

**Beveridge North West Precinct Structure Plan,  
Supplementary Levy Infrastructure Contributions Plan and  
Quarry Planning Permit Application  
Ministerial Advisory Committee**

**Advisory Committee Report**

*Planning and Environment Act 1987*

**14 October 2022**

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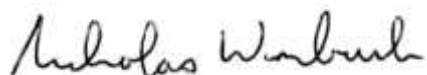
*Planning and Environment Act 1987*

Advisory Committee Report under section 151 of the PE Act

Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions Plan and  
Quarry Planning Permit Application

Ministerial Advisory Committee

**14 October 2022**



Nick Wimbush, Chair



Annabel Paul, Deputy Chair



John Hartigan, Member

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## Glossary and abbreviations

Amendment C106	Mitchell Planning Scheme Amendment C106mith
Amendment C158	Draft Mitchell Planning Scheme Amendment C158mith
Amendment C161	Draft Mitchell Planning Scheme Amendment C161mith
CHMP	Cultural Heritage Management Plan
Committee	Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions Plan and Quarry Planning Permit Application Ministerial Advisory Committee
Conundrum	Conundrum Holdings Pty Ltd
Council	Mitchell Shire Council
Crystal Creek	Crystal Creek Properties Pty Ltd
DEDJTR	(former) Department of Economic Development, Jobs, Transport and Resources
DELWP	Department of Environment, Land, Water and Planning
DJPR	Department of Jobs, Precincts and Regions
DoT	Department of Transport
draft Work Plan	The amended SEWP dated September 2019
EAR	Eastern Arterial Road
EPA	Environment Protection Authority
ERR	Earth Resources Regulation (the extractive industries regulator, part of DJPR)
FOMC	Friends of Merri Creek
FUS	Future Urban Structure
GRZ	General Residential Zone
ICP	Infrastructure Contributions Plan
IRAE	Industrial Residual Air Emissions
MCMC	Merri Creek Management Committee
MRSD Act	<i>Mineral Resources (Sustainable Development) Act 1990</i>
NGCP	North Growth Corridor Plan
PCRZ	Public Conservation and Resource Zone
PE Act	<i>Planning and Environment Act 1987</i>
PPF	Planning Policy Framework
PPN89	Planning Practice Note 89: Extractive Industry and Resources

PPRZ	Public Park and Recreation Zone
PSP	Beveridge North West Precinct Structure Plan
R(number)	Requirement (number) in PSP
RCZ	Rural Conservation Zone
SCO	Specific Controls Overlay
SERA	Strategic Extractive Resource Area
SEWP	Statutorily Endorsed Work Plan (under the MRSD Act)
SUZ	Special Use Zone
UGZ	Urban Growth Zone
VCAT	Victorian Civil and Administrative Tribunal
VPA	Victorian Planning Authority
VPO	Vegetation Protection Overlay
VPP	Victoria Planning Provisions
WAR	Western Arterial Road
YVW	Yarra Valley Water, as landowner through its entity Hazelwynde



## Overview

### Summary

The amendments and planning permit application	Draft Amendment C158mith (Precinct Structure Plan), Draft Amendment C161mith (Infrastructure Contributions Plan), Planning Permit Application PLP268/19 (quarry planning permit application)
Common name	Beveridge North West Ministerial Advisory Committee
Brief description	Consideration of draft Mitchell Planning Scheme Amendments C158mith and C161mith to implement the Beveridge North West Precinct Structure Plan and Beveridge North West Infrastructure Contributions Plan respectively. Consideration of Planning Permit Application PLP268/19 (call in of VCAT Proceeding P1745/2020) for a hard rock quarry in the north east of the Precinct Structure Plan area.
Subject land	The Beveridge North West Precinct Structure Plan area in Beveridge generally defined by the Hume Freeway to the east, Camerons Lane to the south, Old Sydney Road to the west and the western extension of the Hadfield Road West reservation to the north.
Amendments Proponent and Planning Authority	Victorian Planning Authority
Permit Applicant	Conundrum Holdings Pty Ltd
Responsible Authority	Mitchell Shire Council, Governor in Council to decide the application under the <i>Victorian Civil and Administrative Tribunal Act 1988</i>
Exhibition	16 November 2021 – 31 January 2022
Submissions	Number of Submissions referred to Committee: 1,066 See Appendix B

### Committee process

The Committee	Nick Wimbush (Chair), Annabel Paul (Deputy Chair), John Hartigan
Directions Hearing	Video, 4 February 2022 and 17 March 2022
Committee Hearing	Video, 9 May – 14 June 2022 (24 days)
Site inspections	Accompanied, 3 May 2022 (Northern Quarries, Epping) and 4 May 2022 (Precinct Structure Plan area and surrounds)
Parties to the Hearing	See Appendix C
Citation	Beveridge North West Ministerial Advisory Committee (AC) [2022] PPV
Date of this report	14 October 2022

## Executive summary

The Beveridge North West Precinct Structure Plan (**PSP**), Supplementary Levy Infrastructure Contributions Plan (**ICP**) and Quarry Planning Permit Application Ministerial Advisory Committee (**the Committee**) was appointed by the Minister for Planning in early 2022 with three major tasks:

- to advise the Minister whether draft amendment C158 is acceptable and implements the recommendations of the Amendment C106 Panel
- to advise the Minister whether draft Amendment C161 is acceptable
- to advise the Minister whether a planning permit should issue for a quarry in the north east corner of the PSP area on Work Authority Application Area 1473, and if so with what conditions.

Amendment C158 proposes to introduce the PSP into the Planning Scheme while introducing a specific control to allow a time limited quarry on the quarry land WA1473. Significant changes to the PSP from Amendment C106 include planning for the quarry and the recognition of the burrung buluk wetland. Amendment C161 proposes to introduce an ICP to enable the collection of funds for infrastructure through development. The ICP includes a supplementary levy to account for development on dispersive sodic soils.

The quarry permit application was called in from the Victorian Civil and Administrative Tribunal (**VCAT**) by the Minister for Planning, and if a permit is to issue, it will be issued by the Governor in Council.

From the exhibition of the draft Planning Scheme amendments, and the parties to the VCAT Hearing, the Committee was referred 1,066 submissions. The great majority of these submissions were objections to the quarry. There were also submissions in support.

Key issues raised in submissions on the quarry and PSP included:

- amenity including noise and dust
- safety including blasting
- traffic concerns for movement of quarry materials on to the Northern Highway
- strategic planning, primarily that a quarry is not suitable in an area with an identified urban future
- how the quarry can be integrated into the PSP and whether buffers can be reduced over time
- the impact of buffers on surrounding land
- quarry end of life and rehabilitation
- PSP development issues around roads and community infrastructure from specific landowners
- the treatment of the burrung buluk wetland in the PSP
- the need for extractive industries in development and employment (noted in supporting submissions on the quarry).

The Committee heard extensive submissions and evidence over a 24 day period on videoconference in May and June 2022 including themed days of evidence. It undertook accompanied site inspections to the PSP area and surrounds and to a quarry site in Epping operated by the quarry Applicant.

The Committee has considered the two draft Planning Scheme amendments as required by the Minister in the Terms of Reference. In relation to the PSP Amendment C158 it considers the

Victorian Planning Authority (VPA) has broadly implemented the recommendations of Amendment C106 in an acceptable manner as required by the Minister, subject to some recommended changes. Similarly, the Committee considers the ICP Amendment C161 is acceptable subject to some relatively minor changes.

The planning permit application for the quarry is clearly an issue of significant concern to the local community and Mitchell Shire Council. Based on the evidence before it however, the Committee considers that a quarry, limited through the planning controls for 30 years (until 2052), will not result in unacceptable impacts and a permit should be issued.

### **Recommendations**

Based on the reasons set out in this Report, the Committee recommends:

#### **Draft Mitchell Planning Scheme Amendment C158mith**

1. **Adopt draft Planning Scheme Amendment C158mith as exhibited subject to:**
  - a) **drafting changes as shown in the last column of Document 222, Victorian Planning Authority response to Direction 41(c), and the recommended changes in this report**
  - b) **rezoning the burring buluk area to the Urban Growth Zone**
  - c) **changes to the Urban Growth Zone Schedule 3 as shown in Appendix E to this report.**
  - d) **changes in relation to burring buluk in the Precinct Structure Plan as shown in Appendix F to this report.**
  - e) **changes to the Incorporated Document "Extractive Industry & Buffer Area BEVERIDGE NORTH WEST November 2021" as shown in Appendix G to this report.**
2. **Amend the Specific Controls Overlay boundary to draw the quarry buffers (the 250 inner buffer area and the 500 metre outer buffer area) from 20 metres inside the WA1473 boundary.**
3. **Adopt the proposed Future Urban Structure BB in relation to the alignment of the Eastern Arterial Road and open space, Northern Town Centre and the proposed Government school in the vicinity of the quarry proposal.**
4. **Undertake further assessment of the 'over the saddle' Western Arterial Road Option A to confirm that this alignment is acceptable in terms of visual impact, cultural heritage and Precinct Structure Plan and Infrastructure Contributions Plan implementation implications before the alignment of the Western Arterial Road is finally determined.**
5. **Undertake further assessment of the Western Arterial Road Option A in close consultation with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Yarra Valley Water as landowner and the Department of Transport.**
6. **Amend the Precinct Structure Plan R33 by adding the following underlined words:**  
Connector roads and local streets, including Old Sydney Road at the time of abutting subdivision
7. **Relocate the eastern non-government school as shown on the Part C version of Plan 03 - Future Urban Structure.**

8. **Amend Plan 03 – Future Urban Structure to relocate the indoor recreation facility (CL-05) to the Southern Town Centre.**
9. **Reassess the provision of retail floor space in the Precinct Structure Plan, and if required, provide additional retail floor space within the Southern Town Centre.**
10. **Amend Plan 03 - Future Urban Structure to relocate the community facility (CL-06) south west of local park (LP-04a).**

#### **Draft Mitchell Planning Scheme Amendment C161mith**

11. **Adopt draft Planning Scheme Amendment C161mith as exhibited subject to changes to the Incorporated Document “Beveridge North West Infrastructure Contributions Plan, November 2021” as recommended in this report.**
12. **Retain the quarry land (WA1473) and buffers in the Infrastructure Contributions Plan.**
13. **Apply the Infrastructure Contributions Plan levy to the quarry land when it is no longer required for quarrying or quarry buffers by including a new clause 5.9.3 to the Infrastructure Contributions Plan as follows:**

##### **5.9.3 – Extractive Industry**

The development of land for Extractive Industry at WA1473 including any access road and/or land affected by sensitive land use buffers is exempt from the requirement to pay an infrastructure contribution levy until such time as it is developed for residential purposes

14. **Amend the Precinct Infrastructure Plan and Infrastructure Contributions Plan to apportion 25 per cent of the cost of intersections IN-08 and IN-09 to the Beveridge North West Precinct Structure Plan and 75 per cent to the Wallan South Precinct Structure Plan.**
15. **Amend the Beveridge North West Precinct Structure Plan Precinct Infrastructure Plan and Infrastructure Contributions Plan to fund 100 percent a three-leg T-intersection at the Camerons Lane/Western Arterial Road (IN-03).**
16. **Undertake further analysis to determine whether bridge BR-01 could be replaced by a culvert. If a replacement culvert is agreed with Melbourne Water, amend the Infrastructure Contributions Plan to reflect cost savings in the supplementary levy before the Infrastructure Contributions Plan is adopted.**
17. **Add the following note to Precinct Structure Plans Plan 09 and Plan 10:**  
 Note: Bridges as detailed on this plan are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water and the Responsible Authority. These authorities may approve, to their satisfaction, construction of these crossings as culverts.

#### **Planning Permit Application**

18. **The Minister for Planning recommend the Governor in Council issue planning permit PLP268/19 with the conditions shown in Appendix H of this report.**

# Part I – Background and introduction

# 1 Background

## 1.1 The subject land

The Beveridge North West PSP (**PSP<sup>1</sup>**) area is located south of Wallan and north-west of Beveridge townships and covers approximately 1,279 hectares of land as shown in Figure 1. It is generally defined by the Hume Freeway to the east, Camerons Lane to the south, Old Sydney Road to the west and the western extension of the Hadfield Road West reservation to the north.

**Figure 1** Beveridge North West PSP, Quarry site (in blue) and Wallan South PSP<sup>2</sup>



<sup>1</sup> Note PSP refers to the Beveridge North West PSP; all other PSPs are referred to by their full name.

<sup>2</sup> Figure 2 from Council Officer Report, Document V35.

## 1.2 Amendment C106

Mitchell Planning Scheme Amendment C106 (Amendment C106) previously sought to introduce the PSP into the Mitchell Planning Scheme (Planning Scheme) by changes to zones and overlays and the inclusion of the PSP as an Incorporated Document. The Victorian Planning Authority (VPA) was the planning authority for the Amendment. The VPA exhibited Amendment C106 in 2019 and 32 submissions were received. A Panel was appointed to consider Amendment C106 in December 2019. The Panel, chaired by Nick Wimbush with members Sarah Auld and John Hartigan, conducted an 18-day hearing in July and August 2020 before submitting its report to the VPA on 7 October 2020.<sup>3</sup>

The Panel made 17 recommendations in respect of Amendment C106 in areas concerning the Rural Conservation Zone (RCZ), affordable housing, bushfire, and biodiversity. Notably, the Panel recommended that the PSP be revised to include the opportunity for resource extraction. The Panel noted that the Planning Policy Framework (PPF), as it relates to growth area planning and extractive resources, was a significant focus of submissions over the course of the Hearing. A planning permit application for a stone quarry in the north east corner of the PSP, on the western flank of the Spring Hill Volcanic Cone (Work Authority WA1473), had been lodged with Mitchell Shire Council (Council) (PLP268/19). The application was not before the Panel although it was the subject of discussion throughout the Hearing.

The Panel concluded that there was clear policy support for the extraction of the stone resource in planning policy and recommended that Amendment C106 be revised to explicitly include precinct level planning for resource extraction from WA1473. The Panel identified several strategic issues with respect to planning for a potential quarry that warranted consideration. This Committee report does not seek to repeat the detailed discussion and conclusions that informed the Amendment C106 Panel recommendations.

The VPA subsequently prepared two draft Planning Scheme amendments, one to respond to the Amendment C106 Panel recommendations and amend the PSP (C158mith) and one to include an Infrastructure Contributions Plan (ICP) (C161mith). These amendments are the subject of this Committee report and are summarised in Chapter 2.

## 1.3 The Advisory Committee

On 20 December 2021, the Minister for Planning (the Minister) appointed the Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions Plan and Quarry Permit Application Ministerial Advisory Committee (the Committee).

The Committee comprised:

- Nick Wimbush (Chair)
- Annabel Paul (Deputy Chair)
- John Hartigan

The Committee was supported by Chris Brennan, a Project Officer at Planning Panels Victoria.

<sup>3</sup> Mitchell PSA C106mith [2020] PPV 74

## 1.4 Terms of reference

The Committee's Terms of Reference (included in Appendix A) set out its purpose as to advise the Minister on whether:

- a) Draft Planning Scheme amendment C158 (Amendment C158) is acceptable and appropriately implements the recommendations of the Amendment C106 (Amendment C106) Panel, and any appropriate consequential changes to the Beveridge North West Precinct Structure Plan (PSP) area;
- b) Draft Planning Scheme amendment C161 (Amendment C161) for the supplementary levy Infrastructure Contributions Plan (ICP) is acceptable; and
- c) Planning permit PLP268/19 (Permit Application) should be granted to 'use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1' at the Conundrum Quarry Land under WA 1473 having regard to the Mitchell Planning Scheme (as modified by the planning controls proposed by Amendment C158), and if so, the appropriate permit conditions.



## 2 The amendments and planning permit application

### 2.1 The Draft PSP Amendment (Mitchell C158mith)

Draft Amendment C158 proposes to implement the PSP into the Planning Scheme while allowing time limited extraction of stone from WA1473. It will do this by:

- rezoning the PSP area to the Urban Growth Zone (**UGZ**) Schedule 3, the RCZ Schedule 2 and the Public Park and Recreation Zone (**PPRZ**) (see Figure 2).
- inserting the following into the Planning Scheme:
  - Schedule 2 to the RCZ
  - Schedule 3 to the UGZ
  - Schedule 4 to the Incorporated Plan Overlay
  - Residential Growth Zone (**RGZ**)
  - Planning Scheme Map Nos 22EAO, 23EAO and 22SCO
- amending the following in the Planning Scheme:
  - amending the schedule to clause 45.12 Specific Controls Overlay (**SCO**) to include SCO2 Extractive Industry and Buffer Area, Beveridge North West – Incorporated Document to facilitate quarry development
  - deleting Vegetation Protection Overlay Schedule 1 and Schedule 2 (**VPO1, VPO2**) from land in the amendment area
  - applying the Erosion Management Overlay to the land zoned RCZ2
  - applying the Specific Controls Overlay – Schedule 2 to the quarry land (WA1473) and the surrounding buffer areas (see Figure 3)
  - amending the Schedule to clause 52.17 to include native vegetation removal exemptions from the PSP
  - amending the Schedule to clause 66.04 to require referral of certain permit applications to be given to the Department of Transport and the Secretary to the Department administering the *Mineral Resources (Sustainable Development) Act 1990 (MRSD Act)*
- incorporating the documents “Beveridge North West Precinct Structure Plan, November 2021” and “Extractive Industry & Buffer Area BEVERIDGE NORTH WEST November 2021” by listing them in the schedule to clause 72.04
- amending Planning Scheme Map Nos 22EMO, 23EMO, 22IPO, 22VPO and 24VPO.

The inclusion of the SCO across the work authority and buffer land will enable a permit to be sought for a quarry, subject to the provisions of the Incorporated Document. The Incorporated Document under the SCO will expire at the stated time period, allowing for the underlying zoning and PSP to be implemented once this use has ceased, without further changes to the Planning Scheme.

The PSP includes a Future Urban Structure (FUS) as shown in Figure 4.

Figure 2 Proposed zoning

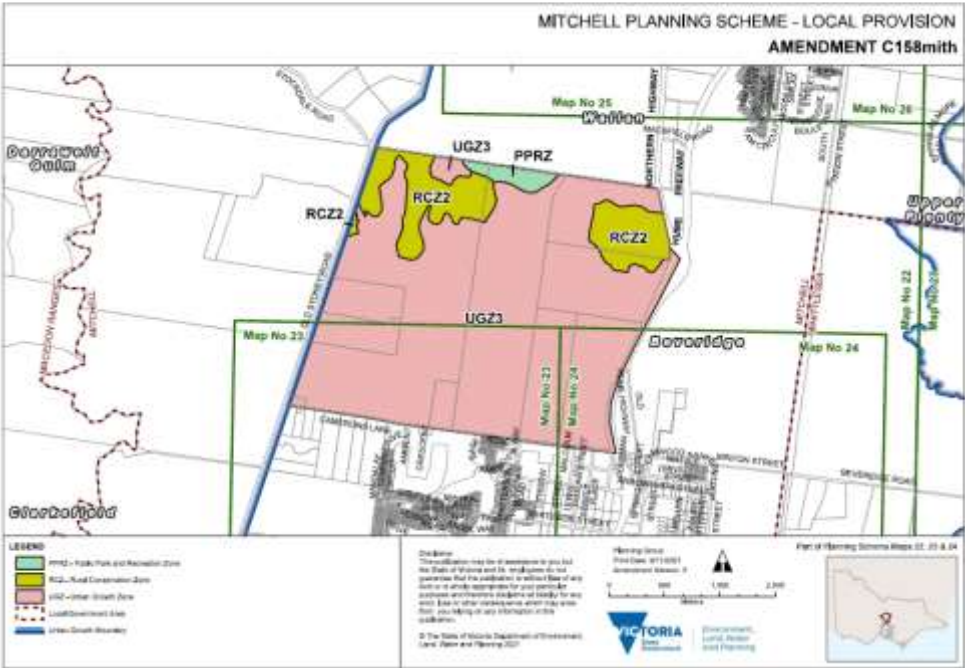


Figure 3 Proposed Specific Controls Overlay



Figure 4 Plan 03 Future Urban Structure<sup>4</sup>

## 2.2 The Draft ICP Amendment (Mitchell C161mith)

Amendment C161mith proposes to apply the Infrastructure Contributions Overlay (ICO) to the PSP area as shown in Figure 5, excluding RCZ and PPRZ areas, and introduce ordinance to allow contributions to be collected as development occurs.

