

Government Land Standing Advisory Committee
Tranche 42 Report
50-62 McKenzie Street, Echuca

16 May 2024

Planning and Environment Act 1987

Contents

About this report.....	1
1 Summary and recommendations	2
1.1 The site.....	2
1.2 The draft Amendment	2
1.3 Issues.....	3
1.4 Conclusions and recommendation.....	4
2 Process overview.....	5
2.1 Process summary.....	5
2.2 Process issues.....	5
3 Site constraints and opportunities	7
3.1 Planning context	7
3.2 Site context and conditions	7
4 What zone is suitable?	8
5 What overlays are appropriate?	10
5.1 Environmental Audit Overlay	10
5.2 Campaspe Shire Council submission	16
Appendix A About the Government Land Standing Advisory Committee.....	18
Appendix B Document list.....	19

List of Tables

Table 1	Existing and proposed controls.....	4
Table 2	Proposal summary.....	5
Table 3	Committee process	5
Table 4	Recommended approach to assessing potentially contaminated land	11

List of Figures

Figure 1	Site location in Echuca	2
Figure 2	Proposed application of the EAO.....	3
Figure 3	Current and proposed zone controls	7

Glossary and Abbreviations

Committee	Government Land Standing Advisory Committee
Council	Campaspe Shire Council
draft Amendment	draft Campaspe Planning Scheme Amendment C162camp
DTP	Department of Transport and Planning
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority Victoria
EP Act	<i>Environment Protection Act 2017</i>
GRZ	General Residential Zone
MD1	Ministerial Direction No. 1 – Potentially contaminated land
Planning Report	<i>Planning Scheme Amendment, 50-62 McKenzie Street, Echuca</i> , Department of Transport and Planning, June 2023
Planning Scheme	Campaspe Planning Scheme
PPN30	Planning Practice Note 30: Potentially Contaminated Land
Proponent	Land and Property Group, Department of Transport and Planning
PRSA	Preliminary Risk Screen Assessment

About this report

On 3 December 2023, the Minister for Planning referred 50-62 McKenzie Street, Echuca to the Government Land Standing Advisory Committee as Tranche 42.

This is the report under Section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for 50-62 McKenzie Street, Echuca.

A handwritten signature in blue ink, appearing to read 'Lisa Kendal', with a small red dot above the 'i'.

Lisa Kendal, Chair

A handwritten signature in black ink, appearing to read 'Debra Butcher', with a small red dot above the 'i'.

