouse emissions.

The following requirements must be reflected in the design guidelines:

- Building heights for new buildings must not exceed the maximum building heights specified in the Building Heights Plan (Figure 2) and the AMCOR Building heights (Table 1);

Figure 2 Building Heights Plan

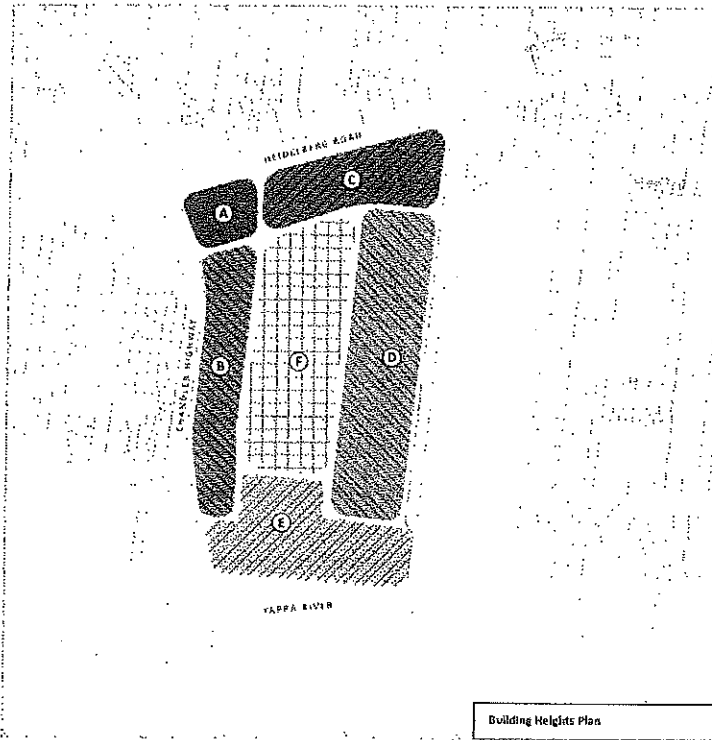


Table 1 AMCOR Building Heights

Precinct	Maximum building height	Preferred building heights	Street wall
A		14 storeys	3 storeys
B		5 storeys	3 storeys
C		6 -8 storeys	6 storeys
D	4 storeys		3 storeys, setback from Parkview Road
E	3 storeys		2 storey river interface, setback from crest line of the Yarra River
F	4 storeys		2-3 storeys

- Buildings along major roads to be generally of medium height as appropriate, stepping down to a lower height along the Yarra River interface and Parkview Road;
- Development should generally not extend above the tree line when viewed from the path in Willsmere-Chandler Park and the Yarra River;
- Built form and articulation should avoid long and continuous facades;
- Building setbacks along Parkview Road should be a minimum of 3 metres;
- Development in the residential precinct at the southern edge of the site near the Yarra River should be appropriately sited and designed and in particular:

- Visually dominant buildings must be avoided through the use of discontinuous forms, well articulated facades, and natural or recessive materials;
- Buildings must be set within a landscaped garden setting which allows for visual connections to the river corridor;
- Buildings must be oriented to front the Yarra River to provide visually interesting facades to and passive surveillance of the open space corridor and
- Buildings must be setback 10 metres from the river crest line to provide protection of the tree canopy and reduce the visual impact of the buildings;
- Treatment of the interface with the Yarra River and environs must demonstrate:
  - Maintenance and enhancement of the natural landscape and native vegetation along the river edge; and
  - Continuation of the public linear parkland and walking and cycling linkages along the river corridor.

***Heritage Conservation Management and Interpretation***

A Heritage Assessment Report must assess the cultural heritage of the site and identify any sites, buildings or structures of significance. The plan must include consideration of aboriginal heritage.

A Conservation Management Plan, including a Heritage Interpretation Plan must:

- Identify sites, buildings or structures which have been assessed as significant;
- Assess the extent to which a significant site, building or structure can be incorporated in the site's redevelopment;
- Identify how the site's industrial heritage is interpreted in the future development of the site; and
- Provide guidance on the on-going maintenance and management of the heritage places to be retained.

***Landscape Concept Plan***

A Landscape Concept Plan must be prepared for the site that includes:

- An assessment of existing vegetation on the land by a suitably qualified arborist;
- opportunities to retain mature trees with adequate setbacks to development;
- Appropriate treatment of the interface with the Yarra River;
- Opportunities for revegetation of the river bank and interface with the development;
- Typical street cross-sections;
- An overall landscape master plan for the site that complements the neighbourhood character and is in accordance with the proposed staging plan in the Development Plan;
- The management of landscaped areas, including sustainable irrigation treatments such as water sensitive urban design opportunities; and
- Details of how the Landscape Concept Plan responds to any requirements of the site remediation strategy for the land.

***Economic Assessment Report***

An Economic Assessment Report must be prepared which identifies viable employment generating uses for the site and assesses the value to the local economy of these proposed uses.



The report must also provide an economic assessment of proposed land uses for the site, and the viability of a neighbourhood activity centre on the site.

***Housing Diversity Report***

A Housing Diversity Report must be prepared explaining the mix of housing on the site including how it is proposed to provide 5% of the overall housing stock as affordable housing. The report must also include criteria for determining affordable housing stock.

***Community Infrastructure Report***

A Community Facilities Audit and Analysis must be prepared which identifies the following:

- Existing and planned services in the surrounding area and the impact the development of the site will have on these services.
- The need to provide additional community facilities on site or whether any existing community facilities in the local area should be upgraded or extended;
- The location of any new community facilities on site or in the surrounding area;
- Funding and implementation mechanisms for the provision of appropriate community infrastructure including developer contributions (monetary or building) towards the upgrading or extension of existing community facilities; or provision of new facilities in the surrounding local area; and
- Timing of the provision of any required community facilities coordinated with the overall development of the site.

***Ecologically Sustainable Development (ESD) Strategy***

An Ecologically Sustainable Design Strategy (ESD Strategy) must be prepared which considers and responds to the major components of the proposed development and construction processes and:

- Demonstrates the incorporation of recognised technologies and best practice;
- Demonstrates how compliance with all relevant statutory obligations in environmental sustainability is achieved;
- Identifies and nominates the level of sustainability performance standards to be adopted;
- Assesses options by which the agreed level of sustainable performance standards will be achieved.

The ESD Strategy must be based upon the following principles:

- Energy conservation with the objective of contributing to industry standards of national and international efforts to reduce energy usage and greenhouse gas emissions;
- Water conservation, ensuring that water resources are managed in a sustainable way;
- Water sensitive urban design and options ensuring the reduction of the impacts of stormwater on bays and catchments;
- Transport planning with the aim of encouraging walking, cycling and use of public transport;
- Land use and transport planning and infrastructure provision to contribute where practical to improved air quality;
- Options to reduce the amount of waste generated and encourage increased reuse and recycling of waste materials;
- Building materials conservation;

- Sustainability of
- Landscaping con appropriate; and
- Indoor environm

The ESD Strategy n

- Whether it is a aspects of the use
- The need to clean maintenance;
- New resident aw

*Site Remediation St*

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- Heritage issues re
- Options and a groundwater;
- Proposed pattern
- Targeted conditio proposed range of
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The Site Remediation prepared in stages.