Changes proposed to the Planning Scheme ordinance include:

- inserting the ICO and associated Schedule 3 to the ICO
- amending the Schedule to clause 72.04 to include the Incorporated Document titled "Beveridge North West Infrastructure Contributions Plan, November 2021".

ICPs and the associated planning controls are required to ensure collecting agencies can lawfully collect infrastructure contributions from landowners to cover the costs of all infrastructure items in a PSP area. The Supplementary Levy component of the ICP was prepared in response to the expected cost of constructing infrastructure in sodic soils found to be present in the precinct. The ICP incorporates a supplementary rate of \$69,065.13 for transport construction including five intersection projects and two culvert and bridge projects. The overall ICP includes provision for:

- 5 community building projects
- open space projects
- 7 road projects
- 15 intersection projects (including two pedestrian crossings)
- culvert and bridge projects
- 20 transport inner public purpose land items
- 32 community and recreation inner public purpose land items.

<sup>4</sup> Exhibited draft PSP, page 8.

Figure 5 Proposed Infrastructure Contributions Overlay



## 2.3 The quarry permit application

### (i) The proposal

Conundrum Holdings Pty Ltd (**Conundrum**) lodged a planning permit application for a quarry in the north east corner of the PSP area shown as “*proposed quarry WA1473*” in Figure 4.

Key elements of the quarry application, summarised from the draft Work Plan, are:<sup>5</sup>

- there is approximately 12 million tonnes of high quality basalt and 5 million tonnes of lesser quality commercial market basalt in the reserve
- excavation will be a combination of digging (moderately weathered basalt) and blasting/digging (moderately weathered to fresh basalt)
- excavation will be between 13 metres and 35 metres below ground level
- rock processing will initially (during Phase 1) occur offsite at the Northern Quarries at Epping then the processing plant will be established in the quarry pit at RL293
- there are four phases of extraction proposed as shown in Table 1
- rock will be transported via truck through a signalised intersection to the Northern Highway
- rehabilitation will be undertaken progressively and the quarry site will be left in a state for future use as required under the MRSD Act
- ancillary infrastructure including car parking, weighbridge and emergency assembly area will be provided
- emissions of dust and noise will be managed through regulatory approvals
- water will be managed on site for dust prevention sediment control.

<sup>5</sup> Document V15. The status of this Work Plan is considered in Chapter 4.3.



Table 1 Quarry phases<sup>6</sup>

Phase	Year	Projected Annual Production
Phase 1	Years 1 to 10	170,000 – 400,000 tonnes
Phase 2	Years 11 to 17 <sup>20</sup>	400,000 – 700,000 tonnes
Phase 3 and 4	Years 18 to 30 <sup>21</sup> +	Up to 700,000 tonnes

Phase 4 is shown in Figure 6 as an example of a quarry phase. Elements that can be seen include:

- vegetated buffers around the boundary
- the processing plant on the quarry floor
- rehabilitation of worked areas and batters
- stormwater treatment ponds
- haul roads
- office facilities and parking.

Figure 6 Development Plan Phase 4<sup>7</sup>

## (ii) The call-in process

Conundrum lodged the planning permit application with Council on 4 October 2019. Conundrum lodged an application to VCAT on 19 October 2020 under section 79 of the *Planning and Environment Act 1987 (PE Act)* for review of Council's failure to determine the application within the prescribed time. The officer's report of 15 February 2021 seeking a position on the application

<sup>6</sup> Document V15, page 14, track changes are differences from the Statutorily Endorsed Work Plan.

<sup>7</sup> Document V16, PDF page 7 of 14.

from Council, records there were 138 objections and 291 letters of support received as a result of public notice.

A compulsory conference was set down for March 2021 with the Hearing listed on VCAT's Major Cases list as Proceeding P1745/2020 and commencing in May 2021. Parties to the Proceeding included Conundrum, Deloraine Rural Pty Ltd, Mitchell Shire Council, the VPA, Yarra Valley Water and Mary Gilbo. The Proceeding had not been filed when the Amendment C106 Panel report was submitted.

The matter was called in the matter from VCAT under clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998* on 24 February 2021 based on the Minister's view that:<sup>8</sup>

I consider that the proceeding raises a major issue of policy, and determination of the proceeding may have a substantial effect on the achievement or development of planning objectives.

Under the provisions of that Act, the Governor in Council will now determine whether a permit should issue.

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<sup>8</sup> Document V39.

## 3 Outline of issues in submissions

The VPA collected submissions on Amendment C158 (the PSP) and Amendment C161 (the ICP) from November 2021 to 31 January 2022. The VPA referred a total of 1,066 submissions to the Committee, including a small number referred following exhibition and up to the early stages of the Committee Hearing process.

Although the number of parties to the VCAT Hearing for the quarry permit prior to the Ministerial call-in was limited as shown in Chapter 2.3(ii), prior to the Ministerial call-in, the vast majority of the 1,066 submissions to the exhibition of the draft Planning Scheme amendments constituted objections to the approval of the quarry. Many submissions were simple one line objections but others raised a number of issues in detail.

As noted in the previous section, the submissions to the original planning permit application were majority in of support of a quarry. To this Committee process there were significantly more objections to the quarry in the amendment and apart from the Applicant no submitters to the Hearing were in support of the quarry permit.

The Committee has provided a high level outline below of key issues in written submissions.

### 3.1 Objection to the quarry

The objecting submissions to the quarry can be grouped into the following themes.

#### (i) Amenity

Many submitters were concerned about the potential for noise, dust and vibration from the quarry operations in what is currently a peaceful environment.

Noise from blasting, crushing and plant will occur daily for 30 years; noise can have wide ranging health effects.

The winds in the area have a high velocity and are gusty which will make dust concerns worse with consequent long term health impacts in the community. Mitigation through watering will not be enough to prevent dust.

Some submitters suggested that vibration from blasting may damage houses.

#### (ii) Traffic

Increased traffic volumes on the Northern Highway were a key concern for many submitters. This related to congestion as the Northern Highway already experiences periods of long delays and peak capacity. In addition, submitters were extremely concerned about traffic safety, and particularly how quarry traffic would safely join the Northern Highway (which has a speed limit of 100 kilometres per hour in this section). Safety concerns from queuing back onto the Hume Freeway from north bound traffic exiting at the Northern Highway was expressed by many submitters.

The potential damage to roads from quarry trucks was also raised in submissions.

**(iii) Land use**

The loss of parks and open space to development was raised by some submitters, with the quarry exacerbating this issue.

Many submitters were concerned that the future of the area is planned for residential development, and putting a quarry in is inconsistent and will severely impact the residential future; possibly delaying the provision of schools and shopping centres.

Others suggested that the quarry may operate for longer and delay housing development even more.

**(iv) Landscape**

Some submissions raised the issue of the impact of the quarry on the landscape, suggesting it would be a 'scar' on the natural environment.

**(v) Water resources**

The impact on water resources in the area (both groundwater and surface water) from the quarry was raised in some submissions. Damage to water resources it was suggested could have downstream impacts on waterways such as the Merri Creek.

**(vi) Economic development**

Some submitters suggested the quarry was enough to make the move away from the area, with resultant economic impacts on the town. Others submitted that the economic future of Beveridge and Wallan is in urban communities and a quarry will be a drain on economic development.

The economic benefits of the quarry going to a few private individuals was raised as an issue by many submitters.

**(vii) Post quarry land use**

Some submitters were concerned the quarry may be turned into a landfill at the end of its life.

**(viii) Reduction in property values**

Many submitters were concerned at the potential for the quarry to reduce land values while operating. A number of submitters were concerned that they have bought houses in Wallan and surrounds in recent times without having been informed that a quarry might be operating in the area.

**(ix) Quarry location**

Many objectors to the quarry recognised that there is a need for stone resources, but submitted they should be extracted further from residents to reduce impacts on communities. Others submitted that the type of stone to be extracted is very common in Victoria and should be extracted elsewhere.

**(x) Planning process**

Many submitters were critical of the planning process, suggesting that Council has rejected the proposal multiple times and it is unreasonable that the quarry application is still being considered and that due process has not been followed.



## 3.2 Support for quarry

Some submitters supported the quarry application. Reasons for supporting the application included:

- living near other quarries without issues
- the creation of jobs and economic opportunities.

## 3.3 Major parties to the Hearing and key issues

Major parties attended all or most of the days of the Hearing, these included:

### (i) Victorian Planning Authority

The VPA:

- is the Victorian Government agency responsible for strategic greenfield planning around Melbourne
- is the Planning authority for the draft amendments
- is responsible for preparing the PSP and ICP
- represented a number of Government agencies in the Hearing including Melbourne Water, Department of Transport (**DoT**) (amendments only), Department of Education and Training (**DET**), Yarra Valley Water (**YVW**)(in its capacity as utility provider), Department of Jobs, Precincts and Regions (**DJPR**), Department of Environment, Land, Water and Planning (**DELWP**), Environment Protection Authority (**EPA**)(amendments only)
- considers a quarry permit should not issue at this time.

### (ii) Mitchell Shire Council

Council:

- is the Responsible Authority
- will be responsible for long term implementation of the PSP and ICP
- will be responsible for administering the quarry permit (if issued)
- supports the PSP and ICP with modifications
- objects to the issue of quarry permit.

### (iii) Conundrum Holdings Pty Ltd

Conundrum:

- is the Applicant for the quarry proposal
- has a lease for the quarry site
- operates a quarry at Epping currently.

### (iv) Yarra Valley Water (through Hazelwynde)

YVW:

- participated as the major landowner in the PSP area
- generally supportive of the PSP and ICP with modifications
- owns land west of the proposed quarry and is interested in minimising impacts of the quarry on future development of its land; would be affected by buffers if quarry permit issues.

**(v) Crystal Creek Properties Pty Ltd**

Crystal Creek:

- is a major landowner in the Wallan South PSP
- one of the Crystal Creek directors owns the quarry site
- has an interest in the integrated planning between the PSP and the Wallan South PSP and particularly issues around burrung buluk.

**(vi) Balcon Beveridge Project Management Pty Ltd**

Balcon Beveridge is:

- a landowner in the PSP
- generally supportive of the PSP and ICP with changes.

**(vii) Ms Mary Gilbo**

Ms Gilbo:

- is a landowner in the PSP south of the proposed quarry site
- would be affected by quarry buffers if quarry permit issues.

**(viii) 615 Hume Freeway Pty Ltd**

615 Hume Freeway is:

- a landowner in the PSP
- generally supportive of the PSP and ICP with changes.

**(ix) Traditional Owners**

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation provided significant input to the PSP and a Cultural Values Assessment was provided to the Committee during the Hearing.

**(x) Community Groups**

Several community groups were engaged in the Hearing process including:

- Wallan Environment Group
- Friends of Merri Creek (**FOMC**)
- Merri Creek Management Committee (**MCMC**).

These groups were generally interested in the environment, waterways and wetlands in the area and were opposed to the quarry proceeding.

## 4 Procedural issues

### 4.1 Challenge to Members Wimbush and Hartigan

Members Wimbush and Hartigan were Panel members on the original Amendment C106 Panel that considered the PSP. The third member of that Panel, Ms Auld, is no longer a Panel Member.

A challenge was made to the Members because of the findings of the Amendment C106 Panel and their presence on the Advisory Committee. Members Wimbush and Hartigan heard submissions and declined to recuse themselves. Detailed reasons were provided.<sup>9</sup>

### 4.2 Statutorily Endorsed Work Plan and ‘Draft Work Plan’

#### (i) Background

The Work Authority Application WA1473 covers part of the north east corner of the PSP as shown in Figure 4.

There are processes established through the PE Act and the MRSD Act to ensure that quarries are considered within a logical framework. In essence these processes include:

- preparation and Statutory Endorsement of a Work Plan by Earth Resources Regulation (ERR)<sup>10</sup> under the MRSD Act – the Statutorily Endorsed Work Plan (**SEWP**) at section 77TD
- the requirement under the Mitchell Planning Scheme at clause 52.09-2 that a planning permit application must be accompanied by a SEWP
- approval of a planning permit
- approval of the Work Plan by ERR under section 77G of the MRSD Act
- approval of a Work Authority under section 77I of the MRSD Act.

The Work Plan and Work Authority are considered after a planning permit is issued, and the intent is to ensure that where relevant there is consistency between the planning permit and the regulatory approval under the MRSD Act.

Conundrum outlined the process in detail in its submission to the Amendment C106 Panel and this was extracted in the VPA opening submission on Day 1 of the Hearing.<sup>11</sup>

When the current planning permit application was lodged, it was accompanied by the SEWP dated February 2015<sup>12</sup>, and an amended version with ‘track changes’ (on the 2015 SEWP) dated September 2019 (the draft Work Plan).<sup>13</sup>

#### (ii) The issue

The issue is:

<sup>9</sup> Document 4.

<sup>10</sup> ERR is a division of the Department of Jobs, Precincts and Regions and is the mining and extractive industry regulator in Victoria.

<sup>11</sup> Document 77, para 33.

<sup>12</sup> Document V13.

<sup>13</sup> Document V15.

- whether a planning permit can issue given that the Applicant is relying on an amended version of the Work Plan which has not been statutorily endorsed.

### (iii) Submissions

The VPA submitted in opening that the *Sadow*<sup>14</sup> VCAT case establishes the clear need for the SEWP to address the permit application that has been lodged.

In *Sadow*, Deputy President Gibson found that an application to amend a planning permit to move a crusher and make changes to planting could not proceed as these elements would be inconsistent with an amended work plan variation that had been statutorily endorsed. In *Sadow* the Department of Economic Development, Jobs, Transport and Regions (DEDJTR), now DJPR, submitted that it opposed the amended plans based on the inconsistency.

Deputy President Gibson did not address the merits of the proposed changes, finding on a point of law that the amended plans could not be substituted by VCAT.

Council in its main submission addressed the issue in detail.<sup>15</sup> It submitted that the Applicant had not chosen to update the SEWP to be in accordance with the permit application or updated the application to be in accordance with the requirements of the draft Incorporated Document in Amendment C158.

It submitted that the Committee should not recommend the Minister advise the Governor in Council that a permit be granted, as it is beyond power for the Governor in Council to grant the permit in the absence of compliance with clause 52.09 of the Planning Scheme.

Council outlined the operation of the MRSD Act and particularly Part 6B relating to the detailed considerations and requirements for the statutory endorsement of a work plan. It submitted that without a SEWP, a permit application cannot be lodged and it has been clear on this point with the Applicant since mid 2020.

Noting that the VPA had taken the Committee to *Sadow*, the Council urged the Committee to conclude decisively on this point, and:

...following the decision in *Sadow*, it is clear that the requirements of cl.52.09-2 of the Planning Scheme have not been met. The consequence of not meeting the mandatory application requirements of the scheme, this is that, had the application for review not been called in, the Tribunal could not have proceeded to hear and determine the application for review until such time as the planning permit application included a statutorily endorsed work plan.<sup>16</sup>

Council noted that there is no provision under the MRSD Act to vary a SEWP, thus a new SEWP would need to be prepared and endorsed by ERR.

It said the practical problem is that the Committee does not know what the requirements of ERR will be and further, since the endorsement of the 2015 SEWP, the regulations have changed under the MRSD Act. The changes include what is required in a Work Plan and to the rehabilitation requirements and standards.

Conundrum made extensive submissions on the issue.<sup>17</sup> Its submission fell into four main areas:

<sup>14</sup> *Sadow v Macedon Ranges SC* [2017] VCAT 501 (3 April 2017).

<sup>15</sup> Document 148 commencing at [33].

<sup>16</sup> Document 148, [33.16].

<sup>17</sup> Document 184, commencing at [123].

- the process under the MRSD Act and PE Act and *Sandow*
- the decision in *Hanson*<sup>18</sup>
- the Committee's Terms of Reference
- Amendment C158 and the SCO.

Conundrum drew the Committee's attention to Planning Practice Note 89 *Extractive Industry and Resources* (PPN89), submitting that the process that has been followed is appropriate and ERR has raised no objection to the planning application.<sup>19</sup> ERR noted in correspondence to the VPA that if a permit were issued and the work plan is materially different to the SEWP, then it would need to be updated.

Conundrum framed its submissions to the Committee around the decrease in risk said to be inherent in the draft Work Plan, drawing on the planning permit application report to note:

- reduced Work Authority boundary to avoid Cultural Heritage
- contracted extraction boundaries to the north and south
- phased extraction to allow for reduced buffers over time
- reduction in quarry depth and consequent reduction in material extraction and quarry life
- offsite processing for at least five years
- rehabilitation to facilitate broader development
- early commencement of works
- fixed single processing plant to reduce amenity impacts.<sup>20</sup>

It submitted that all the experts agreed risks from the quarry will be reduced given the reduction in size and time of operation of the quarry.

In relation to *Sandow*, Conundrum submitted the circumstances of the case were different, in that there was an approved Work Plan, where here ERR will consider and review the SEWP if a planning permit is issued. Conundrum also submitted that Deputy President Gibson in *Sandow* did not suggest that VCAT did not have the power under section 127 of the *Victorian Civil and Administrative Tribunal Act 1998* in all circumstances.

In support, it took the Committee to *Hanson*, decided earlier this year, where Senior Member Code determined that in a case about amending a rehabilitation plan within an existing Work Authority, VCAT has broad powers under section 127 to amend documents. Senior Member Code considered there are policy reasons why a narrow interpretation of section 127 is not supported, particularly in a case where the amendments are largely to address matters raised by the relevant authority.

Conundrum also submitted, that as an Advisory Committee, the Committee is bound by its Terms of Reference. It noted in clause 40 of the Terms of Reference that there are a number of matters the Committee *must* consider, including the permit application and other materials provided to it through the VCAT proceeding and the Committee Hearing. Included in this material is the SEWP and the draft Work Plan (the tracked changes version).

<sup>18</sup> *Hanson Construction Materials Pty Ltd v DJPR* [2022] VCAT 251

<sup>19</sup> Document 138, noting ERR had not assessed the draft Work Plan.

<sup>20</sup> Quoted in Document 184, para 133.

The role of the SCO and clause 52.09-2 was the last major item in relation to the SEWP and permit condition on which Conundrum submitted. In essence it submitted that the introduction of the SCO overrides the requirements of clause 52.09-2.

Conundrum noted that the specific control for this site must prevail over the general provisions of the scheme if there is any conflict, and in any case, the controls for extractive industry in the SCO to a large extent are similar to clause 52.09. It further noted that the application requirements under the SCO are ‘virtually duplicated’ from the endorsed Work Plan, and the decision guidelines address all the likely impacts of the quarry. It submitted there was no disagreement among parties that the SCO approach is appropriate in this case.

#### **(iv) Discussion and conclusion**

The assessment process for considering extractive industry proposals under the MRSD Act and the PE Act is articulated in PPN89. It is clear that the process has been developed to ensure that both Acts ‘speak to each other’ to ensure consistency in planning and decision making for quarries from the technical and land use planning perspectives.

When the SEWP was endorsed in 2015, the Committee understands that it was to support a quarry planning permit application entirely consistent with the SEWP. Since that time there have been many changes in the planning context, including the development of the PSP and the Amendment C106 Panel report, and its acceptance by the Minister.

The Committee considers this context is important. The changes to the original quarry proposal have been driven by the need to better integrate it in a land use context that has a clear urban development future. The changes are all aimed at reducing its risks and impacts when compared to the proposal in the SEWP. In the Hearing there was considerable discussion beyond even the material in the permit application about, for example different quarrying schemes, plant location and buffer needs.