Debra Butcher, Member

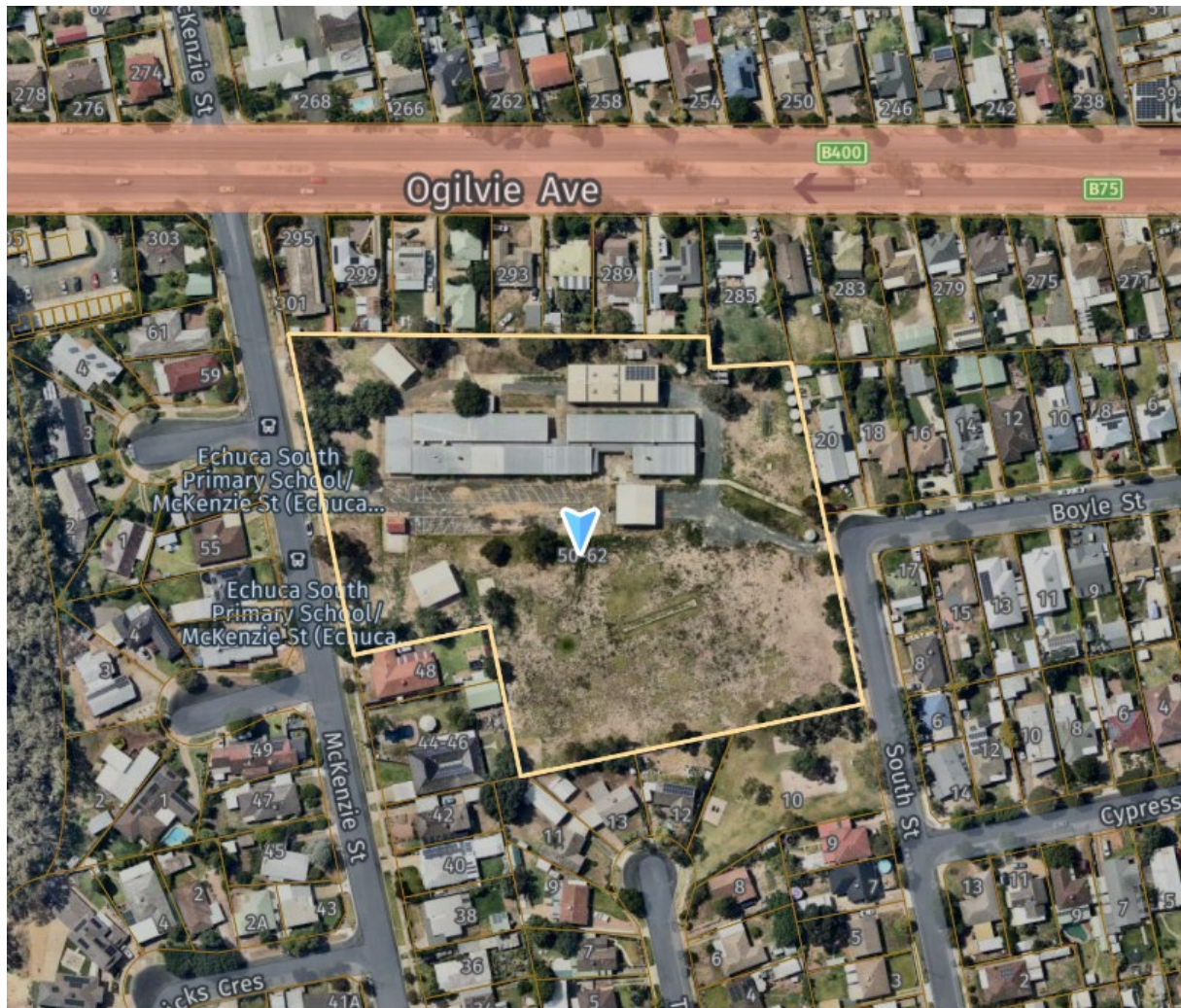
1 Summary and recommendations

1.1 The site

The site is located at 50-62 McKenzie Street, Echuca (see Figure 1).

The two hectare site is the location of the former Echuca South Primary School. The site was declared surplus Victorian government land on 22 October 2020.

Figure 1 Site location in Echuca



Source: NearMap, Planning Report, Land and Property Group within Department of Transport and Planning, June 2023

1.2 The draft Amendment

Draft Amendment C122camp (the draft Amendment) to the Campaspe Planning Scheme (Planning Scheme) proposes to:

- rezone the land from Public Use Zone 2 Education to General Residential Zone (GRZ)
- apply the Environmental Audit Overlay (EAO) to the northern portion of the site (see Figure 2).

Figure 2 Proposed application of the EAO

Source: exhibited Planning Scheme Map 10EAO

1.3 Issues

(i) Exhibition and submissions

The Government Land Standing Advisory Committee (Committee) received three submissions during exhibition of the draft Amendment from 12 February to 26 March 2024, including two submissions from community members and one from Campaspe Shire Council (Council).

Submissions raised the following matters:

- Council submitted it supported rezoning the land to GRZ but further consideration should be given to whether an overlay is required to achieve desired development outcomes.
- One submitter said the site should be used for public recreation.
- One submitter was happy for the proposal to proceed so long as development did not include “...commission homes/government assisted or unit sites (private single homes)”.

The Committee sought further information from the Land and Property Group, Department of Transport and Planning (Proponent) regarding application of the EAO to a portion of the site. This was because the exhibited material included a referral response from the Environment Protection Authority Victoria (EPA) which said application of the EAO was not consistent with planning guidance on potentially contaminated land.

(ii) Committee’s approach

The Committee has considered all written submissions received during exhibition of the draft Amendment and through the exchange of written information. In addressing the issues raised in submissions, the Committee has been assisted by the information provided to it as well as its observations from the site inspection.

1.4 Conclusions and recommendation

The Proponent proposes to rezone the subject land from Public Use Zone 2 Education to GRZ. This is an appropriate zone if the land is to be sold because it encourages development that respects the neighbourhood character of the area, encourages a diversity of housing types and growth in a well serviced area, and allows other land uses compatible with the residential location.

The draft Amendment proposed to apply the EAO to a portion of the site. The land is potentially contaminated and is considered to have high potential for contamination as defined in Planning Practice Note 30 – Potentially Contaminated Land (PPN30). In the absence of an environmental audit it is appropriate to apply the EAO to the entire site.

The proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes*.

Table 1 Existing and proposed controls

Current Planning Scheme controls	Exhibited Planning Scheme controls	Committee recommendation
Public Use Zone 2 Education	General Residential Zone	General Residential Zone
	Environmental Audit Overlay (northern portion of the site)	Environmental Audit Overlay (entire site)

The Committee recommends:

- 1. Prepare and approve Campaspe Planning Scheme Amendment C122camp for 50-62 McKenzie Street, Echuca to:**
 - a) Rezone the site to General Residential Zone.**
 - b) Apply the Environmental Audit Overlay to the entire site.**

2 Process overview

2.1 Process summary

The following tables set out the details of the process for this matter.