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*Traffic Management*

A Traffic Managemen

- The likely traffic service vehicles to

- The likely traffic impacts of the proposed development on the land and the broader road network;
- A road safety audit of the design and proposed traffic management measures and incorporating the recommendations;
- Road layouts, widths and reserves and site access;
- The design of the footpaths, bicycle paths and shared pathways network;
- Traffic management measures and signalisation;
- Public transport routes and stops within the site and surrounds;
- Recommended car parking and bicycle parking rates and the location of on-site car and bicycle parking; and
- Loading bays.

#### *Integrated Transport Plan*

An Integrated Transport Plan (ITP) must be prepared based on the transport analysis and impact assessment which includes appropriate measures to address the transport, traffic, pedestrian and bicycle access needs of the development, and impacts on the existing road network, in particular:

- An indicative hierarchy of internal local roads proposed for the site that:
  - Complements the form and structure of the surrounding network;
  - Recognises the primacy of pedestrian and bicycle access within the site;
  - Provides a high level of amenity and connectivity, whilst managing the movement of vehicles travelling between Heidelberg Road and Chandler Highway through the site;
  - Allows for appropriate levels of manoeuvrability for emergency and service vehicles; and
  - Are of sufficient width to accommodate wide footpaths, new trees and bicycle lanes;
- The provision of a network of safe and convenient pedestrian and bicycle accessways through the site and connecting with the surrounding area, and encouraging the use of sustainable travel modes to local amenities;
- The location and layout of all car and bicycle parking areas and access to and from them;
- Opportunities for the provision of a car share system;
- Provision for loading and unloading of vehicles and means of access to them, including waste collection and delivery vehicles;
- Green Travel Plan initiatives, including a new resident awareness and education program;
- The means proposed to address the impacts of traffic generated by the development on the surrounding road network including any required upgrades or modifications, including road widening, parking restrictions, traffic and pedestrian signals and public transport improvements; and
- Opportunities for providing improved public transport services and facilities.

#### *Acoustic Report*

An Acoustic Report is required to be prepared by a suitably qualified person(s) to the satisfaction of the Responsible Authority after seeking and considering the views of the Environment Protection Authority and VicRoads. The report must identify:



- Whether the proposed use and development of the site is likely to be affected by noise from nearby uses or abutting roads;
- The likely effect of non-residential uses on the site on the amenity of nearby residential uses; and
- Methods to address the issues identified.

*Services and Engineering Infrastructure Report*

The Services and Engineering Infrastructure Report must be prepared and include:

- An assessment of the existing engineering infrastructure servicing the site and its capacity to service the proposed development;
- A description of the proposed provision of all appropriate utility services to development parcels;
- Preparation of a stormwater drainage master plan, including measures to ensure appropriate protection of the Yarra River adjacent to the land; and
- The identification of the location of any on-site drainage retention facilities.

*Development Staging*

A Staging Plan to provide an indication of the likely staging and anticipated timing of the development of the land, specifically:

- The proposed sequencing of development;
- Vehicle access points, road infrastructure works and traffic management for each stage of development; and
- Interface / access treatments.

*Community Engagement Strategy*

A Community Engagement Strategy which establishes the mechanisms by which the community will be provided with information and opportunities for feedback in relation to the prepared development plan.

The development plan shall be available for public inspection for 28 days prior to its consideration by the responsible authority.

**4.0**

18/07/2013  
C200

**Decision guidelines**

Before deciding on a request to approve or amend a Development Plan, the responsible authority must consider as appropriate:

- any written comments received in response to the display of the development plan;
- any views of Public Transport Victoria;
- any views of VicRoads;
- any views of the Department of Education and Early Childhood Development;
- any views of Parks Victoria;
- any views of Melbourne Water; and
- any views of the Cities of Banyule, Boroondara and Darebin;

that are received by the responsible authority.

05/05/2011  
C63

## SCHEDULE 7 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO7**

### BRADMILL PRECINCT WEST YARRAVILLE

This schedule applies to a triangular parcel of land bound by Francis Street to the north, McIvor Reserve to the east and Newport Goods Railway Line to the southwest.

#### 1.0

05/05/2011  
C63

#### Requirement before a permit is granted

A permit may be granted before a development plan has been approved for the following:

- Any earthworks associated with the remediation of the land in accordance with or for the purpose of obtaining a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970* provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- The construction of that part of any building which is associated with the remediation of the land in accordance or for the purpose of obtaining with a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970* provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- The removal of any building for the purpose of remediation of the land in accordance with a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970* provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- Subdivision of land, provided that the subdivision is the re-subdivision of the land and the number of lots is not increased;
- Removal or creation of easements or restrictions.

#### 2.0

05/05/2011  
C63

#### Conditions and requirements for permits

Except for a permit issued as provided for under Clause 1.0, a permit must contain conditions or requirements which give effect to the provisions and requirements of the approved Development Plan.

A permit must also contain the following conditions, where appropriate:

##### Open Space

All land identified as public open space in the approved Development Plan must be either transferred to or vested in Council prior to the completion of the development of the land.

##### Integrated Transport Plan

Prior to commencement of the development permitted by this permit the recommendations set out in the Integrated Transport Plan that forms part of the approved Development Plan must be implemented to the satisfaction of the responsible authority and the Director of Public Transport, Department of Transport.

##### Road Design Plan

Prior to commencing the use of any stage of the development, the development requirements and works as detailed in the Road Design Plan relating to the new north-south road adjoining Melvor Reserve, including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street to incorporate a central median must be completed to the satisfaction of the responsible authority.

Detailed engineering plans and computations based on the Road Design Plan, must be prepared for the approval of the responsible authority.

#### **Adverse Amenity Impacts**

The development must implement any recommendations set out in the various report(s) prepared pursuant to the requirement at Clause 3.0 (Adverse Amenity Impacts Requirements) of this Schedule to the satisfaction of the responsible authority.

#### **Conservation Management**

Prior to the commencement of any development on land affected by a Heritage Overlay, plans and/or any necessary reports demonstrating how the development will implement the recommendations set out in the Conservation Management Plan forming part of the approved Development Plan must be submitted to the satisfaction of the responsible authority. Once approved the plans and/or reports will form part of the permit.

#### **Design Guidelines**

Prior to the commencement of any stage of the development, design guidelines must be provided to the satisfaction of the responsible authority. The Design Guidelines must be generally consistent with the Residential Design Guidelines forming part of the approved Development Plan for the land. The Design Guidelines are to specifically address:

- Building heights and setbacks;
- Fencing height and form;
- Car parking provision and location of garages, carports, car spaces and garage doors;
- Building materials and architectural styles throughout the site;
- Siting and orientation of buildings having regard to passive energy efficiency techniques; and
- Interface treatments to Francis Street, Melvor Reserve and the Newport rail line.

Once approved, the Design Guidelines will form part of the permit.