In these ‘extraordinary’ circumstances, the Committee considers it reasonable and appropriate to allow the proposal to develop from that included in the SEWP and even in the draft Work Plan. These could be said to be material changes (from the SEWP to the draft Work Plan), however they are material changes to reduce impact. From a policy point of view the Committee does not think it logical that the planning system would seek to prevent such an outcome.

It is notable that the regulator, ERR, has not made submissions on this point either way regarding the SEWP/draft Work Plan issue and has only indicated in general terms that it will consider the amended Work Plan if a permit is issued. While the Committee would not expect the regulator to fetter its decision making powers by making pre-emptive statements, the Committee considers that if ERR had fundamental concerns about the approach being taken, it would have expressed them.

The question that remains is the statutory one. Can the decision maker, in this case the Governor in Council, approve a planning permit in the light of the statutory scheme between the MRSD Act and PE Act? The Committee considers a planning permit can be issued.

Firstly, the Committee considers there is an argument that in the circumstances the SEWP required under clause 52.09-2 was in place, and the later changes as discussed above go to reductions in risk and impact; there is still the capacity (and requirement) for ERR to consider the SEWP and planning permit in deciding whether to approve the Work Plan and issue a Work Authority.

The statutory scheme is meant to avoid concurrent applications through the different statutory regimes with potentially perverse outcomes. Its purpose is not to provide a narrowly defined pathway that prevents good planning and extractive industry outcomes. While the facts and circumstances are very different to *Hanson*, the Committee considers that from a policy perspective, the broader view expressed in *Hanson* is to be preferred.

If the amendment is finalised and the SCO and Incorporated Document in place, this becomes the primary decision making pathway for the permit application and decision. In this case the Committee is of the view that the SCO will override the particular requirements of clause 52.09.

Lastly, if there is any doubt about any of the above the Applicant could seek statutory endorsement of the draft Work Plan prior to the permit being determined by the Governor in Council. That this has not been done previously is understandable to some extent given the changing context of the quarry application with the PSP process.

Finally, the Committee notes that it is not legally constituted, and it may be that in finalising the amendments and consideration of the permit application, separate legal advice on this particular issue is sought to determine the most appropriate pathway for the application.

## 4.3 Requirement for a Cultural Heritage Management Plan

### (i) Background and submissions

The original Work Authority included a small portion of an area of Aboriginal Cultural Heritage Sensitivity. This was removed in the revised draft Work Plan as shown in Figure 7.

**Figure 7** Quarry Work Authority (red) and culturally sensitive area (purple)<sup>21</sup>



<sup>21</sup> Document 54, page 5.

Advice was prepared from cultural heritage consultants Clarkeology dated 6 September 2019 advising that a Cultural Heritage Management Plan (**CHMP**) was not required on the following grounds:

- I. No part of the 'activity area' is an area of cultural heritage sensitivity.
- II. There is a potential area of cultural heritage sensitivity to the northwest of the activity area/Work Authority area, but as it is outside the activity area, it is not relevant.
- III. The proposed activity (being extraction of stone and an activity requiring an earth resources authorisation) are high impact activities under the Aboriginal Heritage Regulations 2018.
- IV. There are no registered cultural heritage places on the activity area/Work Authority area.
- V. As there are no areas of cultural heritage sensitivity nor registered cultural heritage places on the activity area/Work Authority area, there is no statutory requirement for a cultural heritage management plan (CHMP) to be prepared.
- VI. As there are no registered cultural heritage places which will be affected by the proposed activity, there is no requirement for any Aboriginal heritage permits.<sup>22</sup>

Council in mid 2020 advised Conundrum that as the revised Work Plan (**the draft Work Plan**), which sought to exclude the north west corner from the activity area as an area of cultural heritage sensitivity, was not statutorily endorsed, a CHMP was still required.<sup>23</sup> It repeated this in its revised Statement of Grounds to the quarry planning permit application,<sup>24</sup> submitting that a CHMP is still required under the *Aboriginal Heritage Regulations 2018* (the Regulations).

In her opening submissions Ms Gilbo identified that the lack of a CHMP was a 'threshold issue' and the Committee should recommend to the Minister that a CHMP is required prior to the issuing of any permit.<sup>25</sup>

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation expressed the view in the Cultural Values Assessment<sup>26</sup> that a CHMP was required. It disagreed with the recommendations of the Clarkeology assessment that no CHMP was required.

Conundrum submitted that as the revised planning permit application and Work Authority exclude the area of Aboriginal Cultural Heritage Sensitivity, even though the quarry is a 'high impact activity' under the regulations, a CHMP is not required.<sup>27</sup>

## (ii) Evidence

Ms Oona Nicholson gave evidence for Conundrum on cultural heritage. Her evidence was essentially that there are no known historical heritage places on the quarry land.

Her evidence was that with the amendment of the Work Authority to remove the area of Aboriginal Cultural Heritage Sensitivity in the north west corner of the quarry area, there is no requirement for a CHMP.

## (iii) Discussion and conclusion

There is no dispute that the quarry would be a high impact activity under the Regulations.

<sup>22</sup> Document V17.

<sup>23</sup> Document 148e.

<sup>24</sup> Document 9.

<sup>25</sup> Document 73.

<sup>26</sup> Document 101, confidential document.

<sup>27</sup> Document 184, [173 on].



Whether the quarry impinges on an area of Cultural Heritage Sensitivity therefore turns on whether the permit application can be considered through this process under the revised draft Work Plan instead of the 2015 Statutorily Endorsed Work Plan (SEWP).

If the former, then a CHMP is not required in the Committee's view. If the latter then a CHMP is required.

For the reasons outlined in the following section, the Committee concludes that it can progress consideration of the planning permit application under the SEWP but noting the changes proposed in the draft Work Plan. Thus, the Committee considers a CHMP is not required.

#### **4.4 Lease arrangements – Work Authority Area 1473**

A significant portion of the Wallan South PSP area (574 hectares) is owned by Crystal Creek, a submitter to the PSP process which until 2019 owned the quarry site. Mr Walter Mott is one of three Directors of Crystal Creek and has a beneficial interest in the company. Mr Mott also now owns the quarry site (117 hectares) in his own right.

Council through the Hearing sought both the ownership details and interests of the quarry site and Crystal Creek and sought production of the lease between Mr Mott and Conundrum. It was confirmed at the time of the Hearing neither Mr Mott nor Crystal Creek had an interest in Conundrum.

The issue generated significant correspondence and submissions in the Hearing.<sup>28</sup>

The Committee determined after receiving written submissions that it was not going to direct production of the lease and provided detailed reasons.<sup>29</sup> The main reason for the Committee's decision was that it did not consider the production of the lease was relevant to its task as defined in the Terms of Reference.

#### **4.5 Who should be the Responsible Authority**

##### **(i) The issue**

As outlined in Chapter 2.3, the Minister called in the quarry planning permit application from VCAT. The issue is whether the Committee has a role in advising the Minister who the Responsible Authority should be in future, and if so, should it be the Minister rather than Mitchell Shire Council.

##### **(ii) Submissions**

In its opening submission<sup>30</sup>, Conundrum submitted that Council has been an active opponent of the quarry for several years and has compromised its ability to act fairly in administering the permit if one were to issue.

It submitted that the Minister should be the Responsible Authority going forward, administering endorsement of plans under the permit, amendments or any secondary consents or other approval requirements within the permit. In its main submission Conundrum reiterated its position and outlined what it said was Council's activities in opposing the quarry including:<sup>31</sup>

<sup>28</sup> Including Documents 92, 95, 98, 119, 136, 139, 143, 146, 163.

<sup>29</sup> Document 163.

<sup>30</sup> Document 175.

<sup>31</sup> Document 184, [243].

...several mailouts to residents, social media, advertising signs and other campaign collateral. As well as raising questions about the appropriateness of a planning authority engaging in this kind of active campaigning against a proposed use within its boundaries, of greater concern is that the approach adopted by the Council has often been irrational, one-sided, emotive and misleading. Factually incorrect advice has been sent to residents in hard copy form and via social media.

Conundrum provided examples of the type of material mentioned above in its submission.

In reply Council noted that who the Responsible Authority should be in future is not within the Committee's Terms of Reference.<sup>32</sup> It further submitted that when acting as Responsible Authority the Council must discharge its statutory duty and there is nothing to suggest that it will not do so, and if it does fail to do so there are remedies in the planning system.

### **(iii) Discussion**

It is not in dispute that Council has been running and presumably funding a community-based campaign against the quarry and the materials before the Committee clearly demonstrate that fact.

However, the Committee does not consider it has a role in providing advice to the Minister on who should be the Responsible Authority for the quarry permit (should one issue) in future. Firstly, this is because the Committee has not been asked to do so and providing such advice would be a significant step outside the Terms of Reference.

Secondly, the Committee notes the concerns of Conundrum in relation to Council's view of the application and Council's advocacy against it. However, if a permit is to issue, the role of Council in issuing secondary consents and endorsing plans is different in the Committee's view to an approval in principle. It would not be right to assume Council's approach in this new context would be a continuation of its past strong opposition, noting that this is not uncommon (for example when VCAT directs the issue of a permit that the council originally refused).

Lastly, the Committee notes Council's observations that there are remedies in the planning system if, for example, the Responsible Authority unreasonably refused to endorse plans or issue secondary consents.

### **(iv) Conclusion**

The Committee concludes that it has no role in recommending the future Responsible Authority for administering the planning permit if one were to issue.

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<sup>32</sup> Document 190, [8.10].

## Part II – Draft Planning Scheme Amendment C158mith, Precinct Structure Plan

## 5 Planning context

### 5.1 Planning policy framework

The Panel Report for Amendment C106 set out the planning context for Beveridge North West in October 2020 having regard to Plan Melbourne; the North Growth Corridor Plan (**NGCP**); relevant State and local policies of the Mitchell Planning Scheme; Ministerial Directions and Planning Practice Notes and other Extractive Industry related policy documents. Most of this policy basis remains the same. Where there have been changes, these are described below.

The following amendments have been gazetted since Amendment C106 that are relevant to this Amendment.

#### (i) Extractive industry

Amendment VC196 (gazetted 19 August 2021) amended all Planning Schemes to provide stronger recognition and protection of existing extractive industries, and to designate land with State-significant earth resources that may be established as Strategic Extractive Resource Areas (**SERA**). This amendment updated clause 14.03-1S (Resource exploration and extraction) and clause 52.09 (Extractive Industry and Extractive Industry Interest Areas) of the Planning Scheme.

The basis of this amendment was recognition of the increasing demand for extractive resources, with Victoria's population now forecast to exceed 10 million by 2050 and demand for extractive resources expected to reach more than 100 million tonnes per year, more than doubling 2015 levels.

The amendment recognised that the capacity for existing quarries to expand and for new quarries to establish is reducing, given a range of factors including rapid urban and rural residential development and new environmental safeguards. More certainty for a long term supply of strategic extractive resources was therefore required to deliver state infrastructure projects as well as the need for stone resources to build homes, schools, hospitals, roads and so on and ensure that these resources are extracted in areas close to markets to limit construction costs.

Amendment VC219 (gazetted 22 March 2022) was introduced to support the ongoing operation of extractive industry and increase amenity protections for nearby accommodation. This amendment included additional requirements for buildings and works associated with accommodation within 500 metres of the nearest title boundary where a work authority has been applied for or granted, and further consideration of impacts to accommodation by way of traffic, noise, blasting, dust and vibration. The amendment also introduced additional referral and notice provisions into planning schemes.

#### (ii) Housing

Amendment VC169 (gazetted 9 October 2020) clarified and strengthened housing policy through changes to all Victorian planning schemes. This included changes to clause 15.01-5S (Neighbourhood character) to ensure preferred neighbourhood character and housing growth objectives correspond, and to clause 16 (Housing) to include a new 'housing supply' policy at clause 16.01-1S.

**(iii) Environment**

Amendment VC203 (gazetted 1 July 2021) implemented new environmental protection legislation and tools to support the implementation of the new *Environment Protection Act 2017* (EP Act) and associated subordinate legislation that became operational on 1 July 2021.

**(iv) Transport**

Amendment VC204 (gazetted 9 December 2021) made changes to clause 18 (Transport) to improve consistency between objectives and strategies of the *Transport Integration Act 2010* and the PPF to allow for more integrated land use and transport planning decision making, with a greater emphasis on safety and sustainability.

**5.2 Victorian planning objectives**

Section 4 of the PE Act sets out the objectives of planning in Victoria, as follows:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)
- (fa) to facilitate the provision of affordable housing in Victoria
- (g) to balance the present and future interests of all Victorians.

**5.3 Ministerial Directions and Practice Notes****(i) Ministerial Directions**

Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46 (Strategic Assessment Guidelines) require the Planning Policy Framework and objectives of planning to be considered in preparing and evaluating an amendment, with objectives balanced in favour of net community benefit and sustainable development.

Ministerial Direction 12 (Urban Growth Areas) requires an amendment to implement the relevant Growth Area Framework Plan.

**(ii) Planning Practice Notes**

Planning Practice Note 89 (Extractive Industry and Resources) provides information and guidance about the current extractive industry approvals process; and the Government's initiatives around regulation and protection of extractive industry and resources.

## 5.4 Other relevant planning strategies and policies

### (i) Plan Melbourne

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

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

**Table 2** Relevant parts of Plan Melbourne

Outcome	Directions	Policies
1 – Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.4 – Support the productive use of land and resources in Melbourne's non-urban areas	1.4.2 – Identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs
2 – Melbourne provides housing choice in locations close to jobs and services	2.1 – Manage the supply of new housing in the right locations to meet population growth and create a sustainable city	2.1.1 – Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city
	2.2 – Deliver more housing closer to jobs and public transport	2.2.5 – Require development in growth areas to be sequenced and staged to better link infrastructure delivery to and release
	2.5 – Provide greater choice and diversity of housing	2.5.2 – Provide a range of housing types in growth areas
5 – Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1 – Create a city of 20-minute neighbourhoods	5.1.1 – Create mixed use neighbourhoods at varying densities

### (ii) Hume Regional Growth Plan

Hume Regional Growth Plan (May 2014) provides broad direction for land use and development across the Hume region. Within the Lower Hume, Beveridge and Wallan are recognised as being within the urban growth boundary and will experience significant growth. Zoned residential land and infill sites can provide between nine and 15 years supply in different parts of the sub-region and a further 15 years demand can be accommodated on land identified for future residential use in the southern part of the sub-region.

### (iii) North Growth Corridor Plan

The 2012 North Growth Corridor Plan (**NGCP**) is a high level integrated land use and transport plan that provides a strategy for the development of the northern growth corridor over the coming decades. It guides the delivery of housing, jobs, transport, town centres, open space and key infrastructure in the growth corridor.

The NGCP identifies the Beveridge North West precinct as predominately residential with areas identified for 'landscape values' along the northern and western boundaries of the PSP. There is a note for 'Regional Active Open Space (under investigation)' along the midpoint of the northern boundary of the PSP, to the west of the work authority area.

The NGCP also shows the provision of two north-south arterial roads and an east-west arterial road running through the precinct connecting to surrounding areas.

As noted in Amendment C106, the NGCP does not show any proposed or potential extractive industries (as at 2012), only existing and approved quarries, and therefore WA1473 is not shown.

## 5.5 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

### (i) Zones

Most of the land is in the UGZ. The purposes of the Zone are:

- To manage the transition of non-urban land into urban land in accordance with a precinct structure plan.
- To provide for a range of uses and the development of land generally in accordance with a precinct structure plan.
- To contain urban use and development to areas identified for urban development in a precinct structure plan.
- To provide for the continued non-urban use of the land until urban development in accordance with a precinct structure plan occurs.
- To ensure that, before a precinct structure plan is applied, the use and development of land does not prejudice the future urban use and development of the land.

Other land within the PSP area is zoned RCZ and Urban Floodway Zone.

### (ii) Overlays

The PSP area includes land within the following overlays:

- Vegetation Protection Overlay, Schedule 1 and Schedule 2 (**VPO1 and VPO2**)
- Erosion Management Overlay
- Incorporated Plan Overlay

The Amendment also seeks to introduce the SCO to the WA1473 land and to surrounding land within 500 metres to provide for a buffer to the proposed quarry as shown in Figure 3.

The purpose of the SCO is:

To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

At clause 45.12-1 Use or development, the provisions of the SCO state:

Land affected by this overlay may be used or developed in accordance with a specific control contained in the Incorporated Document corresponding to the notation on the planning scheme map (as specified in the schedule to this overlay). The specific control may:

- Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted.

- Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply.
- Exclude any other control in this scheme.

The proposed associated Incorporated Document under this overlay is titled: 'Extractive Industry & Buffer Area – Beveridge North West, Northern Highway Beveridge 3753'.

### (iii) Other policy documents

A range of other policy documents were tabled during the Hearing including:

- Preparation of Rehabilitation Plans: Guidelines for Extractive Industry Projects March 2021, Version 1.0 (Rehabilitation guidelines).
- Delivering Melbourne's Newest Sustainable Communities Land Capability Report June 2009
- Earth Resources Regulation Statistical Report 2019-2020
- Extractive Resources in Victoria Demand and Supply Study 2015-20
- Direction Preparation and Content and Reporting requirements for Infrastructure Contributions Plans February 2021
- Preparation of Work Plans and Work Plan Variations Guideline for Extractive Industry Projects

## 5.6 Strategic assessment of Amendment C158

### (i) Evidence and submissions

The VPA submitted that the FUS in Amendment C106 was found to have strong policy support and was generally strategically justified. The exception to this was the lack of planning for stone extraction within WA1473, as supported by extractive industry policy.

On this basis the VPA had largely retained the basis of the PSP and had approached this amendment as 'facilitating' consideration of a quarry application. It submitted that it had done that through the inclusion of a SCO for the quarry land, and that this overlay had broad acceptance by the parties, including planning witnesses.

Mr John Glossop in his town planning evidence on behalf of the VPA, outlined possible options to plan for the interim use of the WA1473 land for extractive industry, and to allow for long term residential development. These included:

- amending the UGZ to make extractive industries a section 2 use with associated conditions required to maintain appropriate buffers
- amending the PSP and UGZ to identify the quarry and its buffers
- applying a Special Use Zone (**SUZ**) to the WA1473 land
- providing a SCO with an associated Incorporated Document to guide the use and development of the quarry and its buffers for an interim period.

Mr Glossop supported the application of the SCO. He did not consider it was worth excising the quarry from the PSP and applying other controls given the long term consequences for the integration of the PSP and quarry land. He also did not support significant changes to the FUS of the PSP, given its current form was broadly supported and that the quarry was to be time limited. On this basis, he considered that the minimal changes to the PSP to recognise the quarry were appropriate.



In contrast, Mr Robert Milner, giving town planning evidence on behalf of Council, considered that further development and refinement of the PSP was required to accommodate a potential quarry. Mr Milner considered that this was necessary to address issues of:

- direct and indirect implications of a quarry on the timely and cost-efficient delivery of infrastructure and functional neighbourhoods
- the approach to the establishment and control of buffers, and
- the need to strengthen controls to ensure that quarrying will be consistent with appropriate timelines including rehabilitation for the site.

Mr Milner considered that the '*minimalist, 'bolt on' approach*' to amending the previous version of the PSP did not properly account for actual and possible implications of the change to the orderly development of the area by operations of the quarry. In questioning from the Committee, he contrasted this with the structure plan for Shenstone Park in which there had been upfront consideration of the Woody Hill quarry in designing the PSP, and accordingly, there was primarily industrial, commercial and infrastructure uses planned in the buffer areas rather than more sensitive uses.

Council also submitted that there had been a lack of strategic planning to accommodate a quarry within this growth area and submitted that the treatment of the quarry as an 'interim' use within the updated PSP failed to consider the interests of all Victorians, including the residents of Beveridge North West for the next 30 years.

Mr Mark Woodland gave town planning evidence on behalf of YVW. His evidence was that balancing State policy objectives to allow for both stone extraction and orderly development of urban land requires identifying buffers around WA1473, setting time limits for extractive industry and including requirements for the rehabilitation of land, to achieve an overall net community benefit. He considered that without a time-limited quarry, there would be unacceptable implications for achieving state policy regarding orderly urban development and coordination of infrastructure delivery, such as delivery of the northern town centre, primary school and community and sporting facilities.