Table 2 Proposal summary

Proposal summary	
Tranche	42
Site address	50-62 McKenzie Street, Echuca
Previous use	Echuca South Primary School
Site owner	Department of Education
Proponent	Land and Property Group of the Department of Transport and Planning (DTP)
Council	Campaspe Shire Council
Exhibition	12 February – 26 March 2024, Engage Victoria website
Submissions	Three submissions were received from: <ol style="list-style-type: none"> 1. Aixi Axii 2. Cameron Valentine 3. Campaspe Shire Council

Table 3 Committee process

Committee process	
Members	Lisa Kendal (Chair) and Debra Butcher
Information session	5 March 2024
Hearing	The matter was considered by exchange of written information. The final information requested by the Committee was received on 17 April 2024
Site inspection	4 April 2024 (Lisa Kendal), unaccompanied
Date of this Report	16 May 2024

2.2 Process issues

(i) Considering the matter through exchange of written information

Only one submitter requested to be heard by the Committee for five minutes.

The Committee wrote to parties on 28 March 2024:

- advising of the Committee members nominated to consider the matter
- explaining the proposal for the Committee to consider the matter by exchange of written information, and draft directions

- parties of an opportunity to raise any procedural matters or comment on the proposed written process or draft directions by 5 April 2024.

No party:

- objected to the Committee's proposal to consider the matter by exchange of written information
- advised of any procedural matters
- commented on the draft directions.

The Committee issued final directions and confirmed the written process on 8 April 2024. The Committee advised all referred written submissions would be considered when preparing its report, including any further written material provided in response to the Committee's directions. The Committee further advised it would issue further directions if it was unclear on any critical matters.

(ii) The Environmental Audit Overlay

The Committee directed the Proponent to address in its written submission:

In relation to application of the Environmental Audit Overlay:

- i. Explain how the proposal has had regard to current guidance including Ministerial Direction 1, Planning Practice Note 30 and the Planner's toolkit, in light of the Environment Protection Act 2017 and associated regulations which came into effect on 1 July 2021
- ii. Seek and provide updated advice from the EPA, and the Proponent's response to this advice.

In response to these directions, the Proponent provided:

- On 12 April 2024, a written submission which detailed how the proposal had regard to current guidance (Document 5) with:
 - an updated map applying the EAO to the entire site
 - email from the Proponent to the EPA seeking advice (dated 9 April 2024).
- On 17 April 2024, an email with attachments:
 - email from the EPA to the Proponent with updated advice (dated 12 April 2024)
 - an updated Explanatory Report.

3 Site constraints and opportunities

3.1 Planning context

The site is:

- zoned Public Use Zone 2 Education
- not subject to any overlays.

The surrounding land is zoned GRZ on all sides apart from an area of Public Park and Recreation Zone along the eastern part of the southern boundary.

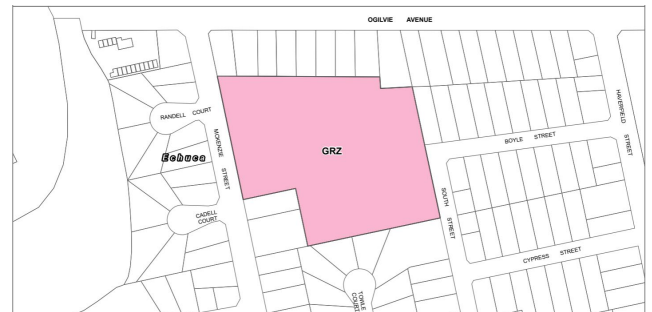
Figure 3 shows the current and proposed zone and overlay controls.

Figure 3 Current and proposed zone controls

Current zoning



Proposed zoning



3.2 Site context and conditions

The site is located in an established residential neighbourhood in proximity to Echuca's central business and shopping precinct. It has good access to commercial and health facilities, public transport, and is in walking distance of a range of open space and sporting facilities.

The site is occupied by the former school buildings and a large shed previously used for indoor sports and gatherings. There are a few smaller structures scattered across the former school grounds. The site is generally flat and includes several planted native and exotic trees.

The site has interfaces with:

- McKenzie Street to the west, and South Street to the east
- the rear of nine residential lots to the north (which front Ogilvie Avenue)
- the rear of four residential lots and Towle Court park and playground to the south.

Surrounding residential development is generally single storey houses of various styles.