#### **Construction Management Plan**

Prior to the commencement of any stage of the development, a detailed Construction Management Plan (CMP) must be prepared to the satisfaction of the responsible authority. The CMP must be generally consistent with the CMP forming part of the approved Development Plan and specifically address the potential detrimental affects on the amenity of the area during demolition and construction activities. Once approved, the CMP will form part of the permit.

#### **Signalisation of Richards Street Intersection**

Prior to the occupation of the development permitted by this permit (for the development of the stage that includes the construction of the north-south road opposite Richards Street), the owner must construct traffic lights at the Richards Street intersection in accordance with the plan approved by VicRoads to the satisfaction of VicRoads and the responsible



authority, if the construction of such traffic lights has been first approved by VicRoads, following any further traffic assessments.

**3.0**

05/05/2011  
C63

**Requirements for the Development Plan**

A Development Plan must be generally in accordance with the Bradmill Precinct West Yarraville Indicative Development Plan dated July 2008 forming part of this Schedule to the satisfaction of the responsible authority. Preparation of the Development Plan must have regard to the Bradmill Precinct West Yarraville Urban Design Principles and Interface Guidelines - MGS Architects and Tract Consultants (July 2008).

A Development Plan must be prepared for at least all land which is in common or related ownership. The responsible authority may agree to any part of that land being subject to a separate development plan.

**Supporting Information Requirements**

The Development Plan must include the following documents, reports, guidelines and plans, prepared to the satisfaction of the responsible authority:

**Planning Report**

A planning report must be prepared to the satisfaction of the responsible authority that includes:

- How the proposed development plan will meet the requirements of Clause 56 of the Scheme.
- Demonstrates how the recommendations of the Adverse Amenity Impact Report, Conservation Management Plan, Environmental Audit, and Ecological Sustainable Design Strategy and Action Plan have been incorporated into the proposed development of the land.

**Site Master Plan**

A Site Master Plan must be provided including urban design principles and an indicative staging plan to identify the proposed sequencing of development.

**Traffic Management Plan**

A Traffic Management Plan (TMP) prepared to the satisfaction of the responsible authority and VicRoads.

The TMP must provide the following details:

- The likely traffic generation of the proposed development;
- The likely traffic impacts of the proposed development on the land and the broader road network;
- A road safety audit of the design and proposed traffic management measures and incorporating the recommendations;
- The proposed north-south road adjoining McIvor Reserve including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street;
- Recommended car parking rates and the location of car parking for the neighbourhood activity centre and associated uses, medium to high density residential precincts, on street, and community services (library, childcare, etc);

- Road layout, road widths and reserves and site access;
- The design of the footpaths, bicycle paths and shared pathways network;
- Internal and external intersections, performance and treatments;
- Traffic management measures and signalisation;
- Traffic management for the neighbourhood activity centre precinct;
- Public transport routes and stops within the site and surrounds;
- Access way and pedestrian connections to Melvor Reserve (north & south end) from the proposed north-south road adjoining Melvor Reserve.
- Details of the proposed road network, including the design of the new north-south road to be constructed adjacent to Melvor Reserve, including intersection treatments at Fogarty Avenue and Francis street and the re-design of Francis Street to incorporate a central median;
- Details of connections from the proposed road network to existing roads and means of vehicular ingress and egress from the site to surrounding roads;
- Potential future access way and pedestrian connections to Melvor Reserve;
- The impact of the proposed Metropolitan Fire Bridge station.

#### **Integrated Transport Plan**

An Integrated Transport Plan (ITP) to the satisfaction of the responsible authority and the Department of Transport. The plan must provide the following details:

- The expected demand for travel by people who will live, work or visit the site and target transport mode split to encourage walking, cycling and use of public transport by future residents;
- An implementation plan which identifies:
  - A schedule of initiatives (e.g. behavioral change program, way-finding strategies) that will be undertaken to encourage walking, cycling and use of public transport by future residents;
  - Provision for ongoing monitoring and review of the implementation of the plan;
  - Responsibilities for ongoing implementation of the ITP including timing of proposed works relative to the staging of the development;
  - Contributions to be made by the owner to the preparation, monitoring and implementation of the plan including the reasonable cost of works made necessary by the development;
  - The timing, method and security for payment of any contribution;
  - Existing and proposed bus routes, public transport stops and infrastructure (e.g. shelters, indented bay/s, signage, pedestrian crossings and potential locations for car sharing facilities) within the site and surrounds;
  - Existing and proposed pedestrian and bicycle paths and bicycle parking, including connections to bus stops;
  - Details of any proposed public transport, bicycle or pedestrian works on the site and adjoining and nearby areas;
  - Details of proposed traffic management and controls works on the land and nearby roads;

- Car parking for the neighbourhood activity centre, medium to high density residential precincts, community services (Library, child care, etc);
- New resident awareness and education program.

### **Road Design Plan**

A Road Design Plan must be prepared by a suitably qualified person(s) to the satisfaction of the responsible authority. The Road Design Plan must set out engineering details relating to the proposed north-south road adjoining McIvor Reserve including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street to incorporate any central median.

The Road Design Plan must provide the following details:

- Design of the proposed north-south road adjoining McIvor Reserve including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street to incorporate a central median;
- The design must consider the activities on McIvor Reserve and setbacks from existing and proposed buildings and provide appropriate design and safety solutions to limit any impacts;
- Design requirements as specified by VicRoads with regard to Francis Street and associated intersection treatments;
- A detailed survey plan indicating the area of land within McIvor Reserve to be used for the proposed road reservation;
- Access way and pedestrian connections to McIvor Reserve (north & south end) from the proposed north-south road adjoining McIvor Reserve;
- A road safety audit of the design;
- How the recommendations of the road safety audit have been incorporated;
- Existing and proposed easements, underground and above ground services;
- Relocation of any underground and above ground services;
- The potential for undergrounding of above ground services;
- On street car parking;
- Provision for service vehicles and buses;
- Traffic management devices to control traffic volumes and speed;
- The design of the footpaths, bicycle paths and shared pathways network;
- Drainage of the road reserve and car parking;
- Drainage design requirements as specified by Melbourne Water;
- Design and location of street lighting and fencing;
- Road signage and line marking;
- Traffic management procedures and strategies to discourage non-local traffic from passing into or through the local street network and to control traffic speeds and volumes in and around the site.

### **Landscape Concept Plan**



A Landscape Concept Plan must be provided which includes:

- An overall landscape master plan for the land in the Development Plan, including a street tree master plan for the land and proposed north-south road adjoining McIvor Reserve and Francis Street central median;
- A survey of existing trees and an assessment of trees worthy of retention and outline the most appropriate method to protect them;
- Landscape concepts for proposed public open space, including the open space boulevard positioned through the centre of the site;
- Typical street cross-sections;
- A written description of the management of all reserves, landscaping areas and water sensitive urban design treatments;
- Details of how the Landscape Concept Plan addresses any conditions of the Environmental Audit for the land.

#### ***Conservation Management Plan***

A Conservation Management Plan prepared by a suitably qualified person(s). The Conservation Management Plan should also include a Heritage Interpretation Plan which provides options for how the future development of the land will incorporate design components that reflect identified heritage values of the land and buildings contained therein.