Mr Woodland highlighted that state policy at clause 14.03-1S provides for stone extraction to be permitted '*consistent with overall planning considerations*'. His view was that this tempers the opportunity for stone extraction in the context of surrounding land earmarked for urban development.

Mr Andrew Clarke, giving town planning evidence on behalf of Conundrum, also considered a range of other options to facilitate the quarry, including:

- maintaining the quarry in a non-urban zone (Farming Zone or Rural Conservation Zone)
- including the SCO requirements in the PSP
- applying the SUZ; applying an Environmental Significance Overlay to the buffer areas
- applying a Buffer Areas Overlay, in conjunction with other controls to facilitate the extractive industry use.

Ultimately however, he also supported the use of the SCO, given it can be implemented without substantial change to the PSP but achieves the intended outcomes.

Other submitters did not consider that the inclusion of a quarry within the PSP area would be consistent with the objectives of planning in Victoria, namely in providing for the fair<sup>33</sup> development of land having regard to the impact of quarry buffers, and to secure a pleasant living environment<sup>34</sup> given the potential impacts of the operations of the quarry on surrounding land.

## 5.7 Discussion

In accordance with the Terms of Reference, the Committee has not re-evaluated the strong policy support found by the Panel for Amendment C106 for the PSP more broadly. Rather it has assessed the amendment in the context of the recommendation to explicitly include precinct level planning for resource extraction from WA1473.

The strategic support for both resource extraction and urban development are still current, and the amendments to the Planning Scheme that have been introduced since Amendment C106 have not materially changed this policy context.

While Amendment VC196 has provided further protection to existing extractive industries and areas within a Strategic Extractive Resource Area (**SERA**), the Conundrum quarry is not existing and the PSP area and WA1473 are not listed as a SERA. Therefore, that amendment has not impacted on the Committee's considerations.

The Committee acknowledges that there are many ways that the PSP could have been amended to allow for consideration of extractive industry on the WA1473 land to implement the findings of Amendment C106. The VPA approach has been to retain the fundamental structure of the PSP as considered in Amendment C106, with the quarry treated as an interim use only, rather than a more permanent land use, that may warrant fundamental changes to the surrounding land uses and development.

This is reflected in there being very little change to the PSP itself to recognise the quarry, with acknowledgment that the precinct may develop with a time-restricted quarry in the Introduction and inclusion of the proposed quarry and associated buffers on Plan 3 - Future Urban Structure as the key amendments to the PSP since the version considered in Amendment C106.

Ultimately the Committee considers that this approach is acceptable.

The Committee agrees with Mr Glossop that to make fundamental changes would have a range of implications not only for Beveridge North West but also for surrounding land. The Committee also notes that Beveridge North West is primarily a residential PSP consistent with the NGCP, and there was no evidence before the Committee that this should be varied.

The approach of using an Incorporated Document under the SCO to apply to the quarry and buffer land is also supported by the Committee. All planning witnesses supported this approach, and while Mr Milner considered a more holistic strategic reconsideration of the PSP should have been undertaken, he also supported the SCO as a mechanism to allow for consideration of a quarry in the work authority area.

In the Committee's view the SCO approach appropriately recognises that a quarry is not the long term future for this land but rather, ultimately, it is intended to be developed as part of the Beveridge North West community.

<sup>33</sup> Objective 1(a), Section 4 of the PE Act.

<sup>34</sup> Objective 1(c), Section 4 of the PE Act.

The Committee also agree with the VPA and most submitters, that the circumstances of this quarry and PSP being considered concurrently is such that a time-limited control for the quarry is supported by planning policy.

At clause 14.03-1S (Resource Exploration and Extraction) of the Planning Scheme, an associated strategy is to:

Protect the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and acceptable environmental practice.

Further, at clause 52.09-5 (Extractive Industry and Extractive Industry Interest Areas), it states:

A permit to use and develop land for extractive industry must not include conditions which require the use to cease by a specified date unless either:

- The subject land is situated in or adjoins land which is being developed or is proposed to be developed for urban purposes. [Committee emphasis]
- Such condition is suggested by the Applicant.

These provisions highlight that the strong support for stone extraction is not absolute and still requires judgment about being 'consistent with overall planning considerations' and contemplates time limits where surrounding land is being developed for urban purposes.

The Amendment C106 Panel accepted that there would be a delay to urban growth if a quarry was to proceed and found this to be acceptable in weighing up net community benefit. This delay relates to housing that would otherwise occur within the quarry land and associated buffer area, and a delay to the provision of infrastructure, namely two local town centres, an indoor recreation facility, possibly a school given the diminished catchment, and potentially the northern portion of the Eastern Arterial Road (**EAR**).

The Committee agrees with this finding that some delay is warranted to extract the stone resource, given the clear policy support for extractive industry, and in recognition of the high quality stone in this location, being well located on the arterial road network and within reasonable distance to significant infrastructure projects. Furthermore, the Committee accept the conclave<sup>35</sup> evidence of the economic experts, Mr Rhys Quick on behalf of Conundrum, and Mr Chris Aberly on behalf of YVW, that there would be no shortage of greenfield residential land in the northern region by the quarry proceeding.

The question then becomes is a 30 year overall timeframe (including establishment and rehabilitation) appropriate as proposed by the VPA, or should Conundrum be allowed to blast for 30 years, with time for establishment (estimated to be 5 years or longer) and rehabilitation (estimated to be another 5 years to the Work Authority standard) in addition to the blasting. This would result in a 40 plus year timeframe.

The Committee accepts that there was no strong basis provided by the VPA for the proposed 30 year timeframe, however equally, there was no evidence provided to the Committee that the limit of 30 years would render the ability to extract the stone uneconomic.

On balance the Committee agrees with Mr Woodland that the Planning Scheme tempers the opportunity for stone extraction in the context of urban development, and that the 30 years proposed by the VPA strikes an appropriate balance between competing objectives.

The Committee notes that this view is also strongly influenced by the fact that the quarry will need to rely on surrounding land to provide buffers to ensure acceptable environmental impacts to the

<sup>35</sup> The terms 'conclave' and 'expert meetings' are used interchangeably in this report.

surrounds. Part of this buffer is owned by Crystal Creek, that has a direct interest in the land being leased by Conundrum to operate the quarry, however the remainder is owned by unrelated parties, being Ms Gilbo and YVW.

Ms Gilbo family and YVW highlighted the policy at clause 14.03-1S of the Planning Scheme that includes a strategy that states:

Ensure planning permit applications clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the Applicant of the extractive industry. [Committee emphasis]

While the Committee accepts that there are many existing quarries that rely on land not owned or under the control of the quarry operator for buffers, these are usually in rural areas, where there is little impact of the buffers on the surrounding land use or development. In the context of this quarry, the inclusion of buffers on surrounding land will have significant implications for the reasonable, fair and economic use of the buffer land, that would otherwise be able to be developed for urban purposes in accordance with the PSP.

The Committee was advised that Conundrum, being a smaller independent family owned business, operated in a different way to the larger vertically integrated operators. While this provides for choice and flexibility in the market, it also has implications for the rate of extraction, generally requiring longer timeframes to extract the identified resource. While the Committee acknowledges this, it is the stone resource itself that is valuable, and any limitations associated with the quarry owner or operator do not justify unreasonable imposts on neighbouring and surrounding land.

The Committee also acknowledges that there have been other circumstances within growth areas, such as Shenstone Park,<sup>36</sup> where part of the buffer was not under the control of the operator and there were no time limits imposed on the quarry. The Shenstone Park Panel accepted that this was reasonable in the circumstances and cautioned against residential development occurring within the buffer prematurely that would impact on the extraction of the resource, despite the buffer not being owned or controlled by the Applicant.

However, in this case, the quarry and PSP are being considered concurrently with the quarry permit application whereas in Shenstone Park the quarry in question already had a planning permit and was identified as a very significant quarry, and the PSP was considered after the permit had been issued. Further, in Shenstone Park only a small part of the neighbouring land was impacted by the buffers, expected to be the latest part of the PSP to be developed. In this case, Ms Gilbo estimates that up to 40 per cent<sup>37</sup> of their land is impacted by the buffers, and there is a further approximately eight percent<sup>38</sup> of the YVW land within the proposed buffer.

A more detailed discussion on buffers and time frames is provided in the following chapters.

## 5.8 Conclusion

For the reasons set out in the following chapters, the Committee concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. More particularly, the VPA has responded to the findings of the Amendment C106 Panel, as directed by the Terms of Reference, in providing an

<sup>36</sup> Whittlesea Planning Scheme Amendment C241wsea.

<sup>37</sup> Submission of T Gilbo, 5(a), p. 2.

<sup>38</sup> Evidence of Mr Chris Aberly, p.13.

appropriate statutory context to evaluate a proposal for stone extraction from the land subject to WA1473 in advance of proximate urban development, through the SCO and associated Incorporated Document.

The Committee also finds that the quarry should be time-limited, and that this is supported by policy. While some delay to the delivery of urban development is warranted in the interests of net community benefit, the lack of control or ownership of the buffers means that a more stringent time limitation should be imposed.

The Committee makes an overall recommendation on Amendment C158 in Chapter 11.

## 6 Quarry buffers in the PSP

### 6.1 The issues

The issues are:

- What should the extent of quarry buffers be?
- Should the buffers move with staging over time?
- Should sensitive uses be allowed in the buffers?
- Should the buffers be owned or controlled by the quarry operator?
- Should the quarry be time limited, and if so, to what extent?

### 6.2 Extent of buffers

#### (i) Evidence and submissions

The VPA submitted that the amendment includes two buffers to the quarry to reduce land use conflicts, an inner buffer (250 metres) and outer buffer (500 metres). These buffers were said to be based on the EPA recommended separation distances and in accordance with advice from DJPR.

**Table 3** EPA recommended separation distances<sup>39</sup>

Industry type	Industry activity/definition	Scale and industry description	Recommended separation distance (metres)
Quarry	Quarrying, crushing, screening, stockpiling and conveying of rock	Without blasting	250
		With blasting	500
		With respirable crystalline silica	500

Source: EPA Publication 1518

EPA Publication 1518 is referenced in the Planning Scheme at clause 13.06 (Air Quality); clause 13.07 (Amenity, Human Health and Safety); clause 17.03-1S (Industrial land supply), and clause 17.03-2S (Sustainable Industry) as a policy to be considered in decision making.

EPA Publication 1518 states:

This guideline contains a list of recommended minimum separation distances that aims to minimise the off-site impacts on sensitive land uses arising from unintended, industry-generated odour and dust emissions. In some instances, the appropriate separation distance may vary from that recommended in this guideline as a result of site-specific operational or environmental conditions. In such cases, a detailed assessment and a resultant proposal that satisfies EPA will be required before a variation can be given planning approval.

The Publication notes that the separation distances apply only to off-site residual odour and dust emissions. Noise and vibration have not been considered in developing EPA Publication 1518.

It also states that while emissions from industrial operations should be eliminated, even with good pollution control, technology and practice, unintended emissions – called industrial residual air

<sup>39</sup> EPA Publication 1518: *Recommended Separation Distances for Industrial Residual Air Emissions* (2013)

emissions (**IRAE**) – can occur intermittently. Separation distances allow for IRAEs to dissipate without adverse impacts on sensitive land uses.

The recommended separation distances in EPA Publication 1518 are the EPA’s default minimum in the absence of detailed, site specific assessment.

Development within the 250 metre inner buffer is generally limited to ensure the safety of people and property during blasting, and land use within the 500 metre outer buffer is restricted to avoid land use conflicts with sensitive uses.

The VPA submitted that the evidence was conclusive that buffers should be measured from the extraction limit but considered that the SCO should set a generic boundary rather than one that accorded with the current application, to allow for the potential that a different application may be considered. It referred to clause 52.09-6 (Requirements for extractive industry), that states:

The use and development of land for extractive industry must comply with the following requirements, to the satisfaction of the responsible authority:

- Except in accordance with a permit, no alteration may be made to the natural condition or topography of the land within 20 metres of the boundary of the land. This does not apply to driveways, drains, bund walls or landscaping.

On this basis, it considered that the buffer should commence from 20 metres inside the work authority boundary.

YVW submitted that buffers should be evidence based and minimised as far as possible. It submitted that buffers should be approached based on:

- an outer zone of potential risk, where a permit could be sought for sensitive uses
- an inner zone of higher potential, where sensitive uses would be precluded.

YVW considered that risk zones should be determined based on technical information submitted with an application, and that these details should be endorsed under conditions of permits. It also submitted that sensitive uses should be precluded where the actual impacts occur, based on technical assessments endorsed under a planning permit and work plan, rather than a ‘default’ buffer distance.

YVW highlighted that clause 14.04-1S contains strategies to determine an evidence based buffer at the planning permit application stage, including:

Determine buffer areas between extractive activities and sensitive land uses on the following considerations:

- Appropriate limits on effects can be met at the sensitive locations using practical and available technology.
- Whether a change of land use in the vicinity of the extractive industry is proposed.
- Use of land within the buffer areas is not limited by adverse effects created by the extractive activities.
- Performance standards identified under the relevant legislation.
- Types of activities within land zoned for public use.

Crystal Creek submitted that the quarry’s buffer distances present uncertainties for developers and future communities of both the PSP and Wallan South PSP. Given the potential impact, it submitted that buffer distances should consider the key works area for stone extraction rather than being based on title boundaries. It noted that this was consistent with EPA Publication 1518 that states separation distances should be determined by measuring from the ‘activity boundary’ to the nearest sensitive use.

## (ii) Discussion and conclusion

The Planning Scheme at clause 52.09 *Extractive Industry and Extractive Industry Interest Areas*, has purposes including:

- To ensure that use or development of land for extractive industry does not adversely affect the environment or amenity of the area during or after extraction, and
- To ensure that stone resources, which may be required by the community for future use, are protected from inappropriate use and development.

These objectives require both the protection of the industry and of surrounding land. Buffers are a key way to meet these objectives.

The starting point for consideration of the extent of buffers is set in EPA Publication 1518, and these distances have been included in the exhibited controls, as part of the SCO that is proposed to apply to the quarry and surrounding buffer land.

The Committee agree that the 'activity' boundary or extraction limit is the appropriate measurement point for the extent of likely impacts, and accepts the evidence that it is the activity boundary rather than title boundary that should inform the buffers. However for the purposes of the SCO in forming the quarry and its statutory buffer, the Committee agrees with the VPA that this overlay should be measured from 20 metres within the work authority boundary, as set out at clause 52.09-6 of the Planning Scheme. This will allow for not only the proposed quarry with its associated operational details, but also for an alternative extractive industry proposal in the event that the current application did not proceed. It will set the statutory framework in which detailed permit(s) and endorsed plans will be issued. The concept of retractable buffers is discussed in Chapter 6.3 below, and the Committee conclude that the activity boundary should be used in undertaking assessment of impacts at a particular phase of the quarry operations.

The Committee also understand and accept that there is merit in the terminology of outer and inner 'risk zones' as proposed by YVW and note that the VPA have accepted these terms. However the Committee considers that the term buffer is well known and understood and should remain. This is further discussed in Chapter 11.

## (iii) Recommendation

The Committee recommends:

**Amend the Specific Controls Overlay boundary to draw the quarry buffers (the 250 inner buffer area and the 500 metre outer buffer area) from 20 metres inside the WA1473 boundary.**

## 6.3 Should the buffers move with staging over time?

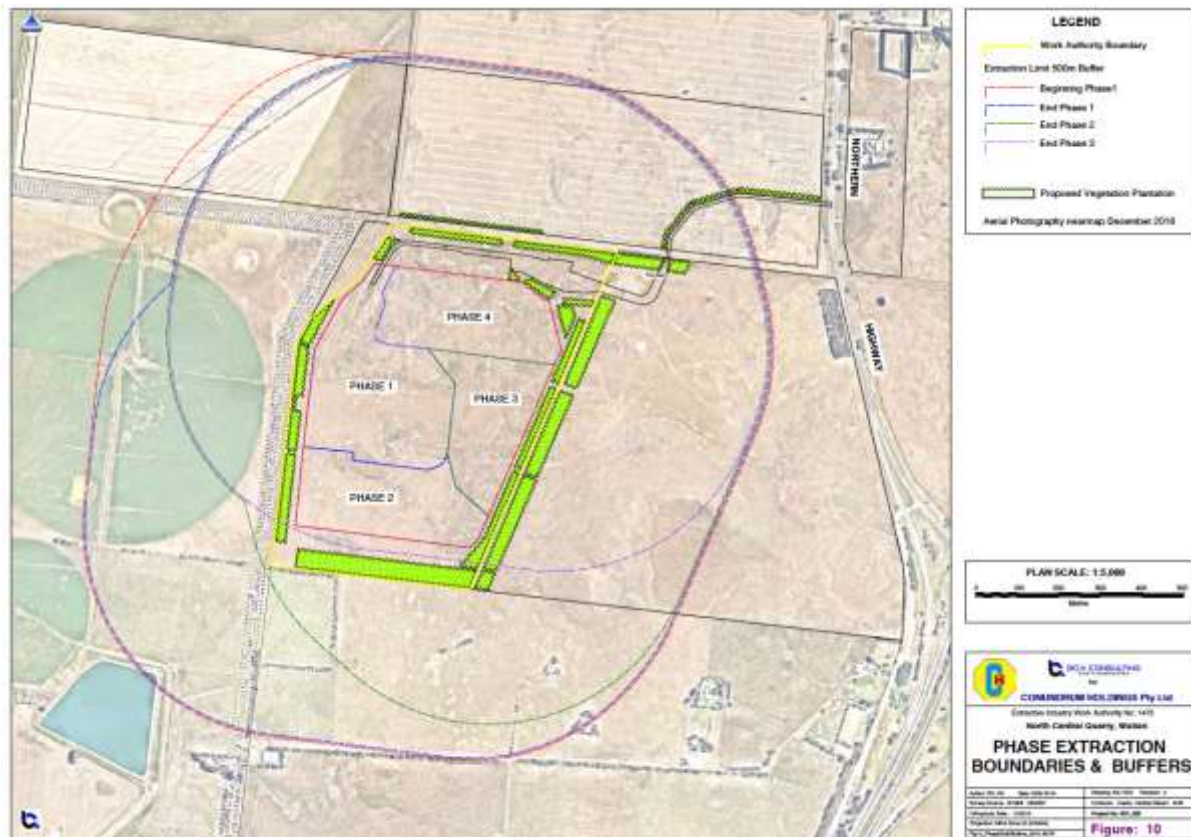
### (i) Evidence and submissions

As part of the planning application, Conundrum proposed a phasing plan for its quarrying activities, designed to progressively unburden buffer land as quarrying progresses. This approach would allow for a moving buffer; that is, a buffer taken from the extraction point of each stage, as the stages are developed over time. Once a stage is completed, the buffer would move to the next stage. The phases are designed to proceed in an anti-clockwise direction, with the last stage (Phase 4) removing the buffer entirely from the Gilbo land but still impacting on the YVW and



Crystal Creek properties. The phasing plan was depicted in Figure 10 of the draft Work Plan and is included below in Figure 8.

**Figure 8** Buffer phasing<sup>40</sup>



Conundrum submitted that there was no statutory or other obligation to include this phasing within its application and to its knowledge, it was a unique proposal in the quarrying industry.

It submitted that retractable buffers did not require a variation from the EPA recommended buffer distances, rather that the source of the emissions from where the buffer is measured would simply move as quarrying progressed through its stages.

The VPA supported the management of buffers in a flexible manner, to allow for the earliest practical introduction of urban uses into the buffer areas. However, it did not support the concept of buffers being stages written into the SCO, given that staging could be amended through conditions or amendments to a permit, and there was no certainty that a permit would be issued. As such the VPA preferred a more generic approach, with discretion to achieve development within the buffer subject to assessment.