The site is identified as potentially contaminated land, as described by *Ministerial Direction No. 1 – Potentially contaminated land* (MD1), due to the presence of underground storage tanks and asbestos containing materials associated with school use of the land. This issue is discussed in Chapter 5.1.

4 What zone is suitable?

(i) Submissions

Submissions supported application of the GRZ as proposed on the basis future residential use of the land was supported. One submitter supported the rezoning but objected to potential social or affordable housing on the site.

One submitter sought for the site to be used for public recreation.

(ii) Discussion

The Committee's Terms of Reference do not allow it to consider application of a public land zone, unless requested by the Minister for Planning or a Victorian government department or agency where the need is identified. That is not the case for this matter.

Planning Practice Note 91: Using the residential zones says the GRZ should be:

Applied to areas where housing development of three storeys exists or is planned for in locations offering good access to services and transport.

The Planning Report exhibited with the Amendment said:¹

The GRZ is applied to land within the surrounding area and accordingly will provide an appropriate zone for the current and future use and development of the subject site.

In addition to implementing the Municipal Planning Strategy and the Planning Policy Framework, the purposes of the GRZ are:

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The GRZ is the appropriate zone for the land. The site is well located in a residential area within proximity to a range of services and facilities including roads and public transport. Future development may include a range of land uses compatible with a residential area.

The recently released Victorian Housing Statement identifies housing as one the State's biggest challenges, and stresses the need for more social and affordable housing. The Planning Policy Framework includes policies to facilitate well located and diverse housing to meet community needs and the Municipal Planning Strategy includes a strategic direction to:

- Encourage smaller and more compact housing in towns to meet the changing housing needs of the Campaspe community.

The Amendment facilitates rezoning of the land. It is not known yet what the development will be, however in the context of the current need for housing it is important to provide a diversity of housing options in well serviced locations.

¹ *Planning Scheme Amendment, 50-62 McKenzie Street, Echuca*, Department of Transport and Planning, June 2023

(iii) Conclusion and recommendation

The Committee concludes the GRZ is the appropriate zone for the land if it is to be sold.

The Committee recommends that Campaspe Planning Scheme Amendment C122camp should be prepared and approved to:

Rezone the site to apply the General Residential Zone.

5 What overlays are appropriate?

5.1 Environmental Audit Overlay

(i) The issues

The issues are whether:

- potentially contaminated land has been adequately considered and assessed
- the Amendment, including the exhibited documentation, satisfies ministerial guidelines and planning guidance in relation to potentially contaminated land
- the EAO should be applied to the whole of the site.

(ii) Background

The exhibited draft Amendment proposed to apply the EAO to the northern portion of the site.

Clause 13.04-1S (Contaminated and potentially contaminated land) seeks *“to ensure that contaminated and potentially contaminated land is used and developed safely”*.

MD1 applies to potentially contaminated land and seeks to ensure the land is suitable for a use which is proposed to be allowed under a planning scheme amendment and which could be significantly adversely affected by contamination. It includes a definition of potentially contaminated land and requirements that must be met in preparing a planning scheme amendment for potentially contaminated land.

For sensitive land uses, including residential use or use of land as a playground or secondary school, MD1 requires that in preparing an amendment the planning authority must comply with one of the following:²

- satisfy itself whether or not the land, or parts of the land, are potentially contaminated
- where it has determined that the land is not potentially contaminated, state the determination in the amendment Explanatory Report
- where it has determined the land, or parts of the land, are potentially contaminated, must state the determination in the amendment Explanatory Report and satisfy itself that the environmental conditions of that land are or will be suitable for that use.

MD1 states that when preparing an amendment which allows for sensitive uses, children’s playgrounds or secondary schools on land which is considered to be potentially contaminated, a planning authority must satisfy itself that the environmental conditions will be suitable, in one of the following ways:

- Before it gives a copy or notice of the amendment, ensure that an environmental auditor has issued a Preliminary Risk Screen Assessment (PRSA) statement stating that an environmental audit is not required for the uses.
- Before it gives a copy or notice of the amendment, ensure that an environmental auditor has issued an environmental audit statement stating that the land is suitable for the uses.
- Where a planning authority determines that complying with either of the above is difficult or inappropriate, defer the requirements of the above subclauses by applying an EAO or other appropriate measure.

² Ministerial Direction 1 Potentially Contaminated Land (15 August 2021)

PPN30 provides planning guidance on:

- how to identify potentially contaminated land
- the appropriate level of assessment of contamination in different circumstances
- appropriate provisions in planning scheme amendments
- appropriate conditions on planning permits.

PPN30 identifies the recommended assessment mechanism for a planning proposal (see Table 4).