#### ***Residential Design Guidelines***

Residential Design Guidelines must be provided containing the following:

- Indicative building heights and setbacks;
- Indicative fencing height and form;
- Indicative car parking provision and location of garages, carports and car spaces and garage doors;
- Indicative building materials and architectural styles throughout the site;
- Indicative siting and orientation of buildings having regard to passive energy efficiency techniques and relevant considerations of Clause 54, 55 and 56 of the Scheme;
- Indicative acoustic treatments to potential noise sources;
- Indicative treatments for key interface areas (e.g. between open space areas and proposed development, within existing streetscapes, and between non-residential land uses and proposed development);
- Any particular design measures required by the Adverse Amenity Impact Report, Conservation Management Plan, Environmental Audit and Ecological Sustainable Design Strategy & Action Plan.

#### ***Neighbourhood Activity Centre Guidelines***

Neighbourhood Activity Centre Guidelines must be provided for the activity centre which:

- Are consistent with the Activity Centre Guidelines published by DPCD;
- Provide a community focus for West Yarraville;

- Provide for an appropriate level of commercial and community services for existing and new residents;
- Encourage housing where appropriate within the activity centre;
- Provide for a mix of retail floor space including a full line supermarket;
- Improve infrastructure and amenities, including the development of a safe, well lit and presented sheltered pedestrian pathway system linking all parts of the activity centre with car parking and public transport;
- Encourage the development of commercial and community uses, including childcare, which are integrated within the activity centre and the surrounding neighbourhood;

#### ***Ecological Sustainable Design (ESD) Strategy and Action Plan***

An Ecological Sustainable Design Strategy and Action Plan (ESD Strategy Plan) must be prepared in consultation with, and to the satisfaction of the Responsible Authority.

The ESD Strategy Plan must address the major components of the proposed development and construction processes and:

- Demonstrate best practice and the use of emerging technology;
- Compliance with all statutory obligations in environmental sustainability;
- Identify the level of sustainability performance standards to be adopted;
- Demonstrate the means by which the agreed level of sustainable performance standards will be achieved.

The ESD Strategy Plan must be based upon the following principles:

- Energy conservation, with the objective of contributing in a significant way to national and international efforts to reduce energy usage and green house gas emissions;
- Water conservation, ensuring that water resources are managed in a sustainable way;
- Water sensitive urban design and reducing the impacts of stormwater on bays and catchments. Adopt the principles as detailed in the "Urban Stormwater Best Practice Environmental Management Guidelines"(Melbourne Water);
- Transport planning with the aim to encourage walking, cycling and use of public transport;
- Land-use and transport planning and infrastructure provision to contribute to improved air quality;
- Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials;
- Building materials conservation;
- Sustainability in demolition and construction practices;
- Landscaping considering the provision of habitat, green spaces, and climate control;
- Indoor environmental quality and healthy internal environments.

The ESD Strategy Plan must have regard to the following:

- If considered appropriate, the preparation of individual plans dealing with different aspects of the use and development;
- Specify when individual plans must be prepared;

- Identify responsibilities and detail an implementation and staging strategy;
- A strategy for review, maintenance and monitoring;
- New resident awareness and education to promote the objectives of sustainability.

#### ***Site Remediation Strategy***

Before a Development Plan is approved, a Site Remediation Strategy Plan must be submitted to the responsible authority that addresses and makes recommendations in relation to the:

- Options and a preferred approach to the remediation of soil and groundwater;
- Proposed pattern of land uses across the site;
- Targeted condition of the site as specified by the Environmental Auditor to suit the range of land uses;
- Locations across the site of proposed clean up work;
- Options for remediation technologies taking into account logistics, technology availability, estimated cost, and likely effectiveness;
- A schedule of remediation activities;
- Expected pattern/staging and indicative timeframes for signed Certificates and Statements of Environmental Audit across the site following the clean up of the site;
- Indicative site management and monitoring controls that will be necessary following each clean up activity; and
- Identifying the parties responsible for key activities and for subsequent site management and monitoring.

The Site Remediation Strategy Plan may be prepared in stages where the development is prepared in stages and must be to the satisfaction of the responsible authority (and Environmental Auditor if required).

#### ***Adverse Amenity Impacts Report***

An Adverse Amenity Impacts Report(s) prepared by a suitably qualified person(s) to the satisfaction of the Responsible Authority after seeking and considering the views of the Department of Transport and the Environment Protection Authority. The report must identify all potential adverse amenity impacts from nearby uses and consider:

- Whether the proposed use and development is likely to be affected by any industrial properties to the south and southwest of the site, the goods rail line and in particular the paint and coatings manufacturing in the vicinity;
- Whether the proposed use and development is likely to be affected by any remaining industrial uses within the Bradmill Precinct;
  - Whether the proposed use and development is likely to be affected by any odour, noise and dust sources from the industrial properties in Brooklyn to the north of Geelong Road and west to north-west of the site;
  - Noise, vibration and air pollution impacts from Francis Street, the goods rail line and Westgate Freeway;
  - What ameliorative or remedial measures can and will be taken to minimise or avoid the adverse impacts identified in the report.



- Location of the Metropolitan Fire Brigade Station.

***Affordable Housing Report***

An Affordable Housing Report incorporating how it is proposed to provide 5% of the overall housing stock as affordable housing. The report must also include criteria for determining affordable housing stock.

***Construction Management Plan***

A Construction Management Plan (CMP) must be provided prior to any works including site remediation and demolition. The CMP must detail how the development of the land will be managed to ensure that the amenity of the nearby area is not detrimentally affected.