Council submitted that the buffers should not be varied in the absence of fixed dates for the end of rehabilitation associated with each phase. It considered that there was uncertainty associated with operations of the quarry, such as the rate of extraction, that in turn would impact on the timeframes for each phase. Council also considered that a 250 metre buffer would need to remain during rehabilitation, given the processes required post quarrying, including significant backfilling of the quarry void, would involve heavy earth machinery with associated noise and dust impacts.

<sup>40</sup> Document V10.

On this basis, Council did not accept that buffers could be retracted over time.

YVW agreed with the VPA submissions that while the buffer, or risk zones, could shift with quarry staging, it was legally preferable for a static zone to be set, to avoid uncertainty.

Crystal Creek submitted that the potential impact on the net development area for both the PSP and Wallan South PSP is such that it is important that buffers retract over time to allow the release of land for development in both PSPs.

In the conclave report on quarry technical matters, the experts agreed on the following:

The experts agree that the revised staged quarry development plan is cognisant of the impacts to sensitive receptors, in so far as is practical. The quarry development plan attempts to mitigate and address future land development issues by having an internal shift in the quarry development area from west to east-north. This change in quarrying area over times moves the blast impacts of the quarry away from potential adjacent land uses. Accordingly, it was further agreed that the applicable buffers may also be retracted from west to east-north, consistent with the internal shift in the quarry development area.

## **(ii) Discussion and conclusion**

The concept of moving or retractable buffers was a significant issue at the Hearing. Most parties, except for Council, agreed that there was merit in the buffer moving as the stages were completed, particularly for the adjoining landowners burdened by the buffers. However, no party could provide an example of it occurring in practice at operating quarries, and parties acknowledged the difficulties in both drafting a control, particularly in the context of no agreed timeframes for each stage of the quarry, and administering it in practice.

It was noted by several submitters that the Panel for Shenstone Park, rejected the idea of retractable buffers (or rolling buffers being the term used in the Shenstone Report). The Panel in that amendment stated that while the concept of retractable buffers had some appeal, ultimately it found that the mechanism to achieve it was uncertain and there were also questions as to whether the quarry operator would go back and extract stone at deeper levels after moving on from a certain stage.

The Committee however agree with the VPA that there are clear differences between Shenstone Park and this case.

In Shenstone Park, the Woody Hill quarry was an established and operating quarry and the PSP had planned for commercial, industrial and infrastructure uses within the buffer areas. Phillips Quarry, located just outside the Shenstone Park PSP area, while not yet established, had a planning permit for its use, and a comparatively small area of neighbouring developable land was located within the buffer, with most of the buffer being land set aside for ecological values.

There are a number of key differences in this PSP:

- The permit application is being assessed at the same time as the PSP is being considered, rather than the quarry being an established or previously approved use.
- Buffers would extend across large parts of neighbouring land not owned or controlled by the operator, estimated to be 64ha for the inner buffer area and an additional 84ha for the outer buffer area<sup>41</sup>. These areas together with the land within WA1473 (47.4ha) result in a combined area of 195 hectares or 15.2 percent of the PSP. These areas are

<sup>41</sup> Expert evidence statement of Chris Abery, Deep End Services (63)

earmarked primarily for residential and associated community infrastructure uses such as town centres and a school.

- The Applicant is accepting of the buffers moving as each phase is completed.

There are clearly very significant competing demands for the land within the buffer. While in the initial stages of quarrying surrounding land is likely to remain rural, over time, there will be increasing demand for urban uses and increasing costs of the delay to urban development.

The framework for extractive industry as outlined in both the Planning Scheme and the MRSD Act requires impacts from extraction to be 'eliminated or minimised as far as reasonably practicable'. While there are many ways in which this can theoretically be achieved, the retraction of buffers is one way to respond to this direction.

The Committee also notes that the EPA Publication 1518 state that buffers should commence from the 'activity area' rather than the quarry titles, and states as follows:

Measuring from the activity area allows for any separation that is provided within the property boundary of the industry site to be considered. If an industry changes its use or moves a relevant activity within the property boundary, the requirement for a planning permit and/or works approval should trigger reassessment of adequate separation distances. [Committee emphasis]

This appears to support the idea of buffers moving as the activity changes within the property boundary.

Finally, it is also relevant that the quarry Applicant is supportive of this approach.

On this basis, the Committee agrees that the buffers should retract over time to progressively unburden adjoining properties and allow for urban development of surrounding land as soon as is possible. The Committee notes that this support for retractable buffers is not for the extent of the SCO to change with each phase of quarrying, as this would require a planning scheme amendment to amend the boundaries of the overlay that would be unduly cumbersome (noting that could occur, however is not in the Committee's view necessary for each phase). Rather, that the actual areas to be protected from quarry emissions move with each stage. The mechanism for this to occur is discussed in Chapter 11 relating to the Incorporated Document under the Specific Controls Overlay.

## 6.4 Should sensitive uses be allowed in the buffer?

### (i) Evidence and submissions

The drafting of the SCO allows for planning applications to be considered for sensitive uses within the buffer from 1 January 2028. Before this time, all sensitive uses are prohibited, allowing time for the establishment of the quarry (effectively being 5 years from 2023-2028). From 2028, the SCO sets out application requirements and decision guidelines to assess the appropriateness or otherwise of sensitive uses being established at the time of the application.

Mr Glossop on behalf of the VPA considered that this was an appropriate mechanism to manage land use conflict between the quarry and sensitive uses.

Mr Woodland on behalf of YVW also supported this approach for the management of sensitive uses on land within the outer buffer area. He considered it reasonable to prohibit a range of sensitive uses in the short term to allow the quarry to establish but then allow for permit applications to determine the compatibility of any proposed sensitive use. Mr Woodland

supported the proposed provisions of the SCO, including application requirements and decision guidelines to enable a proper assessment of proposals having regard to the potential amenity impacts of the nearby quarrying activities.

Council did not support the ability to apply for sensitive uses within the amenity buffer until such time the quarry has ceased and had been rehabilitated. In his evidence for Council, Mr Milner was concerned that allowing discretionary uses within the buffers after January 2028 could create an administrative burden and inappropriate planning outcomes.

Council noted in its closing submission that, if sensitive uses were to be allowed in the buffer areas, a transparent reporting process should be required of the quarry operator to provide appropriate information to future Applicants. This should include for example proof that each stage is completed and rehabilitated and could be achieved by monitoring required by permit conditions and disclosure of operational details.

Mr Clarke on behalf of Conundrum noted that the proposed provisions of the SCO in allowing for applications to be made for sensitive uses within the outer buffer area after establishment, were performance based and included a set of notifications and referral requirements. He considered these provisions appropriate to deal with both the amenity impacts on urban uses from the quarry operations and the impacts on the operations of the quarry by the encroachment of urban uses.

## **(ii) Discussion and conclusion**

The Committee agrees that applications for sensitive uses should be allowed within the quarry buffers, subject to detailed application requirements, and assessed based on decision guidelines and referrals, including to DJPR. This was also supported by the Shenstone Park Panel, and again it relevant that the quarry applicant is supportive of this approach.

The Committee understands the reluctance of Council to allow for such applications, noting the potential difficulties of assessing the impacts from the quarry and any reverse amenity implications to the quarry from sensitive uses. Ultimately however, the planning system is performance based and there is little benefit to any party of 'locking up' land unnecessarily. If it can be demonstrated that land uses can safely establish within buffer areas based on actual operations of the quarry at that time, then this will better balance dual aspirations of resource extraction and urban settlement policy.

The Committee considers that this is particularly important given that the statutory buffer set by the SCO will extend further than required by the operations of the quarry, particularly as the phasing progresses. It would be unreasonable and serve no planning purpose to curtail development on surrounding land when the quarry activity is more than 500 metres away.

The Committee agrees with Council that to assess sensitive uses within the buffer will require detailed information from the quarry applicant. Both the SCO and any planning permit issued for the quarry should include provisions requiring the quarry operator to provide confirmation of when a particular stage has finished as well as results from monitoring to enable an assessment of the appropriateness of any sensitive use.

The detailed considerations to ensure that this is a transparent process are discussed further in Chapter 11 relating to the SCO.

## 6.5 Should the buffers be owned or controlled by the quarry operator?

### (i) Evidence and Submissions

Council's position was that any buffers should be in accordance with the planning policy framework, namely policy at clause 14.03-1S that states:

Ensure planning permit applications clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the Applicant of an extractive industry. [Committee emphasis]

It submitted that if the quarry Applicant cannot own or control the necessary buffer, the quarry should not be permitted.

Ms Gilbo submitted that it was not fair, reasonable or orderly planning for a private landowner to be compelled to bear the burden of supplying a buffer for a commercial quarry, having regard to clause 14.03-1S of the Planning Scheme, quoted above. It submitted that this policy means that the quarry needs to take steps to control or own the buffers, or manage its operations so as to avoid relying on surrounding land owned by others.

Crystal Creek also raised concerns with the uncertainties associated with the buffers on land within both the Beveridge North West and Wallan South PSP's.

YVW submitted that risk zones extending onto third party land are undesirable and, in some circumstances, unacceptable. It noted that this was especially so when the land is intended to be developed for urban purposes. In its reply submissions YVW agreed with the submissions of Ms Gilbo that part of land development requires assembling a site of appropriate dimensions by commercial means. It submitted that Conundrum had only assembled part of the land policy says is required for its proposal.

Mr Woodland's planning evidence was that the reliance on the currently rural land around WA1473 as a buffer in the interim period between now and when development reached the buffer was a reasonable proposition. However, he agreed with the Panel in Amendment C106 that found the reliance on external buffers to be problematic. On that basis, he did not consider that the buffers should be open ended, and instead that the quarry should be time limited.

Conundrum submitted that Amendment C106 had accepted that the quarry would impact on surrounding land, and relied on the evidence of witnesses, including Mr Clarke who could not recall a situation that he had been involved in where buffers were wholly under the control of the quarry operator. Mr Glossop on behalf of the VPA also agreed that buffers on land not owned or controlled by the operator is common.

Conundrum submitted that in a perfect world the quarry would be located further north and or east to be wholly contained within the Crystal Creek / Mr Mott landholding, a related party to the quarry landowner, however the quarry is proposed where the high grade stone is located. It submitted that it had sought to phase and retract buffers in accordance with advice from the VPA and to respond to the interests of YVW and Ms Gilbo. Conundrum stated that by Phase 4 none of the Gilbo land is required for a buffer with most of the burden at this stage being to the north onto Crystal Creek land.

**(ii) Discussion**

The Committee considers that the issue of whether the buffers should be controlled or owned by the quarry operator to be one of the most significant issues in the Hearing.

Clause 14.03-1S of the Planning Scheme clearly directs that buffers are to be owned or controlled by the Applicant of extractive industry. However, it is acknowledged that in practice, this is rarely the case. This is largely because quarries were either established prior to this provision coming into place or have been located in areas remote from sensitive uses (other than say a rural dwelling), and using neighbouring rural land as a buffer to the quarry operations has had minimal impact on the economic use of the buffer land.

As previously noted, the circumstances in this case are quite different.

In the absence of the Gilbo and YVW (and Crystal Creek) land being used as a buffer to the Conundrum quarry, their land would be able to be developed in the medium term with residential development, at conventional and higher densities depending on their proximity to activity centres, as well as for a local town centre, school, parks or roads etc as nominated by the PSP. Depending on the life span of the quarry (discussed in Chapter 6.6) this opportunity will be delayed by many years, possibly by decades.

The Amendment C106 Panel acknowledged this, noting that while the opportunity for urban development will be delayed, it will not be lost. This Committee also agrees that it is a delay rather than a lost opportunity. However, 30 years is a significant delay with significant impacts on landowners.

A basic tenet of planning is the fair and economic use of land<sup>42</sup>. To have the rights and ability to economically use private land curtailed to the extent that the quarry would have on the Gilbo and YVW land, without compensation, is contrary to this core principle and objective of the planning system in Victoria.

The Committee was disappointed to hear that only very minimal attempts had been made by Conundrum to enter into any kind of agreement to own or control the Gilbo or YVW land as a buffer to its proposed operations during the life of the quarry. The Committee was advised that discussions with Ms Gilbo's advisors halted after one meeting only and follow up emails, where Conundrum appeared to cease negotiations on the basis that a valuation figure Ms Gilbo's advisors offered was unreasonable. Conundrum also appeared to rely heavily on the findings of the Amendment C106 Panel that acknowledged that there would be an impost on neighbouring land, despite noting that this was 'problematic'. Ms Gilbo on the other hand noted that their communications made it clear that it was open to any offer but submitted none was forthcoming.

Ms Gilbo and Council suggested that the Committee should require Conundrum to limit its operations to land it owns or controls. However this fails to acknowledge the location of the stone resource. Alternatively, it was submitted that any permit issued should be made conditional on the policy in clause 14.03-1S being met or it should be made a requirement of the Incorporated Document under the SCO. The Committee agrees with the VPA that as a policy, rather than as a 'requirement' of the planning scheme, it would be inappropriate to apply this as a mandatory condition. It has however influenced the Committee's overall assessment of the application and

<sup>42</sup> As outlined at Section 4, Objectives of the Planning & Environment Act 1987

amendment, and in particular its findings in relation to the timing of the proposed quarry (discussed in Chapter 6.6).

Overall, the Committee finds that some impost on neighbouring land, particularly in the shorter term while the land is used for rural purposes, is reasonable. However, at the stage where urban development contemplated by the PSP is curtailed on the buffer land by the quarry, that is, by the time the development front approaches the buffer land, ideally this loss should be compensated for by the quarry Applicant.

The retractable buffers will go some way to minimise the impacts, however, it is likely on the information provided to the Committee that the quarry operations will still prevent parts of the PSP proceeding for some years. The impost would remain on part of the YVW land across the entire time period, and for three of the four phases for Ms Gilbo's land. It is partly for this reason (as well as other reasons discussed in Chapter 6.6) that the Committee supports the time limit of an overall time frame of 30 years, including rehabilitation, put forward by the VPA rather than the longer timeframe proposed by Conundrum.

The Committee notes that balancing the fair and economic interests of the landowners of the buffer and the broader net community benefits of stone extraction is difficult, and therefore has sought to strike an appropriate balance.

## 6.6 Should the quarry be time limited, and if so, for how long?

### (i) Evidence and submissions

The VPA took a position that activity associated with quarrying and rehabilitation must cease no later than 2052 based on the following:

- alignment with the PSP and ICP timelines
- development rates
- the time period referenced in submissions to the C106mth Planning Panel
- delivery of key infrastructure required to support the PSP and the wider northern growth corridor
- amount of resource that could be extracted vs the amount of rehabilitation that is required to facilitate urban development.

As exhibited, this 30 year timeframe comprised a maximum of 20 years for blasting and 10 years for rehabilitation. Throughout the course of the Hearing however, the VPA were content to remove the timeframe on blasting while maintaining the fixed 2052 expiry date, to allow more flexibility within that timeframe for blasting and progressive rehabilitation.

The VPA submitted that the PSP could be substantially complete within 30 years in the absence of a quarry, and with the quarry, this is likely to extend the timeframes by another 10 years or more. It also submitted that the ICP guidelines state that an ICP should aim for a 25-30 year timeframe, and in this case, the VPA has extended the ICP to 35 years. The VPA submitted that it was important that this was not further protracted and that the 2052 date strikes a balance between the extraction and the community and provides certainty for all parties.

The VPA submitted that Conundrum did not provide any expert evidence about the viability of the operations under the proposed timeframes and on this basis it could not be concluded that the timeframes were unreasonable.



Council supported the initial view of the VPA of 20 years of active quarrying and the date of 31 December 2052 being the final limit by when the land must be rehabilitated to a suitable standard for residential development in accordance with the PSP.

Council submitted that the delay to urban development caused by the quarry had a range of impacts including:

- direct economic impact to affected landowners
- community impact of delayed construction
- social impacts
- potential delay in the provision of community infrastructure such as roads, schools, community centres and retail facilities.

On this basis Council considered that firm time limits should apply as follows:

- permit should expire if the use has not commenced within 2 years
- blasting limited to 20 years
- WA1473 fully rehabilitated by 31 December 2052

Finally, Council submitted that no further opportunity should be provided to apply for planning permits. That is, this is the planning permit application.

YVW submitted that a time limit on the quarry was important to facilitate the ultimate delivery of the PSP. It was supportive in principle of the VPA's proposed timeframes but also submitted that within these timeframes, the quarry's buffers should retract to enable a substantial portion of abutting land to develop within a lesser timeframe.

Mr Woodland's evidence was that any precinct level planning for WA1473 should apply time limits on quarrying, so that the relevant competing policy objectives regarding quarrying and urban development are properly balanced to achieve an overall net community benefit. He considered that extractive industry policy should be tempered given that the WA1473 is not within a SERA and is located within the urban growth boundary and adjacent to land identified for residential development.

His evidence was that an absence of certainty regarding the closure date of quarrying would be contrary to state policy regarding urban development and the coordination of infrastructure delivery.

Mr Woodland considered 30 years to be a realistic horizon for the full development of the PSP area. He estimated that the most logical and orderly sequence of development within the precinct would potentially result in urban development reaching the edges of a notional 500 metre buffer from the boundary of WA1473 within circa 15 years. He also considered that in the absence of a quarry that the Northern Town Centre, primary school community and sporting facilities would otherwise most likely develop in stages over the coming 15-25 years.

Overall, he concluded that delays to residential development due to the impact of the quarry should be kept to a minimum and be no longer than 5-10 years. Therefore, he supported an enforceable quarry staging plan that provides for a significant portion of the buffer land to be developed after 15 years of quarry operations (with an overall 30 year timeframe for cessation of quarrying and rehabilitation), or that the quarry should cease to operate no later than 25 years after commencement.

Ms Gilbo supported the submissions of the VPA and Council on a time limited quarry. She stated that a time limit does not result in prioritisation of residential development over the quarry, rather,



it is giving the quarry a reasonable time to extract the resource, not an indefinite one. She submitted that this represents a reasonable balance between competing interests.

Conundrum's permit application sought a 30 year blasting period, together with sufficient time to establish the use and to decommission and rehabilitate the land. Conundrum submitted that the time limit of 20 years for blasting was arbitrary, unjustified, and inconsistent with the Panel's recommendations in C106.

Conundrum submitted that the VPA proposed time limit would allow for only approximately 48 per cent<sup>43</sup> of the resource to be extracted. It further submitted that it had already made a concession in terms of timeframes, from the estimated 40 years of stone resource available, to 30 years of blasting in its planning application.

Mr Clarke's planning evidence on behalf of Conundrum acknowledged the tension between the timing of cessation of stone extraction and urban development but observed that:

- the quarry and its buffers represented a relatively small geographic extent of urban development in a metropolitan context
- that an additional 10 years (between 20 and 30 years of proposed blasting) in a permanent urban setting is relatively insignificant.

He noted that any delay to residential supply on the quarry and buffer land would be provided elsewhere and the delays to infrastructure delivery, including the northern part of the Eastern Arterial Road and local town centre, could be offset by alternative access routes and the other local town centres within the precinct. The local indoor recreation facility would be the only community facility impacted by the quarry or its buffers.

Mr Rodney Huntley's evidence on behalf of the VPA in relation to quarry design, operations and management stated that while the 20 year blasting limit was not considered technically necessary, it would be:

...more than feasible to condition the quarry to this requirement if deemed necessary for other overarching reasons other than technical blasting requirements.

This contrasted with the evidence of Mr Mitas on behalf of Conundrum who stated:

...the suggestion of a 20 year quarry operation is not practical or achievable and will result in a substantial amount of stone not extracted. The capital costs of setting up a large quarry are substantial and effective use of capital and lower cost of production over 30 years will ensure that the quarry development will be viable.

Mr Garrett Hall in evidence for YVW, noted that the timing proposed by Conundrum was based on a projected annual production of 170,00 to 400,000 tonnes per annum in years 1 to 10; 400,000 to 700,000 tonnes per annum in years 11 to 17; and up to 700,000 tonnes per annum in years 18 to 30. He calculated that to recover the projected 12 million tonnes of high grade basalt and 5 million tonnes of lower grade basalt within 20 years rather than 30 years, would require annual production of 850,000 tonnes per annum. Mr Hall noted that this was technically feasible, stating that he was aware of at least two hard rock quarries in Melbourne producing more than 1 million tonnes per annum of resource. He noted, however, that he had not assessed the market capacity to absorb this supply over the time period, or the commercial implications for Conundrum.