Table 4 Recommended approach to assessing potentially contaminated land

Planning Proposal		Potential for Contamination	
		High	Medium
Uses defined in Ministerial Direction No. 1, the EAO, and clause 13.04-15			
<ul style="list-style-type: none"> • Sensitive uses: Residential use, childcare centre, kindergarten, pre-school centre, primary school, even if ancillary to another use. • Children's playground • Secondary school 	New use, or buildings and works associated with a new use	A	B
	Buildings and works associated with an existing use	B	B
Other land use			
Open space Agriculture Retail or office Industry or warehouse	New use, or buildings and works associated with a new or existing use	C	D

Planning Scheme Amendment		Planning Permit Application
A	PRSA or audit option applies	PRSA or audit option applies
	Proceeding directly to an audit is recommended.	Proceeding directly to an audit is recommended.
B	PRSA or audit option applies	PRSA or audit option applies
	PRSA to determine need for audit is recommended.	PRSA to determine need for audit is recommended.
C	PSI to inform need for audit is recommended	PSI to inform need for audit is recommended
D	Planning authority to document consideration of potential for contamination to impact proposal	Responsible authority to document consideration of potential for contamination to impact proposal

Note: Where land is used for more than one purpose, the most sensitive land use should be used to inform the approach to determining if an audit is required.

Source: PPN30 Table 3 (July 2021)

Ministerial Direction 19³ requires planning authorities to seek the written views of the EPA in preparing a planning scheme amendment that *“could result in use or development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste”*. It requires that the views of EPA in relation to this Direction are also addressed in the Explanatory Report.

The following environmental assessments were exhibited with the draft Amendment:

- *Tank Removal Report*, Meinhardt (date of removal completion 12 April 2016)
- *Tank Validation Report*, Environmental Earth Sciences, 29 July 2017
- *Preliminary Site Investigation*, BlueSphere, 2 February 2021

³ Ministerial Direction 19 – Amendments that may result in impacts on the environment, amenity and human health

- *Potential Underground Storage Tank Investigation*, BlueSphere, 24 March 2021
- *Preliminary Site Investigation and Limited Soil Assessment*, BlueSphere, 29 June 2021
- *Environmental Advice Regarding Proposed Environmental Audit Overlay Application*, BlueSphere, 21 July 2021 (BlueSphere EAO Advice)
- *Letter of Advice for the Proposed Environmental Audit Overlay for Rezoning*, Presna, (2 September 2021) (Presna EAO Letter of Advice).

The various reports confirmed that as a result of the previous use of the site for agricultural purposes and subsequently as a school, the potential on-site sources of contamination primarily comprised:

- one former underground storage tank (described as UST2) located in the vicinity of the school buildings that has been decommissioned, removed and validated
- one additional underground storage tank (described as UST1) that is suspected to be located in the vicinity of the school buildings, but this has not been confirmed
- the use of pesticides and herbicides associated with the former agricultural use
- the existing buildings and structures (with the potential for asbestos).

The Presna EAO Letter of Advice that followed the various BlueSphere reports evaluated whether the proposal to apply the EAO the northern portion of the site was appropriate based on the contamination assessments undertaken to date. As part of the Presna EAO Letter of Advice a review was undertaken of all previous contamination work carried out for the site, including the BlueSphere reports.

The Presna EAO Letter of Advice concluded that the application of the EAO to the northern portion of the site was appropriate based on the current regulatory framework. The Presna EAO Letter of Advice also concluded that based on the information provided as part of the peer review: *“it was considered that the land in the southern port of the Site was not considered ‘potentially contaminated’ and therefore the application of an EAO over this land is not required as per Ministerial Direction No. 1”*.⁴

The current requirements associated with the management of contaminated land in Victoria are regulated by the updated *Environment Protection Act 2017* (EP Act). The EP Act came into effect on 1 July 2021, with MD1 and PPN30 in their current form introduced shortly after that. Apart from the BlueSphere EAO Advice and the Presnsa EAO Letter of Advice, site investigations related to land contamination were largely undertaken before introduction of the updated EP Act. Accordingly, the Amendment represents one of a number of ‘transition’ projects for the Proponent which assesses issues of contaminated land matters across both the old and new legislation.

After the completion of the contamination investigations, the EPA provided written advice to the Proponent in November 2021 stating that *“where the EAO is sought to be applied to a portion of a site, EPA would generally recommend the PRSA to inform the boundaries of the EAO”*.⁵ The EPA advised the EAO should be applied to the whole of the site and not applied to only part of it.