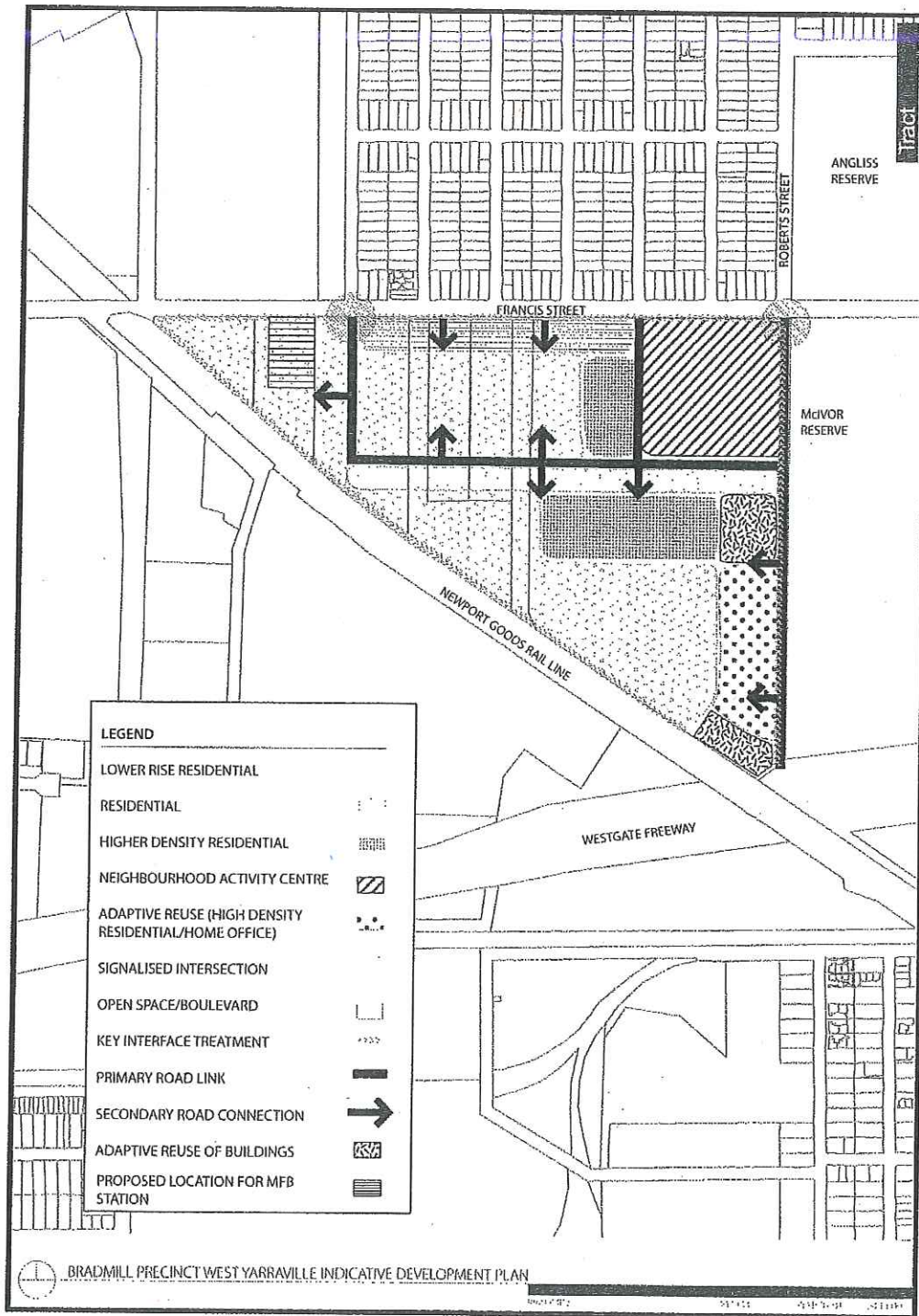
The CMP must address; demolition, site remediation, bulk excavation, management of the construction site, land disturbance, hours of construction, noise, control of dust, public safety, construction vehicle road routes and traffic management, soiling and cleaning of roadways, discharge of any polluted water and stormwater, security fencing, disposal of site waste, and any potentially contaminated materials, location of cranes, location of site offices, parking for construction staff vehicles and heavy construction vehicles, storage of plant and equipment, redirection of any above or underground services, protection of nominated trees, and site lighting during any night works.

The CMP must also address methods for responding to complaints associated with the construction works and provide site manager contact details.

***Services and Infrastructure Report***

A Services and Infrastructure Report must be provided to identify all existing and proposed infrastructure requirements and easements (Water, Sewerage, Gas, Electricity, Telecommunications, Drainage, Storm Water overland flow points and Water Sensitive Urban Design) to service the proposed development.

MARIBYRNONG PLANNING SCHEME





## Appendix 2 – Section 5 of the Bradmill Precinct Panel Report



## **5. ENVIRONMENTAL CONSIDERATIONS**

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### **5.1 Overview**

From an environmental perspective, the Panel considers that the amendment raises the following issues:

- Odour;
- Noise; and
- Environmental Audit.

The odour issues revolve around the impact of existing industrial uses and the amenity of the proposed residential land. Conversely amenity considerations have the potential to impact on the existing industrial operations. Interestingly there were no submissions from representatives of such industries.

Noise issues relate to impacts of vehicular and train traffic on the proposed residential land. There was a concern from The Victorian Freight and Logistics Council that continued operation of the adjoining rail line to the south west of the site might be prejudiced by the close proximity of residential development.

Issues regarding the Environmental Audit concerned the timing of the requirement for a Certificate of Environmental Audit. The Council was of the view that this should be required prior to the approval of the Development Plan required under the provisions of the schedule to the Overlay. The Proponent considered that this was unnecessary, unjustified and an expensive requirement.

### **5.2 Odour**

There is a long history of complaints concerning odour from existing industry in the area. The Environment Protection Authority (EPA) have been working with local industry to reduce the odour levels and advised the Panel of recent and proposed future works that should, in the EPA's view, result in significantly less odour omissions from offending industry.

Key works proposed include:

- Enclosure of SITA composting facilities within enclosed building and treatment of air emissions with biofilters by 2010; and
- New waste water treatment plant and biofilter system at Swift Abattoir

currently being installed.

The Panel heard from Mr Fraser, a founding member of the community group called "*On the Nose*", concerning problems with odour from existing industries. Mr Fraser agreed that odour issues in the area were improving and likely to continue to do so.

The residential land proposed in the Bradmill Precinct will be within the same order of proximity to offending industry as other residential areas from which complaints have come.

The EPA publication No AQ2/86 *Recommended Buffer Distances for Industrial Residual Air Emissions* recommends buffer distances between the emitting industrial uses and sensitive land uses (residential). These buffer distances are designed to address unintended and accidental emissions. The *Environment Protection Act* prohibits pollution of the atmosphere. Effectively this prohibits the emission of offensive odours beyond the site boundaries of the industry. The additional buffer distances are a safe guard to cater for accidents.

The proposed residential precinct will be partially (about one third) within the buffer distance – that is - 1,000 metres from Swift, an abattoir and rendering industry.

SITA, a composting business, currently has a buffer distance of 2,000 metres. This will be reduced to 1,000 metres by September 2010 when site improvements will take effect. After September 2010 the proposed residential land will be outside the recommended buffer distance from SITA.

### 5.3 Noise

The Marshall Day Acoustic Report indicates that amenity issues relating to noise can be addressed by a combination of building setbacks, building design and selective use of land.

Marshall Day has, in arriving at this conclusion, used the existing standards to arrive at acceptable outcomes. In circumstances where there are no established standards, such as train noise, interstate standards and past VCAT decisions were used to establish a standard.

The schedule to the Development Plan Overlay requires that the Development Plan identify adverse amenity impacts including noise from:

- The goods rail line;

- Traffic in Francis Street and the Westgate Freeway; and
- Industrial properties to the north and north west.

The Development Plan is also required to specify ameliorative or remedial measures that will be taken to minimise or avoid identified adverse impacts.

#### 5.4 Environmental Audit

Because the proposal involves rezoning of land used for industrial purposes to residential use, the provisions of Ministerial Direction No. 1 "Potentially Contaminated Land" apply. Direction No. 1 requires that:

*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 environment conditions of that land are or will be suitable for that use.*

The Direction goes on to provide that either the land must be cleared for development by an environmental auditor prior to the Amendment being exhibited or that the Amendment must contain provisions to ensure that the clearance is given prior to the sensitive use commencing.