The Conclave Statement of Quarry Technical Consultants (Natoli, Mitas, Hall, Cattlin and Huntly), agreed the following in terms of quarry timing:

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<sup>43</sup> Based on Mr Ganly's evidence

It is agreed that limiting blasting to a maximum timeline of 20 years, while technically feasible, places an incumbrance on the quarry Applicant that is not borne by its competitors. Future extraction rates will relate to market demand and prevailing economic conditions occurring over the life of the quarry. Imposing a time limitation on a quarry is uncommon for these reasons. It is agreed that within this time frame blasting will have moved further away from the proposed precinct area and that all blasts will be managed by implementation of a leading practice blast management plan. It was further agreed that the applicable buffers may also be retracted from west to east-north, consistent with the internal shift in the phased quarry development in this direction.

**(ii) Discussion and conclusion**

Different parties sought to draw different conclusions from the Amendment C106 Panel report in relation to the timing of the quarry operations. Conundrum was of the view that the findings did not support any time limit, with references to operations being subject to market forces and likely operating for 30 years or more. Other parties considered a time limit inherent in balancing competing objectives.

The Panel for Amendment C106 did not have a planning application for the quarry before it; did not assess the details of the proposed quarry operations; and made only very broad comments in relation to buffers. Overall, it made findings in relation to balancing extractive industry and settlement policies, finding that allowing for the extraction of stone first, followed by urban development, resulted in a net community benefit.

This Committee has a different task, and the Terms of Reference explicitly include advising the Minister on an appropriate planning response to the commencement and end date for any stone extraction within the WA1472 area.

At a high level, the Committee observes that the exhibited 20 year blasting time frame is somewhat arbitrary, and that the 30 year overall time frame contemplates the quarry ceasing operations around the same time that the PSP is expected to be fully developed. The Committee also agrees with the experts at the conclave that a time limit is a burden not borne by competitors. However even the quarry applicant in this case has proposed a 30 year blasting limit, offered as a compromise to their initial 40 year proposal, presumably on the basis that WA1473 is surrounded by land earmarked for urban development (in both Beveridge North West and in Wallan South PSP to the north).

The inclusion of a time limit is also supported by clause 52.09-5 (Permit conditions for extractive industry) of the Planning Scheme, that explicitly allows for consideration for a time limit if the subject land is situated in or adjoins land being developed for urban purposes. This is the case here. The Committee considers that this sets a clear demarcation between quarry proposals in a rural setting, and those in developing urban areas.

The Committee therefore considers the question is not whether a time limit should be imposed in this case but rather whether the time frame should be limited as proposed by the VPA, Council and others, or as sought by Conundrum.

Importantly, the benefits of stone extraction cannot be realised if the time limit imposed would render the operations unfeasible.

While Conundrum strongly objected to the proposed 20 year blasting or 30 year overall timeframe, there was no viability evidence provided to assist the Committee in this regard. Despite cross examination of many quarry and economic experts by various parties, and direct questioning of Conundrum by the Committee, no evidence was provided that showed the overall

30 year timeframe (including progressive rehabilitation) would be uneconomic. In questioning from the VPA, Mr Mitas conceded that he didn't have financial or other economic information from Conundrum to be able to comment on the feasibility of the quarry for shorter or longer timeframes and Mr Quick agreed he could have undertaken a viability assessment if that had been his instructions. Yet Conundrum choose not to present this information. The conclave also noted that a 20 year timeframe would be technically feasible.

Furthermore, while Mr Clarke and others suggested that all the resource should be extracted, the application itself contemplates only between 63-93 per cent of the resource being extracted and not all of it is considered 'high quality'.

As discussed in the previous section, the Committee does not consider it fair that the buffers should burden surrounding land earmarked for urban use for an unconstrained or unreasonable extent of time, given they are not owned or under the control of the Applicant. If the Applicant did have control or ownership of the buffer land, the Committee is likely to have accepted a longer timeframe for quarrying activities. This is based on evidence that the delay by the quarry would not cause any residential supply issues in the region, and while delays to delivery of community infrastructure would present some inconvenience to future residents, the impact would not be unacceptable.

Broadly the Committee accepts the evidence of Mr Woodland that urban development is likely to be around 30 years for build out of the PSP and reach the nominal 500 metre buffer in around 15 years. However, given Conundrum's acceptance of retractable buffers and progressive rehabilitation, not all of the buffer land will be impacted for the remainder of the quarry's operations. As previous noted, by Stage 4 the buffers will be removed from the Gilbo land and substantially reduced on the YVW land.

The extent of urban development within the buffers that will be delayed by the quarry operations is subject to a range of factors including establishment and extraction timeframes, and rates of urban development that are subject to market forces that change over time. However, ultimately the Committee considers that in the balancing of competing objectives, some delay and some impost on buffer land is acceptable.

Finally, in the absence of the quarry being identified as a state resource or other evidence to suggest that 30 years would be unviable, the Committee supports the VPA's approach to the timeframe for extraction.

## 7 burrung buluk

### 7.1 Background

Recommendation 17 of Amendment C106 was:

Include explicit recognition of the need to plan for Hanna Swamp in the revised Precinct Structure Plan in, for example:

- The land description at 1.4
- The Vision at 2.1
- Requirement R1
- Table 10, Water Infrastructure.

The Terms of Reference require the Committee to advise the Minister on whether the amendment appropriately implements the recommendations of the C106 Panel, and any consequential changes to strategic planning for the PSP area.

The PSP shows an area of wetland along the mid-northern boundary marked in the legend as an area of ecological values. Plan 03 (Future Urban Structure) from the exhibited PSP is shown below with the wetland marked by a large blue arrow.

**Figure 9 Plan 03 Future Urban Structure with burrung buluk highlighted**



The wetland is marked in the PSP as *burrung buluk*, its Woi-wurrung Aboriginal name. The wetland was formerly known as Hanna Swamp.<sup>44</sup>

Many submissions were made, and much evidence called in the Hearing relating to burrung buluk around its ecological, landscape and other values, its future management, its spatial extent and how the road network might respond around the wetland.

Some submissions and evidence sought to respectively downplay and magnify the potential wetland values north of the PSP into the Wallan South PSP. In accordance with its terms of

<sup>44</sup> The Committee understands the name of the wetland has not been officially changed but uses the term burrung buluk in this report as that is the term used in the PSP.

reference the Committee focuses its comments and recommendations on the burring buluk area within the PSP.

For clarity reference to burring buluk in this chapter refers to that portion in the Beveridge North West PSP unless otherwise explicitly noted.

## 7.2 The issue

The issue is:

- how draft Amendment C158 implements the recommendations of the Amendment C106 Panel in relation to burring buluk and whether this is an acceptable planning outcome.

## 7.3 Evidence and submissions

Mr Glossop gave planning evidence for the VPA. In it he explicitly addressed the question of whether the draft amendment addresses the Amendment C106 Panel recommendation in relation to burring buluk.

Mr Glossop considered that the PSP faithfully translated the Panel recommendation into the PSP, but noted it:

...was not clear whether the PSP has afforded the asset the recognition that the Panel appeared to be seeking.<sup>45</sup>

He went on to discuss some of the larger landscape issues potentially at play including whether the wetland could or should play a greater role given its ecological values and potential as a community recreation asset. This discussion included the potential for a new regional park in this area.<sup>46</sup>

Mr Glossop also raised the issue of the appropriate zoning for burring buluk. He suggested three zones could be applied being Public Park and Recreation Zone (PPRZ) as exhibited, the Public Conservation and Resource Zone (PCRZ) or the Rural Conservation Zone (RCZ). He noted that the eventual zone to be applied will depend on tenure, that is for example a public land zone should not be applied if the land remained in private ownership.

He eventually settled on the RCZ as the most appropriate zone “...if it is not to be included as parkland in the PSP” as this would be consistent with its identified ecological values.

Mr Rob Dabal was called by the VPA to give evidence in ecology in relation to burring buluk. Mr Dabal had prepared a report in June 2021 (*the Hanna Swamp Investigation*) which identified ecological values of the wetland. His evidence, in summary, was that:

- the southern portion of burring buluk (within the PSP) retains important ecological values, including areas of the Plains Grassy Wetland EVC 125 of sufficient diversity to qualify it as Seasonal Herbaceous Wetland under the *Environment Protection and Biodiversity Conservation Act 1999*
- these values will degrade if not managed carefully
- infrastructure through or close to the wetland will lead to further decline of values
- increased space for stormwater treatment and wetland buffers is essential

<sup>45</sup> Document 41, para 122.

<sup>46</sup> The feasibility study for the park is to be released later this year the Committee understands.

- adequate consideration of buffers, connectivity and core habitat is essential as is monitoring and adaptive management.

Mr Dabal's evidence also noted that land management to the north will have an impact on the recovery of the southern portion of burrung buluk.

He also gave evidence that the wetland future management will require careful integration into the broader landscape and management should be informed by suitably qualified or experienced organisations and individuals.

Mr Woodland's evidence in relation to burrung buluk was that while the inclusion of the wetland in the PSP in a general sense was appropriate, his view was that:

... the representation of burrung buluk on the plans and land budget within the PSP suggest a much greater degree of resolution of the extent, boundaries and shape of the wetlands than is the case at the present time.<sup>47</sup>

His evidence was that the PSP should include annotations on relevant plans to the effect that the 'ecological values' area is subject to further refinement. Accordingly, he recommended that a concept plan approach could be adopted to determine the vision, extent, and management of burrung buluk more precisely. This would involve:

- identifying a slightly larger area in the PSP Plan 3 (the FUS) than the ecological values shown
- including a new requirement in the PSP for a concept plan to be approved by the Responsible Authority and detailing requirements of the concept plan.

Mr Woodland considered that areas in the approved concept plan identified as having ecological values could be retained in the RCZ and remaining areas have the General Residential Zone (GRZ) applied.

Ms Sandra Rigo was called to give expert evidence in town planning for Crystal Creek who owns most of the land in the Wallan South PSP to the north. In her evidence, Ms Rigo outlined her view of previous planning processes and how burrung buluk had not previously been identified for protection.

Ms Rigo's evidence drew on the work of other experts for Crystal Creek in helping to form her view that planning for burrung buluk in the PSP would be difficult without considering the implications for the Wallan South PSP.

She expressed concern about how the ecological values of the wetland area could be protected in an urbanising environment and supported the more constructed wetland approach put forward by Ms Barich in her hydrological evidence.

Ms Rigo supported retention of the burrung buluk area in the RCZ until the ownership and management responsibilities have been determined.

Ms Nina Barich gave evidence in hydrology for Crystal Creek. Her evidence included that restoring burrung buluk, including land to the north in the Wallan South PSP would involve significant engineering work and costs.

She considered that the difficulties in restoring burrung buluk should not be underestimated and that rather than restoring the area shown as ecological values in the PSP, a smaller constructed

<sup>47</sup> Document 63, para 20. His concerns were articulated in detail in section 9.1.2 of the evidence.

ephemeral wetland to protect Seasonal Herbaceous Wetlands values could be considered. She calculated that a smaller 2 hectare drainage reserve would be adequate which would increase developable land in the PSP by 14 hectares.

Mr Chris Beardshaw, a civil engineer, also gave evidence for Crystal Creek in hydrology. He developed a concept for how drainage could work in the burrung buluk area in the PSP to meet the requirements for stormwater management and ecological values through using a combination of treatment and ephemeral wetlands.

Dr Peter Gell, an ecological consultant specialising in wetlands, provided evidence for Crystal Creek on the physical characteristics of burrung buluk, notably the soil profiles in both the Wallan South PSP area and the PSP component. His conclusions went to uncertainties around what the original wetland form and components might have been, and whether, for example it might have hosted perennial aquatic vegetation.

His evidence highlighted some of the potential difficulties in seeking to replicate (restore) a past wetland and the potential need for significant management and artificial watering.

Mr Aaron Organ gave evidence on ecology for Crystal Creek. He outlined previous studies undertaken on the site and the strategic assessment work done over time. Mr Organ compared the biodiversity values of the northern part of burrung buluk (in the Wallan South PSP) with those in the PSP and considered whether restoration or rehabilitation of any of the northern section would be required to support the southern area.

Mr Organ considered that the prospect of an effective and efficient restoration / rehabilitation of burrung buluk, through reinstatement of the hydrological regime, was low. He also considered that there would be a reasonably significant investment of resources required to revegetate and provide ongoing weed control to allow for the successful rehabilitation of the swamp.

In its closing, the VPA noted that the landowner, YVW, does not object in principle to the general approach to burrung buluk, and Crystal Creek “...seeks to confine the extent of burrung buluk to this PSP and has led evidence of degraded ecological values in burrung buluk north.”<sup>48</sup>

The VPA also noted that there are a broader range of cultural issues and landscape considerations that are also relevant in consideration of burrung buluk. It submitted that it:

...continues to maintain its position that retention of the southern portion of burrung buluk, in Beveridge North West PSP is appropriate as it aligns with the current zoning of RCZ, responds to the landscape – in the same way as the hilltops retain as RCZ, gives effect to the C106mth recommendations, gives effect to the desires of the traditional owners, accords with the ecological evidence and retains options for the northern portion, contained in Wallan South, without constraining any outcomes.<sup>49</sup>

The VPA also submitted that burrung buluk north considerations are for the Wallan South PSP and this Committee should make no findings on that area.

In closing the VPA supported the approach of a concept plan for burrung buluk south but stressed that it did not see this a process for significantly decreasing the extent of burrung buluk south; its view was that it would be limited to changes associated with the western arterial road, and this would be ‘clipping’ the wetland buffer rather than ‘wholesale traversing’ of areas of ecological value.

<sup>48</sup> Document 195, para 92.

<sup>49</sup> Document 195, para 95.

It submitted that retention does not inherently mean inundation and areas that will not be inundated are not necessarily available for development.

It emphasised that the concept plan should recognise burring buluk south as not just being retained for ecological values but also for landscape and cultural values and its potential for inclusion in a future Wallan Regional Park.

The VPA maintained its position that the burring buluk area should stay in the UGZ with an applied RCZ.

Council's view was that the southern portion of burring buluk is correctly identified in the PSP as an area of ecological value that should be protected and potentially rehabilitated.<sup>50</sup> It noted the importance Mr Dabal placed on the need for clear ecological objectives for the area.

Council also submitted that it agreed with Mr Organ's evidence that it is difficult to consider burring buluk north and south separately. It also submitted that it considered the zoning of burring buluk south should remain in the RCZ until the eventual management arrangements and tenure are resolved.

YVW, the owner of the burring buluk south land, was supportive of the retention of the wetland area for its ecological values. It commended the approach of a concept plan suggested by Mr Woodland "*...that enables Burring Buluk's boundaries, form and function to be defined.*"<sup>51</sup>

In its Part B submission YVW supported the approach of the VPA in approving the concept plan, being via the UGZ schedule. It submitted that the future management needs and rehabilitation potential for burring buluk will need to be carefully considered to determine whether it is the best use of funds and whether a future return to urban purposes might be appropriate.

YVW submitted the range of requirements to be considered in the concept plan include:

- a) hydrology;
- b) ecology;
- c) buffers;
- d) cultural values;
- e) Integrated Water Management;
- f) public access and use;
- g) relationship with surrounding land uses such as residential development, active open space, landscape values and a potential Wallan Regional Park;
- h) alternative land uses (such as housing, open space etc.) should the conservation area retract or be removed; and
- i) roads (specifically, the alignment of the Western Arterial Road – see next section).<sup>52</sup>

Crystal Creek made extensive submissions in addition to the large quantity of evidence on burring buluk described above. These submissions in summary can be categorised at a high level as:

- the wetland has not previously been recognised in conservation planning
- any ecological values are only present in burring buluk in the PSP, not the area in the Wallan South PSP
- the future management arrangements for burring buluk are unclear and it is not clear if rehabilitation or restoration is even possible, especially in a time of climate change

<sup>50</sup> Document 148, para 9.1.

<sup>51</sup> Document 74, para 26.

<sup>52</sup> Document 158, para 74.



- the area to be set aside in burrung buluk is too large
- the ICP does not include funding for burrung buluk
- there needs to be flexibility in design for burrung buluk
- the various values of the wetland area are low
- the western arterial should be straightened (potentially through burrung buluk).

Crystal Creek called evidence and commented extensively on the submissions made by FOMC at the Amendment C106 Panel in 2020, ostensibly on the basis that those submissions were given too much weight, and whilst well intentioned, were misguided.

FOMC submitted again to this process and provided very extensive submissions covering much of the ground from the Amendment C106 Panel. The main points in summary were being that burrung buluk as shown on historic mapping and records covered an area as shown in the PSP and a much larger area in the Wallan South PSP. It submitted that while there has been very extensive modification and drainage, the wetland values are either extant to some extent or can and should be restored to a more natural (pre-settlement) form.<sup>53</sup>

It was assisted again by Mr Mark Bachmann from the Glenelg Nature Trust.<sup>54</sup> Mr Bachmann presented on his experience, mostly in western Victoria, on the restoration of wetlands. He expressed the view that it is feasible and inexpensive to restore burrung buluk primarily by reflooding and a trial could be undertaken to determine same. He submitted that a focus on the Seasonal Herbaceous Wetlands was counterproductive and there should be a broader focus on restoring ecological values, perhaps as part of a future Wallan Regional Park.

The FOMC submission was provided late in the Hearing as that is when it was scheduled to appear. Crystal Creek sought leave to provide additional submissions and evidence in response given the extensive nature of the material provided by FOMC. Leave was granted and additional submissions and evidence were provided.<sup>55</sup>

Whilst describing the submissions of FOMC as 'earnest' Crystal Creek sought to reinforce its views as put in its original submissions as to the misguided nature of the FOMC views and approach to burrung buluk. The additional material provided by the experts Mr Beardshaw, Dr Gell and Mr Organ similarly critiqued several elements of the FOMC within their areas of expertise.

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation provided a cultural values assessment in confidence and attended the Hearing to outline its views.<sup>56</sup> Without going into detail the Committee heard that burrung buluk has enduring cultural significance to Wurundjeri people, both for its past history and use by Aboriginal people but also the ongoing cultural and custodianship relationships that are articulated in Caring for Country.

<sup>53</sup> Submission Document 170, presentation Document 176.

<sup>54</sup> Mr Bachman, as was the case in the Amendment C106 Hearing, was not given the status of an expert witness as he had not pre-circulated a witness statement and was not subject to cross-examination. His material before the Committee is weighted accordingly.

<sup>55</sup> Documents 212 (submission), 213 (Mr Beardshaw), 214 (Dr Gell), 215 (Mr Organ).

<sup>56</sup> Copies of the Cultural Values Assessment (Document 101) were provided in confidence to the main parties to the Hearing by agreement with Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

## 7.4 Discussion

The key issue for the Committee in relation to burring buluk in the PSP is how Amendment C158 implements the recommendations of the Amendment C106 Panel and if this constitutes an acceptable planning outcome.

At its simplest level, in the FUS burring buluk is recognised as an area of ecological value, the shape being determined by the original wetland outline (waterbody) as shown in Plan 2 – Precinct Features, in the 2019 exhibition version of the PSP.<sup>57</sup> In addition, based on the Committee's site inspection the approximate wetland outline of burring buluk is still clearly visible in the landscape on the ground.

It became apparent early on in this Hearing, firstly through the evidence of Mr Glossop, and then through the evidence and concept plan suggestion of Mr Woodland, that there should be a further planning process to take consideration of the detailed planning for burring buluk to the next stage.

The Committee considers this an appropriate and useful approach to progressing planning for the burring buluk area, a task which would have been difficult if not impossible to attempt through the Hearing itself.

Importantly in the Committee's mind, this process is supported in principle by both the VPA and the landowner, YVW (and other parties). It also became apparent through the course of the Hearing that while protection of the Seasonal Herbaceous Wetlands is a key concern, there are significantly more issues at play than just that issue. The list in the previous section taken from YVW's submission is perhaps one of the clear indications of this view.