In its written advice the EPA concluded that it did not object to the Proponent proceeding with the Amendment as proposed, on the basis that the Proponent had determined it had taken reasonable steps to identify all areas of potential contamination. It also highlighted the fact that

⁴ Presna EAO Letter of Advice, page 7

⁵ EPA Letter of advice (2 November 2021), page 3, exhibited with the draft Amendment

the obligations of MD1 rest with the planning authority, which is required to satisfy itself that the land is suitable for the intended use under MD1.

(iii) Submissions

The EPA did not lodge a formal submission to the Amendment during the exhibition period. However, as outlined in Section 2.2, the Committee directed the Proponent to provide additional information in relation to the issue of contamination and to seek the further advice of the EPA on the proposal.

The EPA did not provide its response before the Proponent's submission was due to be lodged with the Committee. Accordingly, the Proponent's submission was lodged without the benefit of input from the EPA. The Proponent said:

- It was willing to revise the extent of the EAO and apply it to the whole of the site. This was as a result of further discussions with the EPA in relation to another site with similar issues (Tranche 41, 43 Delatite Road in Seymour), where partial coverage by the EAO was changed to full coverage.
- That it is difficult or inappropriate to meet the environmental audit requirements for this site before rezoning because the contaminated area contains existing buildings which are not proposed to be removed prior to sale of the site.

The Proponent advised it considered deferral of the environmental audit appropriate in the context of the matters identified for consideration in PPN30. In summary it said:

- The level of investigation completed to date provided a high degree of confidence that sensitive land uses are achievable on the site, notwithstanding that further assessment (for example soil and groundwater investigations), is required and is expected satisfy the environmental audit.
- The future form of the development of the site is unknown. However, further works that may be required to demonstrate the suitability of a future use is most appropriately scoped at the time the environmental audit is undertaken and in consideration of the site's future development, including proposed layout and land uses.
- Whilst the ultimate form of development is unknown, any proposed development (including sensitive land uses) will require planning permission subject to completion of an environmental audit and any further assessment of the site in consideration of the site's intended uses will be subject to the findings of the environmental audit.

The EPA subsequently responded to the directions of the Committee and advised as follows:⁶

- EPA understand the Environmental Audit Overlay (EAO) is now proposed to the entire Site. The previous proposal for the partial application of an EAO was inconsistent with DTPs Planners Toolkit which complements PPN30. Please refer to the Planners Toolkit for further detail. The Explanatory Report still refers to the partial application of the EAO to the northern portion of the Site, and therefore should be updated.
- Audit system requirements must be met at the time of the amendment unless the planning authority determines that compliance with this requirement is difficult or inappropriate, noting that assessment time and costs are not in themselves sufficient reasons to defer assessment. The Explanatory Report does not outline why meeting audit system requirements at the time of the Amendment is 'difficult or inappropriate'. EPA highlights that, in accordance with Ministerial Direction 1, it is for the Planning

⁶ Document 6b, page 2

Authority to determine if it is 'difficult or inappropriate' to meet audit system requirements at the time of the Amendment.

- The EAO will not address audit system requirements for 'other land uses' as defined in MD1 and PPN30. MD1 requirements for these other land uses have not been addressed in the Explanatory Report.

In response to directions of the Committee and the EPA's advice, the Proponent made further amendments to the Explanatory Report to address the matters outlined in the EPA's response, including:

- providing further justification in relation to the deferral of the audit issues and the response to MD1 and PPN30
- addressing the issue of 'other land uses'. The Proponent proposed to use a 'special condition on title' requiring an environmental audit in the unlikely event that 'other land uses' (defined in PPN30 as open space agriculture, retail, office, industry and warehouse) are proposed on the site.

There were no other submissions in relation to the issue of contamination.

(iv) Discussion

MD1 defines potentially contaminated land as land:

- a) used or known to have been used for industry or mining;
- b) used or known to have been used for the storage of chemicals, gas, waste or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land).

The BlueSphere EAO Advice and the Prensa EAO Letter of Advice confirmed the site has high potential for contamination. This was primarily due to the former presence of at least one underground heating oil storage tank on the site (with one possibly still in situ). Other contributing factors to the site being considered contaminated was due to the use of pesticides and herbicides associated with former agricultural use, as well as the potential for asbestos to be present in the existing buildings on the site.

Accordingly, the Committee is satisfied that the site is potentially contaminated land.

MD1 and PPN30 require that where a planning scheme amendment allows sensitive uses on potentially contaminated land, a process under the environmental audit system must be required to demonstrate the land use suitable for its intended use. As shown in Table 4, for land with high potential for contamination, a PRSA or environmental audit applies. In the circumstance where it is considered difficult or inappropriate to meet environmental audit requirements, an EAO must be applied.