Amendment C63 includes application of the Environmental Audit Overlay to all the subject land. Before a sensitive use commences this overlay requires:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environmental Protection Act 1970, or
- An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

Some environmental investigations were carried out by Egris Consulting in 2001. This involved soil sampling at 36 locations and three ground water monitoring wells.

Investigations by GHD Pty Ltd were carried out in 2003, and this involved soil sampling at 14 targeted and 25 grid based locations, and two ground water monitoring wells.

Investigations by EnviroProtect (Vic) Pty Ltd were carried out in 2009. This involved soil sampling at 35 targeted and 68 grid based locations, as well as 19 ground water monitoring wells.



The EnviroProtect report recommended further investigation and sampling in areas that were not available for investigation such as under existing buildings or concrete slabs. The report also recommended removal of existing contamination such as asbestos, as well as investigation to ensure identification and removal of all underground storage tanks.

The investigations to date have not identified any matters that would prevent residential development of the land.

Clearly, further investigations are necessary before all remediation work can be identified and carried out.

The Council was of the view that the Certificate of Audit should be provided before a Development Plan is approved.

Schedule 7 to the Development Plan Overlay as exhibited included provisions to ensure this occurred. The Council took this view because it was concerned that the details of development could be informed by the remediation work.

Mr Wong stated in his closing submission for Council:

*It remains crucial that the level and location of contaminants on the site is known and workable strategies are in place before approving the development plan as these factors will inevitably impact on the development plan including the location of uses, the construction methods for the commercial and residential development and staging of the development.*

The proponent was opposed to this approach and indicated that the Environmental Audit Overlay ensured that no sensitive use can take place until any necessary remediation works are completed. There was, the proponent indicated, significant costs and site disruption necessary for completion of testing and there was not gainful purpose in requiring the audit prior to the approval of the Development Plan.

Mr Robertson of Tract Consultants proposed an alternative wording in the schedule to the Development Plan Overlay. This alternative required a "Preliminary Environmental Site Assessment Report" to be prepared and the Development Plan to address the finding and recommendations in the "Report".

The Council disagreed with Mr Robertson's alternative, but to their credit proposed

a further alternative. The Council alternative replaced the requirement for a 'certificate or statement' included in the exhibited Development Plan schedule with a requirement for a 'Site Remediation Strategy'.

The Council submitted the following wording for inclusion in the schedule to the Development Plan Overlay:

*Before a Development Plan is approved, a Site Remediation Strategy Plan must be submitted to the responsible authority that addresses and makes recommendations in relation to the:*

- *Options and a preferred approach to the remediation of soil and groundwater;*
- *Proposed pattern of land uses across the site;*
- *Targeted conditions of the site as specified by the Environmental Auditor to suit the range of land uses;*
- *Locations across the site of proposed clean up work;*
- *Options for remediation technologies taking into account logistics, technology availability, estimated cost, and likely effectiveness;*
- *A schedule of remediation activities;*
- *Expected pattern/staging and indicative timeframes for signed Certificates and Statements of Environmental Audit across the site following the clean up of the site;*
- *Indicative site management and monitoring controls that will be necessary following each clean up activity; and*
- *Identifying the parties responsible for key activities and for subsequent site management and monitoring.*

*The Site Remediation Strategy Plan must be to the satisfaction of the Environmental Auditor and the responsible authority.*

The Council made it clear that its preference was for an Environmental 'Certificate or Statement' prior to the preparation of the Development Plan.

## **5.5 Panel Findings**

The Panel is satisfied that odours from existing industrial uses and impacting on existing residents are likely to diminish in the near future. These conflicts are being addressed and by the time residential development takes place in the Bradmill Precinct, odour is unlikely to be a significant issue.

The Marshall Day report established that noise issues can be adequately addressed. The Schedule to the Development Plan Overlay contains provisions requiring

identification and implementation of measures to ensure that adverse amenity impacts are minimised.

The Panel is satisfied that appropriate provisions are included in the amendment to adequately address noise issues.

The Panel does not believe there is sufficient justification for requiring the completion of the Environmental Audit prior to the preparation of the Development Plan in the circumstances of this particular site. The Development Plan is not likely to be of such fine detail as to specify precisely the built form of the development. In any event if the Development Plan does specify some matter that is later found to be in conflict with the findings of the Environmental Audit, it is no great task to amend the Development Plan.

The Panel accepts that requiring the issue or certificate of an Environmental Audit in the circumstances of this site including the disruption and cost associated with carrying out the necessary works is not warranted.

Instead the Panel considers the Council's alternative, but not favoured option, of requiring a Site Remediation Strategy Plan prior to approval of the Development Plan to be a satisfactory option. This option should satisfy most of the Council's expressed concerns. It is also an option that the Proponent is prepared to accept.

The schedule to the Development Plan Overlay, as included in Appendix 2, reflects the above findings.



05/05/2011  
C63

## SCHEDULE 7 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO7**

### BRADMILL PRECINCT WEST YARRAVILLE

This schedule applies to a triangular parcel of land bound by Francis Street to the north, McIvor Reserve to the east and Newport Goods Railway Line to the southwest.

#### 1.0

05/05/2011  
C63

#### Requirement before a permit is granted

A permit may be granted before a development plan has been approved for the following:

- Any earthworks associated with the remediation of the land in accordance with or for the purpose of obtaining a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970* provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- The construction of that part of any building which is associated with the remediation of the land in accordance or for the purpose of obtaining with a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970* provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- The removal of any building for the purpose of remediation of the land in accordance with a Certificate or Statement of Environmental Audit under the *Environment Protection Act 1970* provided the works are carried out in accordance with a Construction Management Plan prepared in accordance with this Schedule;
- Subdivision of land, provided that the subdivision is the re-subdivision of the land and the number of lots is not increased;
- Removal or creation of easements or restrictions.

#### 2.0

05/05/2011  
C63

#### Conditions and requirements for permits

Except for a permit issued as provided for under Clause 1.0, a permit must contain conditions or requirements which give effect to the provisions and requirements of the approved Development Plan.

A permit must also contain the following conditions, where appropriate:

##### Open Space

All land identified as public open space in the approved Development Plan must be either transferred to or vested in Council prior to the completion of the development of the land.

##### Integrated Transport Plan

Prior to commencement of the development permitted by this permit the recommendations set out in the Integrated Transport Plan that forms part of the approved Development Plan must be implemented to the satisfaction of the responsible authority and the Director of Public Transport, Department of Transport.

##### Road Design Plan

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Prior to commencing the use of any stage of the development, the development requirements and works as detailed in the Road Design Plan relating to the new north-south road adjoining McIvor Reserve, including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street to incorporate a central median must be completed to the satisfaction of the responsible authority.

Detailed engineering plans and computations based on the Road Design Plan, must be prepared for the approval of the responsible authority.

### **Adverse Amenity Impacts**

The development must implement any recommendations set out in the various report(s) prepared pursuant to the requirement at Clause 3.0 (Adverse Amenity Impacts Requirements) of this Schedule to the satisfaction of the responsible authority.

### **Conservation Management**

Prior to the commencement of any development on land affected by a Heritage Overlay, plans and/or any necessary reports demonstrating how the development will implement the recommendations set out in the Conservation Management Plan forming part of the approved Development Plan must be submitted to the satisfaction of the responsible authority. Once approved the plans and/or reports will form part of the permit.