The Committee is also cognisant of the VPA view that the concept plan not be seen as an opportunity for the wholesale reduction of the burring buluk area and that any spatial changes are likely to be marginal, given the broad range of issues and values as mentioned above.

Mr Woodland with the leave of the Committee drafted the framework for the preparation of the concept plan to be inserted in the UGZ schedule. Through and post the Hearing this concept plan drafting was provided to parties for comments and suggestions. The VPA collated comments and provided a track changes final version that it prefers.<sup>58</sup> The Committee's recommended version is shown in Appendix E. The VPA also drafted changes to the PSP to reflect the concept plan.<sup>59</sup> Crystal Creek commented on this draft but the Committee considers the VPA version is acceptable and it is included in Appendix F.

The Committee notes the requests from FOMC and MCMC to be consulted during the development of the concept plan. These groups have demonstrated a significant interest in burring buluk over a long period of time and the Committee thinks it reasonable they be consulted on the draft concept plan, even if informally. The Committee has suggested wording in the UGZ schedule accordingly.

Finally in relation to burring buluk the Committee observes the considerable resources that Crystal Creek have invested in the PSP. Much of this work could be considered as positioning for

<sup>57</sup> There seemed to be some confusion in this Hearing that the wetland issue first came about when raised by the FOMC. This is patently not correct as the waterbody is shown in the original Beveridge North West PSP in Beveridge North and Wallan South; even if its future treatment was not articulated.

<sup>58</sup> Document 231.

<sup>59</sup> Document 221.

the potential examination of these and similar issues in the Wallan South PSP. Given the general agreement to develop a concept plan for burrung buluk, the Committee has not provided detailed commentary on the submissions and evidence as that would be premature. Relevant aspects can be considered during the development of the concept plan.

## **7.5 Conclusions and recommendations**

The Committee concludes:

- draft Amendment C158 generally implements the recommendations of the Amendment C106 Panel in relation to burrung buluk
- the draft Amendment should be modified to rezone the burrung buluk area to the Urban Growth Zone with the Rural Conservation Zone being the applied zone
- implementation will be greatly assisted by the development of a concept plan for the burrung buluk area of 'ecological values' as shown in the Future Urban Structure.

The Committee has recommended changes to the UGZ and PSP earlier in this report as shown in the appendices. These versions reflect the above conclusions of the Committee.

## 8 Traffic and transport

### 8.1 Background

The proposed street network for the exhibited PSP as set out in Amendment 158 is with some exceptions substantially the same as that exhibited in Amendment C106. The exhibited PSP shows the revised street network at Plan 09 (see Figure 10 below). This revised network includes a potential east-west connection over the Hume Freeway as recommended by the Amendment C106 Panel.

Figure 10 Exhibited Plan 09 from PSP<sup>60</sup>



The transport and traffic issues were dealt with in some detail in the Amendment C106 Panel Report and are not repeated in this report. With the inclusion of a quarry in the PSP as exhibited in Amendment C158, there are, however, some consequential matters with respect to the road network and submissions were also made regarding the potential impact of heavy vehicle traffic generated by a quarry should a permit be granted.

The VPA noted in its Part A Submission<sup>61</sup> that some submissions requested consideration of the timing for delivery of government infrastructure including the upgrade to the Hume Freeway, the Northern Highway and Camerons Lane Interchange and consideration of the pressures additional traffic from the PSP and proposed quarry may place on these elements of the road network. The VPA submitted that the proposed government road infrastructure was discussed at the

<sup>60</sup> November 2021 exhibited PSP, page 28.

<sup>61</sup> Document 14, page 45, section 7.3.1

Amendment C106 Panel Hearing and generally supported by that Panel. It submitted that these are not matters on which the Minister has requested advice from the Committee.

The Committee concurs with the VPA that further consideration of government road infrastructure is outside the Committee's terms of reference. There are, however, a number of issues on transport and traffic raised in submissions to the PSP, ICP and the quarry permit application that are considered by the Committee to be within its remit. These issues are dealt with below and in other relevant sections of this report.

## 8.2 Alignment of the Eastern Arterial Road adjacent to the quarry

### (i) The Issue

The issue is whether the alignment of the north-south eastern arterial road (RD-04 or **EAR**) should be moved to the west to take the alignment outside the proposed 250 metre inner buffer (blast) area.

### (ii) Evidence and submissions

The alignment of the north-south EAR is shown on the exhibited PSP Plan 09 (see Figure 10) as abutting the property boundary of the proposed quarry. It is therefore within the proposed 250 metre inner buffer area, whether that buffer is measured from the property boundary or the works authority area inside the property boundary.

The VPA noted in its Part A submission that although the quarry would time-limited, there could potentially be a need for the EAR to be delivered while the quarry is operational. The VPA therefore proposed that the EAR be realigned 200 metres to the west so that there would be the ability to deliver the road outside the proposed 250 metre inner buffer area, before cessation of quarry operations.

The VPA stated in its substantive submission that it had sought to test the exhibited alignment of the EAR and the relocated alignment through evidence against the following principles:

- the EAR could be delivered at the boundary of WA1473 provided that extraction had progressed some 150 metres from the edge of the extraction area to form an approximate 200 metre buffer (Moore and Hellig)
- blasting could be scheduled at times that would not compromise peak hour traffic and would occur fortnightly (Natoli)
- with blasting, roads can be closed subject to the road manager's permission with an expected maximum closure duration of one hour
- there would be no risk of ground vibration from blasting causing damage to road infrastructure once the 200 metre buffer from the quarry extraction face had been achieved.<sup>62</sup>

The VPA submitted that the tracked changes draft quarry work plan estimated a 17 year timeframe for stages 1 and 2 which would provide the requisite setback for the EAR to be delivered without the need for road closures. It added that with road closures, the EAR could be delivered earlier.

<sup>62</sup> Document 144, [92].







Eastern Arterial (RD-04) as identified within the Beveridge North West Infrastructure Contribution Plan (Date and version to be included) after 31/12/2032 unless otherwise agreed by the Head, Transport for Victoria

- Additional condition b  
Prior to the commencement of works, a phasing plan that demonstrates that all blasting activities will have ceased within 200 metres of the Eastern Arterial (RD-04) in the Beveridge North West Precinct Structure Plan by 31/12/2032 must be prepared and submitted in writing and approved to the satisfaction of the Head, Transport for Victoria.<sup>69</sup>

DoT submitted that the proposed conditions enable and facilitate the delivery of the EAR while the quarry is operational. It noted that without adequate conditions it is unclear whether the EAR can be delivered in a timely manner. DoT added that a time limit on blasting within 200 metres of the proposed location of the EAR is needed because:

- there are factors that will impact the rate of development
- it is too difficult to estimate with any certainty when the EAR would be required
- Conundrum advised that the ramp down into Stage 1 could be completed within 18 months of commencement of quarry operations and completion of this ramp and hence blasting activities would provide the 200 metres clearance to the EAR reserve.<sup>70</sup>

DoT did not express a strong preference for AB or BB. It submitted however that if the Committee considers it possible on the evidence to deliver the EAR along the western boundary of the quarry site, DoT would welcome that outcome subject to DoT's additional permit conditions (outline above). It concluded that:

.....Pragmatically, the Department would prefer a deliverable road that needs to be closed at the most convenient time for the road network, rather than an alignment that is unable to be delivered during the life of the quarry.<sup>71</sup>

### (iii) Discussion

Both the exhibited alignment of the EAR along the western boundary of the quarry site and the realignment to the west (as proposed by the VPA to avoid a possible blast buffer) are workable options. No evidence was presented to the Committee that indicated one option was significantly superior from a traffic engineering and road network design perspective.

The key consideration appears then to be whether either option is better in terms of enabling timely delivery of the road. Again, either option is acceptable although leaving the EAR on its exhibited alignment would require appropriate staging of quarry operations to shift blasting to the east away from the WA1473 western boundary as soon as possible. It could also require a blasting management plan and potentially infrequent, short duration closures of the road should it be delivered before blasting has ceased within 200 metres of the road reserve.

DoT did not object to possible road closures provided that ERR agreed to an appropriate blasting and road management plan. The additional permit conditions requested by DoT should the exhibited alignment of the EAR be confirmed appear to be reasonable and no objections to them were raised by Conundrum or other parties.

Shifting the alignment of the EAR west to take it clear of the inner buffer area would negate the need for temporary road closures and remove the reliance on a staging plan for quarry operations to ensure that blasting ceased within 200 metres of the road reserve before the EAR could be

<sup>69</sup> Document 94, Attachment 1

<sup>70</sup> Document 94, [38]

<sup>71</sup> Document 94, [51]



delivered. Adopting the alternative alignment would arguably give greater certainty that the EAR could be delivered to meet PSP development timelines and thus could be considered a better outcome.

There are, however, other considerations. No parties objected to the exhibited alignment being confirmed and the alignment of the EAR as exhibited is workable albeit with some conditions on quarry operations and management of the road.

A further consideration which in the Committee's view is significant is what alignment is the better outcome in terms of the Future Urban Structure of the PSP. For the reasons advanced by the VPA and YVW in support of FUS Alternative BB over Alternative AB, the exhibited alignment allows for a superior outcome in terms of urban structure. For that reason and in the absence of any traffic engineering and quarry operations evidence to the contrary, the Committee considers that the existing, exhibited alignment for the EAR should be adopted in the final PSP. The further conditions requested by DoT should a permit be granted for the quarry are discussed in Chapter 17.3.3.

#### (iv) Conclusions and recommendations

The Committee concludes:

- there are practical and workable blasting and road management arrangements that could be adopted to enable timely delivery of the EAR on the alignment as shown in the exhibited PSP along the boundary of the quarry site
- the exhibited alignment provides scope for a better outcome in terms of urban structure and in the absence of compelling traffic reasons to the contrary, should be preferred to the alternative, more westerly alignment
- the revised FUS with alignment BB retains the exhibited EAR alignment and makes other changes in relation to other proposed land uses the Committee supports.

The Committee recommends the revised FUS and alignment BB in Chapter 9.4 accordingly.

## 8.3 Alignment of the Western Arterial Road

#### (i) The Issue

The alignment of the north-south Western Arterial Road (the **WAR**) in the exhibited PSP shows the northern section of the road curving around a hill and then around burrung buluk (see Figure 9).

Three alignments were analysed by Cardno as shown in Figure 13.

**Figure 13** Cardno Road alignment options – burring buluk<sup>72</sup>



The issue is whether the road should generally follow the alignment shown in the exhibited PSP or should its alignment be straightened in the vicinity of burring buluk by aligning the road through the saddle further to the west (option RD-03a) rather than around the hill (option RD-03b).

## **(ii) Evidence and submissions**

The VPA submitted that both options RD-03a and RD-03b provide for an acceptable road network that meets technical parameters, for example curvature, but acknowledged that option RD-03a over the saddle is preferable from a road function perspective. The VPA noted that the Cultural Values Assessment provided to the Committee did not express a concluded view on the preferred alignment.

In its substantive submission, the VPA submitted that the ecological evidence with respect to burring buluk “...suggests there is room, in an ecological sense, to contemplate a less severe orientation of the WAR that might encompass some land at the western edge of the swamp.”<sup>73</sup>

In closing submissions, the VPA noted that DoT had indicated a preference for the WAR to go through the saddle rather than around the hill. The VPA stated that it intended to proceed with finalising the PSP with the current alignment with further refinement to ensure it meets the safety standards identified by DoT. The VPA advised that it was yet to receive the views of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation but should it prefer that the road go over the saddle prior to approval of the PSP, it would finalise the road design in consultation with DoT, the landowner and the Traditional Owners.

Council submitted that the WAR alignment proposed in the revised PSP is not appropriate because it would very expensive and there is limited adjacent development to fund its delivery through its northern reaches of the PSP and through burring buluk and parklands. It submitted that an alternative alignment should be considered and re-costed with consideration given to how it will

<sup>72</sup> Document 77c, page 23.

<sup>73</sup> Document 144, [157].

be funded to ensure its early delivery. It noted in closing submissions that the alignment can only be settled once the boundary of burrung buluk is determined which may show that it is not necessary for the road to go through burrung buluk.

DoT recommended that the Committee should adopt the alignment through the saddle of the hilltops (RD-03a in the Cardno report) if that alignment is supported by the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

DoT added that this preference is based on the principle that a primary arterial road should be as straight as possible to ensure that the road design meets good design practices, preferred safety and design parameters and avoids the use of absolute minimum design standards as the default standard. The primary basis for DoT's preference for RD-03a over the curvilinear RD-3b alignment shown in the exhibited PSP and ICP was that the curvilinear alignment around the side of the hill is not commensurate with the road's function as a primary arterial road and a straighter route through the saddle to the west of the hill is more appropriate for a road with an 80km/hr posted speed. DoT stated that if the RD-03b alignment is preferred by the Committee, revisions to the PSP to resolve design and safety issues to its satisfaction would be needed prior to gazettal of the PSP and ICP.

Mr Reece Humphreys in his expert evidence statement noted that a reverse curve was allowable under the Austroads Guide to Road Design Part 2 (AGRD) where it is unavoidable and, in this case, the alignment of the northern section of the western arterial road (RD-03b) was designed with a reverse curve to avoid burrung buluk. In his assessment, the design of the RD-03b alignment exceeds the desirable and absolute minimum radii requirements in the AGRD and he supported the alignment.

YVW noted that the exhibited PSP includes a curving alignment to avoid the currently shown extent of burrung buluk. It submitted that whilst the VPA, DoT and YVW agreed that the suggested curving road is an acceptable outcome, the concept plan to be prepared for burrung buluk provides an opportunity to straighten the road which would be desirable on traffic engineering terms and cost grounds. YVW referenced the submission of DoT confirming DoT's preference for a straighter road. YVW acknowledged that an area of Seasonal Herbaceous Wetland would be lost if the road were straightened but the opinion of Mr Organ was that there is no Seasonal Herbaceous Wetlands in the Wallan South area and the western extent of mapped Seasonal Herbaceous Wetlands within PSP is already disturbed by an access road and dam.<sup>74</sup>

YVW submitted that:

In the circumstances, YVW submits that a straightening of the WAR through the swamp should be considered through the future Burrung Buluk concept planning process. Without making determinative findings on where the road should go, the Committee should acknowledge this issue in its report. Further, if the straightening of the road is chosen and results in a meaningful reduction in cost, then this should trigger a review of the ICP with costs adjusted accordingly.<sup>75</sup>

Crystal Creek cited the evidence of Ms Marshall that the curvature of RD-03b, set to minimum standards, might have road safety implications, and opined that DoT appeared to be sympathetic to Ms Marshall's concerns. Crystal Creek submitted that it follows that the road should be as straight as possible particularly when there is much doubt over the value and long term future of

<sup>74</sup> Document 158, [85].

<sup>75</sup> Document 158, [86].

the ecological values of the remnant Seasonal Herbaceous Wetlands and at the very least, the possibility should be left open pending the conclusion of the burrung buluk concept plan process.

After the Hearing, the VPA informed the Committee that it had received notification from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation that the Corporation's preferred alignment of the WAR is "Option A (over the saddle)". The VPA stated that it had not received any further reasoning or explanation for the position, and it understood that the reference to "Option A" correlates with the 'over the saddle' alignment "RD-03a".<sup>76</sup>

In response to this advice from the VPA, DoT informed the Committee that consideration of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation position is warranted in finalisation of the WAR alignment, it does not oppose the position of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation as it relates to matters of cultural heritage and *"the Department's position relating to the design and transport functionality merits of the alignments remain unchanged."*<sup>77</sup>

Council informed the Committee that its preferred alignment of the WAR is "Option A" (over the saddle). It submitted that:

- the pedestrian crossing and intersections with east/west roads (as previously exhibited) should be shown on the revised route
- clarification be sought from the VPA on the ICP implications for the alternative route through the Rural Conservation Zone land
- a cultural values assessment and other technical studies, including geotechnical investigations and a visual assessment, will be required for the proposed road alignment.

YVW noted that the VPA had not received any further explanation from Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation on its position and YVW is therefore limited to addressing the merits of the 'over the saddle' alignment based on the available information. It stated that it has significant concerns with a shift to the 'over the saddle' alignment as follows:

- visual/landscape impact: the alignment would pass through 'landscape values' land in the PSP at a higher and more exposed way than other options, would require extensive cut into the hills and is the option which is least sensitive to the natural landform
- engineering and costs: the 'over the saddle' alignment is the most expensive option and has road usability shortcomings, in particular, steep grades and non-ideal curves.

YVW submitted that the 'over the saddle' option was not subject to thorough consideration by relevant experts in that submitters to the Hearing focussed on the exhibited 'around the swamp' option being pursued by the VPA. It submitted that based on the updated Cardno Infrastructure Design and Costings Report (attached to the evidence of Mr Benny Vocale and Mr David Slade), the 'over the saddle' alignment is shorter but costing more due to greater earthworks, steeper grades and could require very large land takes due to greater batter lengths.

YVW stated that inclusion of the 'over the saddle' option in the PSP and ICP would require consequential changes including to the Future Urban Structure PSP plan; the Land Use Budget; the location and design of intersections; the burrung buluk Concept Plan; and details on the WAR included in the ICP such plans showing the monetary component of transport projects and public purposes land and tables showing the transport construction projects including costs.

<sup>76</sup> Document 232, page 2.

<sup>77</sup> Document 236, page 2.

In conclusion, YVW submitted that:

.....the inclusion of the Over the Saddle Alignment in the PSP would be a significant change to the PSP and as such, further investigation, testing and analysis is required before this option could be adopted.<sup>78</sup>

In final submissions on this matter, the VPA advised that it accepted the position of Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation but acknowledged the submissions of the Council and YVW identifying implementation considerations with the 'over the saddle' Option A alignment which included:

- the extent of cut and fill that would be required most likely resulting in visual impact to a prominent hilltop landscape values area, severance of the hilltops landscape values area, and the need for bridges to facilitate active transport and potential cost implications
- the creation of an isolated and potentially difficult to access area of development between the arterial road and burrung buluk
- ICP funding issues arising from the arterial road traversing land in the RCZ as opposed to the UGZ in the Option B alignment.

The VPA noted that Option B was thoroughly canvassed through evidence and submissions and since the close of the Hearing, it has worked with DoT to refine Option B to resolve DoT's safety concerns and has resulted in the road alignment '*...largely avoiding burrung buluk.*'<sup>79</sup> The VPA submitted that the testing and refinement of Option B has established a workable and effective alignment and the Committee has the information required should it determine to recommend this option.

VPA reiterated its support for the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation position regarding Option A and submitted any recommendation of the Committee to adopt Option A should endorse the following actions:

- refinement of the WAR alignment and engineering design including cut, fill and associated costings
- relocation of traffic infrastructure
- mitigation of landscape and visual impacts
- planning implementation including revisions to the PSP, the ICP and the burrung buluk concept plan provisions.

The VPA noted that substantial impacts on the landscape in the form of cut and fill may be required for Option A and the cultural impact of these may inform the design and the ultimate position of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. It submitted that:

Accordingly, any recommendation of the Committee adopting Option A should identify the need for cultural input to the design process from the Wurundjeri woi-wurrung to secure the best possible protection of cultural values associated with burrung buluk and the hilltops.<sup>80</sup>

### (iii) Discussion

The issue is the alignment of the WAR over its northern section near burrung buluk. The Committee is firmly of the view that the road should avoid cutting through the burrung buluk area. It does not agree with the position put by Crystal Creek that the road should be 'as straight as

<sup>78</sup> Document 237, [4].

<sup>79</sup> Document 238, [9].

<sup>80</sup> Document 238, [14].

possible'; the Committee infers that to mean that some of burring buluk could be sacrificed to allow for the road to be straightened. The area of burring buluk will be determined through the concept plan process.