One of the issues raised by the EPA in its response to the Committee's directions was that the exhibited documentation did not outline why meeting audit system requirements at the time of the Amendment was "*difficult or inappropriate*". In response to this the Proponent highlighted the presence of existing buildings on the site in the location where contamination was anticipated, and that these buildings are not proposed to be removed prior to the sale of the land. This explanation was also included in the updated Explanatory Report.

The Committee is satisfied that this does represent a "*difficult or inappropriate*" circumstance, combined with the transitional issues discussed further below.

The Committee sought guidance from the Proponent on how the proposal had regard to MD1 and PPN30. The key issues were in relation to the deferral of audit requirements, how to deal with 'other land uses' (raised by the EPA) and the extent of the proposed application of the EAO.

In relation to the issue of deferral of the audit requirements, PPN30 outlines three matters that should be considered where requirements under the audit system are to be deferred, as follows:

- Whether there is reasonable confidence that the land can be made suitable for its proposed use – i.e. that contamination will not preclude that use.
- Whether there will be a practical mechanism available to mitigate or manage any contamination identified during the environmental audit process (for example, through the design of the development).
- Whether there will be a subsequent planning approval required; this may afford an opportunity to include any restrictions on use or conditions on development recommended by the environmental audit.

The Committee broadly accepts that the deferral of the audit requirements as explained by the Proponent is appropriate.

The Committee supports applying the EAO to the whole site. This is consistent with the relevant directions and guidelines in relation to the application of the EAO typically extending to mapped cadastral boundaries except in extenuating circumstances.

In relation to the risk associated with ‘other land uses’ on the site raised by the EPA, the Committee makes the following observations:

- The Committee considers the site is unlikely to be used for ‘other land uses’ (comprising agriculture, retail, office, industry and warehouse) due to a range of factors including the planning policy setting, the proposed future zone, and the physical setting of the site in an established residential neighbourhood with extensive abutments to conventional density residential development.
- Whilst some of the land may well be used as open space in the future as part of a residential development, to use land for public open space purposes triggers separate requirements under MD1 and would also require a planning permit for subdivision to create a lot for open space purposes (unless the whole site was to be used or open space which the Committee considers is highly unlikely). It is unlikely that the land could be used for open space purposes without triggering the need for an environmental audit.

If management of risks associated with ‘other land uses’ is a broader concern for the EPA it may wish to discuss options with the DTP as part of a separate review process.

The Committee does not comment on the merits of the Proponent’s proposed use of a ‘special condition’ on title as a tool to manage ‘other land uses’ as this is not a Planning Scheme tool and is outside the remit of the Committee. However, if the Proponent chooses to proceed with such an approach it would be prudent to liaise with the EPA about the specific requirements of the condition.

While the Committee acknowledges the transition issue identified by the Proponent, the updated EP Act has now been in place for nearly three years. It is expected that for future sites, all contaminated land assessment work will reflect and respond to the current requirements of PPN30, including undertaking a PRSA or environmental audit where applicable.

(v) Conclusions and recommendation

The Committee concludes:

- The site constitutes potentially contaminated land and is considered to have high potential for contamination as defined in PPN30.

- For a site with high potential for contamination that is to be used for sensitive uses in the future, additional documentation under the environmental audit system, specifically an environmental audit, is required to satisfy MD1 and PPN30 requirements.
- It is appropriate to defer the environmental audit for reasons that it is difficult or inappropriate with the buildings still present on the site.
- In the absence of an environmental audit it is appropriate to apply an EAO.
- The EAO should be applied to the whole of the site.
- The Amendment satisfies ministerial guidelines and planning guidance, subject to updating the Explanatory Report (Document 6a).
- Potentially contaminated land has been adequately considered and assessed.

The Committee recommends:

Apply the Environmental Audit Overlay to the entire site.

5.2 Campaspe Shire Council submission

(i) The issue

The issue is whether an overlay is required to provide greater guidance on the development outcome.

(ii) Submissions

Council submitted:

- it encouraged further consideration of an overlay to provide greater guidance on the site development outcome
- while acknowledging there is State planning policy relating to housing density, diversity and alternative built form, it was concerned that applying the GRZ alone may not expand housing options
- developing a well-defined vision for the site would provide greater clarity and alignment with the outcomes it envisioned.

Council did not make submissions on its preferred overlay options.

The Proponent submitted:

- The proposed General Residential Zone provides for flexibility and a range of housing typologies at varying densities.
- The application of an overlay is not considered necessary to guide the future development of the site.