### **Design Guidelines**

Prior to the commencement of any stage of the development, design guidelines must be provided to the satisfaction of the responsible authority. The Design Guidelines must be generally consistent with the Residential Design Guidelines forming part of the approved Development Plan for the land. The Design Guidelines are to specifically address:

- Building heights and setbacks;
  - Fencing height and form;
  - Car parking provision and location of garages, carports, car spaces and garage doors;
  - Building materials and architectural styles throughout the site;
  - Siting and orientation of buildings having regard to passive energy efficiency techniques; and
  - Interface treatments to Francis Street, McIvor Reserve and the Newport rail line.
- Once approved, the Design Guidelines will form part of the permit.

### **Construction Management Plan**

Prior to the commencement of any stage of the development, a detailed Construction Management Plan (CMP) must be prepared to the satisfaction of the responsible authority. The CMP must be generally consistent with the CMP forming part of the approved Development Plan and specifically address the potential detrimental affects on the amenity of the area during demolition and construction activities. Once approved, the CMP will form part of the permit.

### **Signalisation of Richards Street Intersection**

Prior to the occupation of the development permitted by this permit (for the development of the stage that includes the construction of the north-south road opposite Richards Street), the owner must construct traffic lights at the Richards Street intersection in accordance with the plan approved by VicRoads to the satisfaction of VicRoads and the responsible

authority, if the construction of such traffic lights has been first approved by VicRoads, following any further traffic assessments.

3.0  
05/05/2011  
C63

### **Requirements for the Development Plan**

A Development Plan must be generally in accordance with the Bradmill Precinct West Yarraville Indicative Development Plan dated July 2008 forming part of this Schedule to the satisfaction of the responsible authority. Preparation of the Development Plan must have regard to the Bradmill Precinct West Yarraville Urban Design Principles and Interface Guidelines - MGS Architects and Tract Consultants (July 2008).

A Development Plan must be prepared for at least all land which is in common or related ownership. The responsible authority may agree to any part of that land being subject to a separate development plan.

### **Supporting Information Requirements**

The Development Plan must include the following documents, reports, guidelines and plans, prepared to the satisfaction of the responsible authority:

#### ***Planning Report***

A planning report must be prepared to the satisfaction of the responsible authority that includes;

- How the proposed development plan will meet the requirements of Clause 56 of the Scheme.
- Demonstrates how the recommendations of the Adverse Amenity Impact Report, Conservation Management Plan, Environmental Audit, and Ecological Sustainable Design Strategy and Action Plan have been incorporated into the proposed development of the land.

#### **Site Master Plan**

A Site Master Plan must be provided including urban design principles and an indicative staging plan to identify the proposed sequencing of development.

#### **Traffic Management Plan**

A Traffic Management Plan (TMP) prepared to the satisfaction of the responsible authority and VicRoads.

The TMP must provide the following details:

- The likely traffic generation of the proposed development;
- The likely traffic impacts of the proposed development on the land and the broader road network;
- A road safety audit of the design and proposed traffic management measures and incorporating the recommendations;
- The proposed north-south road adjoining McIvor Reserve including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street;
- Recommended car parking rates and the location of car parking for the neighbourhood activity centre and associated uses, medium to high density residential precincts, on street, and community services (library, childcare, etc);



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- Road layout, road widths and reserves and site access;
- The design of the footpaths, bicycle paths and shared pathways network;
- Internal and external intersections, performance and treatments;
- Traffic management measures and signalisation;
- Traffic management for the neighbourhood activity centre precinct;
- Public transport routes and stops within the site and surrounds;
- Access way and pedestrian connections to McIvor Reserve (north & south end) from the proposed north-south road adjoining McIvor Reserve.
- Details of the proposed road network, including the design of the new north-south road to be constructed adjacent to McIvor Reserve, including intersection treatments at Fogarty Avenue and Francis street and the re-design of Francis Street to incorporate a central median;
- Details of connections from the proposed road network to existing roads and means of vehicular ingress and egress from the site to surrounding roads;
- Potential future access way and pedestrian connections to McIvor Reserve;
- The impact of the proposed Metropolitan Fire Bridge station.

### **Integrated Transport Plan**

An Integrated Transport Plan (ITP) to the satisfaction of the responsible authority and the Department of Transport. The plan must provide the following details:

- The expected demand for travel by people who will live, work or visit the site and target transport mode split to encourage walking, cycling and use of public transport by future residents;
- An implementation plan which identifies:
  - A schedule of initiatives (e.g. behavioral change program, way-finding strategies) that will be undertaken to encourage walking, cycling and use of public transport by future residents;
  - Provision for ongoing monitoring and review of the implementation of the plan;
  - Responsibilities for ongoing implementation of the ITP including timing of proposed works relative to the staging of the development;
  - Contributions to be made by the owner to the preparation, monitoring and implementation of the plan including the reasonable cost of works made necessary by the development;
  - The timing, method and security for payment of any contribution;
  - Existing and proposed bus routes, public transport stops and infrastructure (e.g. shelters, indented bay/s, signage, pedestrian crossings and potential locations for car sharing facilities) within the site and surrounds;
  - Existing and proposed pedestrian and bicycle paths and bicycle parking, including connections to bus stops;
  - Details of any proposed public transport, bicycle or pedestrian works on the site and adjoining and nearby areas;
  - Details of proposed traffic management and controls works on the land and nearby roads;

- Car parking for the neighbourhood activity centre, medium to high density residential precincts, community services (Library, child care, etc);
- New resident awareness and education program.

### **Road Design Plan**

A Road Design Plan must be prepared by a suitably qualified person(s) to the satisfaction of the responsible authority. The Road Design Plan must set out engineering details relating to the proposed north-south road adjoining McIvor Reserve including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street to incorporate any central median.

The Road Design Plan must provide the following details:

- Design of the proposed north-south road adjoining McIvor Reserve including intersection treatments at Fogarty Avenue and Francis Street and the re-design of Francis Street to incorporate a central median;
- The design must consider the activities on McIvor Reserve and setbacks from existing and proposed buildings and provide appropriate design and safety solutions to limit any impacts;
- Design requirements as specified by VicRoads with regard to Francis Street and associated intersection treatments;
- A detailed survey plan indicating the area of land within McIvor Reserve to be used for the proposed road reservation;
- Access way and pedestrian connections to McIvor Reserve (north & south end) from the proposed north-south road adjoining McIvor Reserve;
- A road safety audit of the design;
- How the recommendations of the road safety audit have been incorporated;
- Existing and proposed easements, underground and above ground services;
- Relocation of any underground and above ground services;
- The potential for undergrounding of above ground services;
- On street car parking;
- Provision for service vehicles and buses;
- Traffic management devices to control traffic volumes and speed;
- The design of the footpaths, bicycle paths and shared pathways network;
- Drainage of the road reserve and car parking;
- Drainage design requirements as specified by Melbourne Water;
- Design and location of street lighting and fencing;
- Road signage and line marking;
- Traffic management procedures and strategies to discourage non-local traffic from passing into or through the local street network and to control traffic speeds and volumes in and around the site.