The Proponent said:

- the Amendment is supported by planning policy which recognises the site is located in a centrally located an established residential area where growth is supported
- the GRZ encourages housing diversity and growth in areas with access to services, facilities and transport
- the size, proportions and lack of constraints on the site do not indicate planning guidance is required beyond that provided by the GRZ.

The Proponent assessed the potential application of a Development Plan Overlay or Design and Development Overlay to the site. It concluded:

- Application of a Development Plan Overlay was not appropriate as it:
 - may unnecessarily prejudice what could occur on the site

- would remove notice and third party rights, which would be inappropriate in the context of Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays which says *“it should normally be applied to development proposals ... and land that contain no existing residential population and do not adjoin established residential areas”*
- the site is not identified as a strategic development site.

Application of a Design and Development Overlay was not appropriate as it is generally applied in the Planning Scheme to commercial precincts, including the Echuca Aerodrome, and sets objectives relating to building heights, setbacks, landscaping and fencing. Applying it to a singular site in an established low scale residential area does not align with the current planning framework and is not justified. Further:

- Council will have the opportunity to assess any proposal on its merits at the planning permit application stage
- there is an opportunity for Council to update its existing Housing Strategi if it wishes to encourage higher density housing in this location.

(iii) Discussion

Application of an overlay to provide greater guidance on development outcomes for the site is not warranted on the basis:

- State and local planning policy supports increased housing in established well serviced areas
- the GRZ encourages diversity of housing types and housing growth and provides flexibility in how this achieved
- the site is relatively unconstrained and could accommodate a range of housing typologies
- future development options are not yet known and it is logical to ensure planning controls provide adequate flexibility
- it is not appropriate to remove notice and third party rights in the situation where the site is located in a residential neighbourhood, particularly when strategic work has not been undertaken to inform an appropriate overlay.

(iv) Conclusion

The Committee concludes it is not appropriate or necessary to apply an overlay to provide greater guidance on the development outcomes for the site.

Appendix A About the Government Land Standing Advisory Committee

The Government Land Planning Service is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Government Land Standing Advisory Committee (the Committee) was initially appointed under Part 7, section 151 of the *Planning and Environment Act 1987* in July 2015.

A revised Terms of Reference for the Committee was approved in June 2020.

The Committee currently consists of:

- Lead Chair: Lester Townsend
- Chairs: Tim Hellsten, Lisa Kendal, Alison McFarlane
- Deputy Chairs: Michael Ballock, Elissa Bell, Mandy Elliott, Annabel Paul
- Members: Brodie Blades, Debra Butcher, Geoffrey Carruthers, Sally Conway, Shannon Davies, Noelene Duff, Peter Edwards, Meredith Gibbs, Jonathan Halaliku, John Hartigan, Elizabeth McIntosh, Gabby McMillan, Michael Malouf, Rachael O'Neill, Kate Partenio, Cazz Redding, John Roney, Lynn Sweeney, Adam Terrill, Jessica Tulloch

The Committee is assisted by Georgia Brodrick, Project Officer in Planning Panels Victoria.

The Committee's Terms of Reference state that the purpose of the Advisory Committee is to:

- a. advise the Minister for Planning on the suitability of new changes to planning provisions for land owned, proposed to be acquired or to land required to facilitate the delivery of priority projects by the Victorian Government, and
- b. provide a timely, transparent and consultative process to facilitate proposed changes to land owned or proposed to be acquired; or to support delivery of priority projects by the Victorian Government.

The Advisory Committee must produce a written report for the Minister for Planning providing:

- a. an assessment of the appropriateness of any changes of planning provisions in the context of the relevant planning scheme and State and Local Planning Policy Frameworks,
- b. consideration of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes,
- c. an assessment of whether planning scheme amendments could be prepared and adopted for each proposal, including the recommended planning provisions,
- d. an assessment of submissions to the Advisory Committee,
- e. any other relevant matters raised during the hearing(s),
- f. a list of persons who made submissions considered by the Advisory Committee,
- g. a list of persons consulted or heard,
- h. endorsement by the Chair or the Deputy Chair.

Appendix B Document list

No.	Date	Description	Party
2023			
1	3 Dec	Letter of referral	Minister for Planning
2024			
2	28 Mar	Notification report	Government Land Planning Service
3	28 Mar	Draft Committee Directions letter	Planning Panels Victoria (PPV)
4	8 Apr	Final Committee Directions	PPV
5	12 Apr	Proponent written submission, with attachments: a. Campaspe Planning Scheme – EAO Map b. Email correspondence from Proponent to EPA	Land and Property Group in the Department of Transport and Planning (Proponent)
6	17 Apr	Email to complete response to the Committee's Direction 4 with attachments: a. Updated Explanatory Report b. Email response from EPA to Proponent	Proponent