### **Landscape Concept Plan**

A Landscape Concept Plan must be provided which includes:

- An overall landscape master plan for the land in the Development Plan, including a street tree master plan for the land and proposed north-south road adjoining McIvor Reserve and Francis Street central median;
- A survey of existing trees and an assessment of trees worthy of retention and outline the most appropriate method to protect them;
- Landscape concepts for proposed public open space, including the open space boulevard positioned through the centre of the site;
- Typical street cross-sections;
- A written description of the management of all reserves, landscaping areas and water sensitive urban design treatments;
- Details of how the Landscape Concept Plan addresses any conditions of the Environmental Audit for the land.

#### ***Conservation Management Plan***

A Conservation Management Plan prepared by a suitably qualified person(s). The Conservation Management Plan should also include a Heritage Interpretation Plan which provides options for how the future development of the land will incorporate design components that reflect identified heritage values of the land and buildings contained therein.

#### ***Residential Design Guidelines***

Residential Design Guidelines must be provided containing the following:

- Indicative building heights and setbacks;
- Indicative fencing height and form;
- Indicative car parking provision and location of garages, carports and car spaces and garage doors;
- Indicative building materials and architectural styles throughout the site;
- Indicative siting and orientation of buildings having regard to passive energy efficiency techniques and relevant considerations of Clause 54, 55 and 56 of the Scheme;
- Indicative acoustic treatments to potential noise sources;
- Indicative treatments for key interface areas (e.g. between open space areas and proposed development, within existing streetscapes, and between non-residential land uses and proposed development);
- Any particular design measures required by the Adverse Amenity Impact Report, Conservation Management Plan, Environmental Audit and Ecological Sustainable Design Strategy & Action Plan.

#### ***Neighbourhood Activity Centre Guidelines***

Neighbourhood Activity Centre Guidelines must be provided for the activity centre which:

- Are consistent with the Activity Centre Guidelines published by DPCD;
- Provide a community focus for West Yarraville;



- Provide for an appropriate level of commercial and community services for existing and new residents;
- Encourage housing where appropriate within the activity centre;
- Provide for a mix of retail floor space including a full line supermarket;
- Improve infrastructure and amenities, including the development of a safe, well lit and presented sheltered pedestrian pathway system linking all parts of the activity centre with car parking and public transport;
- Encourage the development of commercial and community uses, including childcare, which are integrated within the activity centre and the surrounding neighbourhood;

***Ecological Sustainable Design (ESD) Strategy and Action Plan***

An Ecological Sustainable Design Strategy and Action Plan (ESD Strategy Plan) must be prepared in consultation with, and to the satisfaction of the Responsible Authority.

The ESD Strategy Plan must address the major components of the proposed development and construction processes and:

- Demonstrate best practice and the use of emerging technology;
- Compliance with all statutory obligations in environmental sustainability;
- Identify the level of sustainability performance standards to be adopted;
- Demonstrate the means by which the agreed level of sustainable performance standards will be achieved.

The ESD Strategy Plan must be based upon the following principles:

- Energy conservation, with the objective of contributing in a significant way to national and international efforts to reduce energy usage and green house gas emissions;
- Water conservation, ensuring that water resources are managed in a sustainable way;
- Water sensitive urban design and reducing the impacts of stormwater on bays and catchments. Adopt the principles as detailed in the "Urban Stormwater Best Practice Environmental Management Guidelines"(Melbourne Water);
- Transport planning with the aim to encourage walking, cycling and use of public transport;
- Land-use and transport planning and infrastructure provision to contribute to improved air quality;
- Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials;
- Building materials conservation;
- Sustainability in demolition and construction practices;
- Landscaping considering the provision of habitat, green spaces, and climate control;
- Indoor environmental quality and healthy internal environments.

The ESD Strategy Plan must have regard to the following:

- If considered appropriate, the preparation of individual plans dealing with different aspects of the use and development;
- Specify when individual plans must be prepared;

- Identify responsibilities and detail an implementation and staging strategy;
- A strategy for review, maintenance and monitoring;
- New resident awareness and education to promote the objectives of sustainability.

#### ***Site Remediation Strategy***

Before a Development Plan is approved, a Site Remediation Strategy Plan must be submitted to the responsible authority that addresses and makes recommendations in relation to the:

- Options and a preferred approach to the remediation of soil and groundwater;
- Proposed pattern of land uses across the site;
- Targeted condition of the site as specified by the Environmental Auditor to suit the range of land uses;
- Locations across the site of proposed clean up work;
- Options for remediation technologies taking into account logistics, technology availability, estimated cost, and likely effectiveness;
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The Site Remediation Strategy Plan may be prepared in stages where the development is prepared in stages and must be to the satisfaction of the responsible authority (and Environmental Auditor if required).

#### ***Adverse Amenity Impacts Report***

An Adverse Amenity Impacts Report(s) prepared by a suitably qualified person(s) to the satisfaction of the Responsible Authority after seeking and considering the views of the Department of Transport and the Environment Protection Authority. The report must identify all potential adverse amenity impacts from nearby uses and consider:

- Whether the proposed use and development is likely to be affected by any industrial properties to the south and southwest of the site, the goods rail line and in particular the paint and coatings manufacturing in the vicinity;
- Whether the proposed use and development is likely to be affected by any remaining industrial uses within the Bradmill Precinct;
  - Whether the proposed use and development is likely to be affected by any odour, noise and dust sources from the industrial properties in Brooklyn to the north of Geelong Road and west to north-west of the site;
  - Noise, vibration and air pollution impacts from Francis Street, the goods rail line and Westgate Freeway;
  - What ameliorative or remedial measures can and will be taken to minimise or avoid the adverse impacts identified in the report.

- Location of the Metropolitan Fire Brigade Station.

***Affordable Housing Report***

An Affordable Housing Report incorporating how it is proposed to provide 5% of the overall housing stock as affordable housing. The report must also include criteria for determining affordable housing stock.

***Construction Management Plan***

A Construction Management Plan (CMP) must be provided prior to any works including site remediation and demolition. The CMP must detail how the development of the land will be managed to ensure that the amenity of the nearby area is not detrimentally affected.

The CMP must address; demolition, site remediation, bulk excavation, management of the construction site, land disturbance, hours of construction, noise, control of dust, public safety, construction vehicle road routes and traffic management, soiling and cleaning of roadways, discharge of any polluted water and stormwater, security fencing, disposal of site waste, and any potentially contaminated materials, location of cranes, location of site offices, parking for construction staff vehicles and heavy construction vehicles, storage of plant and equipment, redirection of any above or underground services, protection of nominated trees, and site lighting during any night works.

The CMP must also address methods for responding to complaints associated with the construction works and provide site manager contact details.

***Services and Infrastructure Report***

A Services and Infrastructure Report must be provided to identify all existing and proposed infrastructure requirements and easements (Water, Sewerage, Gas, Electricity, Telecommunications, Drainage, Storm Water overland flow points and Water Sensitive Urban Design) to service the proposed development.



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