The VPA has shown in the exhibited PSP a curved alignment Option B for the road (based on option RD-03b in the Cardno report) which avoids the burring buluk area as depicted in the exhibited PSP. This introduced some design standard and safety issues as noted by DoT and Ms Marshall but the VPA has subsequently advised that these design issues have been resolved to the satisfaction of DoT with an alignment that 'largely avoids' burring buluk.

The alternative Option A alignment over the saddle is well clear of burring buluk and in the Committee's view would be acceptable notwithstanding the 'road usability' issues raised by YVW. Option A does, however, present some significant implementation issues associated with the possible need for extensive cut and fill with consequential landscape visual impacts, the creation of an isolated development area and potential ICP funding issues. There will most likely also be additional costs to implement Option A compared with Option B.

On balance, the Committee considers Option B to be the preferable option. That said, the Committee is mindful of the preference expressed by the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation for Option A. That preference of the traditional owners should be given considerable weight although it should be noted that the Corporation did not provide its reasoning for preferring this alignment.

The Option A 'over the saddle' alignment would be more visually intrusive on the landscape and should be more thoroughly assessed to confirm that it is acceptable to the Wurundjeri Woi-wurrung Cultural Heritage Corporation and other parties in terms of visual and cultural heritage impacts. The Committee agrees that a further assessment of the Option A alignment is needed before a definitive conclusion can be reached on the best alignment of WAR. This further work on the 'over the saddle' Option A alignment should include a visual/landscape impact assessment, a cultural heritage assessment and confirmation of the preliminary design and costings in comparison to the exhibited Option B alignment. It should be done in close consultation with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, the landowner (YVW) and DoT.

#### **(iv) Conclusions and recommendation**

The Committee concludes:

- further assessment of the 'over the saddle' Option A should be done before the alignment of the Western Arterial Road is determined
- this further assessment should be done in consultation with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, the landowner (YVW) and DoT, and should include:
  - a visual/landscape impact assessment
  - a cultural heritage assessment
  - confirmation of preliminary designs and costings compared with Option B
  - assessment of implementation issues including the potential creation of an isolated development area and ICP funding issues
- the alignment of the western arterial road should be confirmed and the PSP and ICP updated as necessary including costings in the ICP to reflect the adopted alignment before the PSP and ICP are finalised.

The Committee recommends:

**Undertake further assessment of the ‘over the saddle’ Western Arterial Road Option A to confirm that this alignment is acceptable in terms of visual impact, cultural heritage and Precinct Structure Plan and Infrastructure Contributions Plan implementation implications before the alignment of the Western Arterial Road is finally determined.**

**Undertake further assessment of the Western Arterial Road Option A in close consultation with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Yarra Valley Water as landowner and the Department of Transport.**

## 8.4 Old Sydney Road

### (i) The Issues

The issues are:

- the role and function of Old Sydney Road
- whether its development should be included in the PSP and ICP?
- whether the shared path shown on the Old Sydney Road PSP cross-section be deleted?

### (ii) Evidence and submissions

#### Construction of Old Sydney Road

Council submitted that the revised PSP and associated traffic analysis fails to properly consider the role that Old Sydney Road will play, whether or not it is included in the PSP. It considered that the transport options for the PSP would be improved with proper planning of Old Sydney Road, particularly with the Camerons Lane interchange realistically being some time away, and its inclusion in the PSP and funding by the ICP.

Council noted that Old Sydney Road is presently an alternative to the Hume Freeway for commuters heading north or south and submitted that:

We emphasise to the Committee that the road is **being** and **will** (Council’s emphasis) be used with greater intensity and a failure to ensure that it is constructed in a safe manner (as drawn in the PSP) is a critical failure in planning by the VPA and respectfully the C106mth Panel, in so far as it had some limited regard to matters albeit absent proper evidence.<sup>81</sup>

Council stated that there is no dispute about the construction of Old Sydney Road, the debate is about the delivery method. It expressed concern that the PSP as currently drafted does not support a permit condition that requires Old Sydney Road to be constructed by an abutting developer. It requested that a “developer works” section be included in the ICP.

Council submitted that if Old Sydney Road is not funded in the ICP, the PSP must ensure that a valid permit condition can be imposed on any permit for development of land fronting Old Sydney Road. To make it clear that Council can impose a valid condition, it submitted that this at least requires Old Sydney Road:

- to be within the PSP boundary
- identified in the Precinct Structure Plan

<sup>81</sup> Document 78, [8.8 (3)]

- identified as a road to be constructed by the developer in PSP Plans 3 (FUS) and 9 (Street Network) in the PSP.<sup>82</sup>

The VPA noted that the greater concern related to Old Sydney Road to the south of the PSP because in the short term, until delivery of the Camerons Lane/Hume Freeway interchange, some traffic is assumed by Mr Pelosi and Ms Marshall to use Old Sydney Road to head south. Old Sydney Road is unsealed from approximately one kilometre to the south of Camerons Lane until it terminates at Mickleham Road seven kilometres to the south.

The VPA submitted that while the use of Old Sydney Road in the short term by a limited number of vehicles is not ideal, there is no nexus between the development of this PSP and improvements to Old Sydney Road to the south of the PSP. It added that this is not a matter that interim modelling would change and submitted that:

The concerns about Old Sydney Road to the south are beyond the PSP and ICP area and do not necessitate amendments to the PSP or the ICP.<sup>83</sup>

The VPA noted that development of Old Sydney Road to the north was debated at the Amendment C106 Hearing. It submitted that Old Sydney Road to the north is “a road to nowhere”<sup>84</sup> expected to have low traffic volumes into the future and any proposal to develop this road as an arterial road should be rejected.

The VPA submitted that there is an appropriate requirement (now R33) covering developer works and agreed to a minor amendment to R33 by inserting the following underlined words:

Connector roads and local streets, including Old Sydney Road at the time of abutting subdivision.<sup>85</sup>

It also supported Council’s request to update the Precinct Infrastructure Plan in the PSP to reflect the upgrade of Old Sydney Road adjacent to the PSP while noting that this infrastructure is not an ICP item.

### **Old Sydney Road Cross Section**

YVW submitted that there are significant issues along the proposed path alignment including steep grades, erosion and drainage issues. It submitted that the shared path be deleted because of the complexity in construction; it would not be easily accessible to residents of the PSP; would require regular maintenance; and alternative, better located and aligned paths are available within the PSP.

The VPA opposed the submission by YVW to remove the shared path external to the PSP along Old Sydney Road from the relevant PSP cross section. It noted that this cross section was included in the previous Amendment C106 PSP and was not contested at the Amendment C106 Hearing.

Council expressed a preference for the shared path to remain in the cross section and noted that the annotation to the cross section provides future flexibility.

### **(iii) Discussion**

The role and function of Old Sydney Road during the interim period before build out of the PSP and its road network was considered at length during the Amendment C106 Panel Hearing and

<sup>82</sup> Document 148, [13.1]

<sup>83</sup> Document 144,[109]

<sup>84</sup> Document 144, [111]

<sup>85</sup> Document 195, [29]



covered in the Amendment C106 Panel report. In short, that Panel concluded that Old Sydney Road should not be part of the PSP arterial road network. Although that Panel did not have before it an ICP, its conclusion with respect to Old Sydney Road remains valid. The road will no doubt continue to carry some north-south traffic during development of the PSP but that cannot justify ICP funds being used for improvements along Old Sydney Road particularly for the unsealed sections to the south and north of the PSP.

Unlike the Amendment C106 Panel, this Committee does have an ICP to consider which does not include Old Sydney Road. In its view, no new evidence has been presented with respect to the revised PSP or ICP which would lead it to reach a different conclusion to the Amendment C106 Panel. That is to say, the Committee is not persuaded that Old Sydney Road should be included in the PSP Precinct Infrastructure Plan and therefore the ICP.

The Council questioned whether the revised PSP includes sufficient provisions for it to impose permit conditions for improvements to Old Sydney Road where it abuts the PSP area to be developer works. The VPA argued that R32 (now R33) allows for the imposition of permit conditions and accepted some changes to wording proposed by Council to strengthen the provisions. The Committee accepts the case put by the VPA and supports the proposed changes to R33.

The request by YVW that the shared path be deleted from the Old Sydney Road cross section was not put to the Amendment C106 Panel, and is arguably outside the terms of reference of this Committee in that this issue does not arise because of the inclusion of the quarry in the PSP nor through revisions to the PSP to implement other recommendations of the Amendment C106 Panel.

In any case, the Committee is not convinced that the shared path should be deleted notwithstanding the potential construction difficulties cited by YVW. The shared path could in the Committee's opinion provide an attractive path along the periphery of the PSP and the annotation on the cross section provides flexibility for the future consideration of development applications along Old Sydney Road.

#### **(iv) Conclusions and recommendation**

The Committee concludes:

- Old Sydney Road should not be included in the ICP
- the change to PSP R33 to add the following underlined words should be made:  
Connector roads and local streets, including Old Sydney Road at the time of abutting subdivision
- no other changes to the PSP with respect to Old Sydney Road are required.

The Committee recommends:

#### **Amend the Precinct Structure Plan R33 by adding the following underlined words:**

Connector roads and local streets, including Old Sydney Road at the time of abutting subdivision

## 8.5 The Alternative Walsh Road Network

### (i) The issue

The issue is whether the alternative PSP road network proposed by Mr Jason Walsh should be adopted.

### (ii) Evidence and submissions

Mr Jason Walsh stated in his expert evidence statement for Crystal Creek that the encumbrance of burring buluk, the quarry and the topography will result in the two north-south arterial roads in the northern part of the PSP having a separation of around 500 metres which is well below the typical one-mile (1.6 kilometre) grid and diminishes the need for two arterial roads in this area of the PSP. He also noted that the separation between Camerons Lane and the realigned Hadfield Road as proposed in the draft Wallan South PSP would be approximately 4.4 kilometres. He considered that this separation and the employment attraction of the Beveridge Intermodal Freight Terminal merited the provision of a midblock east-west arterial road through the PSP to connect across the Hume Freeway.

He referenced the draft Wallan South PSP and said that in his opinion, a more refined road network could be provided by the cessation of one of the north-south arterial roads from north of his suggested mid-block east-west arterial.

Mr Walsh concluded that the PSP road network need only provide a single north-south arterial road from north of his recommended east-west arterial and that the eastern north-south arterial road is the logical road to extend.

He proposed two options with Option B (see Figure 14 – with modifications agreed with YVW) removing Hadfield Road (in the Wallan South PSP) from traversing burring buluk.

The VPA noted that in cross examination, Mr Walsh agreed that his proposed link over the Hume Freeway would not accommodate levels of traffic that would justify an arterial connection and he indicated that the road could be justified for reasons of connectivity.

**Figure 14** Modified Option B from Mr Walsh<sup>86</sup>

The VPA submitted that:

While it may be that normal traffic conditions can be accommodated with a western connector, the dual arterial road system provides redundancy, flexibility and creates a robust arterial road network.

The VPA considers the reasons advanced and accepted by the C106mth Panel remain and that Mr Wash's proposal, coming as it does well down the advancement of the PSP process, is untested through modelling prepared by the Crystal Group and ought not be adopted at this time. In that respect the VPA returns to the Panel's conclusions in C106:

- Two new arterial roads running north/south through the PSP is justified and will enhance subregional connectivity and resilience.
- The proposed network is superior to the alternative of having one new arterial road combined with an upgraded Old Sydney Road.<sup>87</sup>

Council did not support Mr Walsh's Option B to truncate the western arterial road. It supported the position of DoT that this western arterial is an important arterial connection. Council stated that it supported the potential east-west crossing over the Hume Freeway as shown on PSP Plan 10. It submitted that the PSP should be amended to include the connection as part of the precinct infrastructure and responsibility for its delivery should be assigned to either the state or the PSP to the east of the Freeway.

DoT recommended that the Committee should reject the alternate road network proposed by Mr Walsh. It commented that the separation distances between the two north-south arterial road alignments are similar to those considered by the Amendment C106 Panel and submitted that it objected to the Walsh proposed road network on the grounds that:

<sup>86</sup> Document 99.

<sup>87</sup> Document 144, [118] [119].

- development on the eastern side of the Hume Freeway is primarily residential development and the master planning for the area has not accounted for a secondary arterial road connection as proposed by Mr Walsh
- removal of the western arterial road would force all modes of transport on to one section of road which would reduce the efficiency and resilience of the transport network
- it would require the whole of the western arterial road network to be redesigned as a secondary arterial and would downgrade its ability to cater for sub-regional movements
- it demonstrates no actual benefit to the local, sub-regional and regional transport network and appears to benefit the landowners to the north of the PSP from where the road would be removed.

DoT noted that the proposed crossing over the Hume Freeway as suggested by Mr Walsh does not support an arterial road design and its provision as a local connector road would provide the function advocated by Mr Walsh including the convenient east-west connection for future residents.

### **(iii) Discussion**

No parties submitted that the alternative network proposed by Mr Walsh should be adopted. As noted by DoT, the Walsh network would be detrimental to the efficiency and resilience of the road network and would not benefit the sub-regional and regional network.

On the face of it, the Walsh proposal appears to be driven more by the preliminary road network for the Wallan South PSP which is at this time only in draft form and not before this Committee for consideration.

The Committee concurs with the conclusions of the Amendment C106 Panel and has heard no evidence to suggest that the Walsh network would be superior to the road network in the exhibited PSP which in terms of the arterial road network is substantially the same as that considered by the Amendment C106 Panel. A potential east-west connector street over the Hume Freeway is already shown on the exhibited PSP road network which would provide the connectivity advocated by Mr Walsh. The Committee sees no justification to take the Walsh proposal any further at this late stage in the PSP process.

### **(iv) Conclusion**

The Committee concludes:

- the exhibited PSP arterial road network should not be altered to accommodate the proposed changes in the alternate road network put forward by Mr Walsh.

## **8.6 Interim Traffic Modelling**

### **(i) The issue**

The issue is whether there is a need for interim traffic modelling.

### **(ii) Evidence and submissions**

Mr Pelosi noted in his traffic evidence statement on behalf of Council, that there is no updated transport modelling for the interim period (representing 75% build-out) which was originally modelled in December 2018. He considered that in the absence of interim modelling, it is difficult to assess the adequacy of the road network as the PSP is progressively developed. He suggested

that without interim modelling, values can be derived by considering the ultimate traffic volume at full build-out on the northern portions of the two north-south arterial roads and extrapolating 'backwards in time' to an interim period. He then went on to present this estimation process based on 75% build-out.

Ms Marshall noted in her expert statement on behalf of YVW that the 2018 GTA traffic modelling included both an interim and ultimate scenario. She stated that in her opinion there would be benefit for future developers, the Council and DoT to understand the projected interim conditions, as per the original GTA analysis, updated to reflect the revised PSP.

Council stated that the VPA had not provided any updated transport modelling since planning for the quarry in the PSP. It submitted that the absence of interim modelling demonstrates that the VPA has given insufficient consideration as to how the road network is best staged and what traffic capacity should be provided in the context of the proposed quarry.

YVW stated that it adopted the evidence of Ms Marshall that updated traffic modelling was desirable to reflect the land budget changes associated with the quarry, its buffers and burrung buluk for interim conditions. It submitted that Ms Marshall's evidence highlights that as arterial roads and intersections are typically constructed to an interim standard during PSP development, the interim condition is highly relevant. This is especially for this PSP given the more constrained land in its northern quadrants due to the quarry, and the low probability that the northern sections of the arterial roads being delivered in the short to medium term.

In closing submissions, YVW submitted that:

.... this PSP and ICP have the more complicated issue of the potential inclusion of a quarry, extending the life of the PSP and ICP and modifying ICP cashflows. Thus, the issue of infrastructure priorities, and extended 'interim conditions' are real. In the circumstances, YVW submits that the Committee should accept Ms Marshall's recommendation that VPA should commission interim modelling.<sup>88</sup>

In its Part B submission, the VPA was critical of the request for interim modelling outlined by Mr Pelosi and Ms Marshall. It submitted that the interim position described by Mr Pelosi was rudimentary at best and his approach was problematic because it assumed full build out of the broader network and equal distribution of traffic generating sources across the PSP. It argued that the 75% factor applied by Mr Pelosi (to the 2046 ultimate forecast traffic volumes from the 2020 modelling outputs to estimate interim traffic volumes) assumed that the entire Northern Growth Corridor is at 75% build out at the time of 'interim conditions'. The VPA submitted that this assumption was highly unlikely, not a reasonable basis for assessment and an inaccurate assessment is not a sound basis for requiring an interim model.

The VPA noted the evidence of Ms Marshall that interim modelling would assist Council and the community to understand the projected interim conditions but stated that it preferred the evidence of Mr Humphreys that:

....interim modelling has proved to be impractical and inconclusive in relation to development sequencing considerations because a multitude of scenarios would be required to test the various combinations of sequencing rates and patterns, plus the timing of road/transport network improvements across the corridor.<sup>89</sup>

It argued that the need for interim modelling, as previously done by the VPA, has been resolved using benchmark designs for intersections which feature the ultimate approach lane configuration

<sup>88</sup> Document 158, [103]

<sup>89</sup> Document 144, [88].

and full intersection flaring. The VPA submitted that as the capacity of the road system is mainly determined by intersection capacity, the interim network is sufficient to cater for the anticipated capacity requirements of the PSP for a reasonable period.

The VPA submitted that the delivery of an interim scenario would simply be a modelling exercise with no link to the reality on the ground as conditions evolve. It noted from the evidence of Ms Marshall that she regularly does interim modelling to test individual permit applications, which it deemed appropriate to test conditions at the time a development is proposed, using accurate traffic survey data. It submitted, however, that reliance on a 'point in time assumption interim position' is unhelpful in a dynamic development context, and interim modelling would not materially inform the decisions made through the implementation of the PSP which are driven by the market bringing land to development and the delivery of works in kind infrastructure.

In closing submissions, the VPA submitted that an interim model prepared at this time for a single scenario has little utility in the planning of infrastructure for the area at the permit stage as argued by YVW. It considered that the interim model is very unlikely to influence what items in the Precinct Infrastructure Plan (**PIP**) must be submitted with a permit application under the provisions of the UGZ. Rather, this information will be guided by the physical location and the road network that needs to be delivered to serve the area covered by the permit application.

The VPA submitted further that Council's view that interim modelling would answer the question of when the western arterial road may or may not be essential to the development of the ICP area, is misconceived in that the exercise required to deliver an assessment on the timing of infrastructure works is not a single interim model. It submitted that the request for an interim model is "*....a 'creature' which is not neatly packaged, is not easily described and which is not ultimately, to borrow the words of counsel for Yarra Valley Water, useful in the way that modelling can sometimes be.*"<sup>90</sup>

### **(iii) Discussion**

While the Committee agrees with Mr Pelosi and Ms Marshall that interim modelling could be useful, it does not consider it to be essential to understand conditions as the PSP is progressively developed. There are several difficulties associated with interim modelling, including determining what point in time should be modelled, and what assumptions as to build-out and the state of the road infrastructure should be inputs to the interim modelling. This means that the modelling of multiple scenarios would be needed but there would be no surety as to which scenario, and hence modelling outcome, would best reflect likely future conditions.

Picking and choosing between multiple modelling results would in the Committee's view be unhelpful to authorities in determining priorities and timing for the delivery of infrastructure, as the PSP is developed over time and permit applications progressively made. The Committee considers that traffic modelling should be done at the time of significant development applications when existing and committed transport infrastructure and actual traffic volumes can be used as inputs to the modelling.

The Committee also notes the opinion of the VPA that while interim traffic modelling has in the past been used to assist in the design of interim road infrastructure, the advent of benchmark

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<sup>90</sup> Document 195, [66].

designs for intersections which incorporate ultimate intersection requirements obviates the need for interim traffic modelling.

#### (iv) Conclusions

The Committee concludes:

- the utility of interim traffic modelling based on a point-in-time partial buildout of the PSP is of limited value in establishing priorities and timing for the delivery of road infrastructure and is no longer necessary to determine interim design requirements
- interim traffic modelling would be of most use as part of a planning permit application when the modelling can be based on a specific development proposal and existing conditions and traffic volumes at the time of the application.

## 8.7 Access to Southern Town Centre

#### (i) The Issue

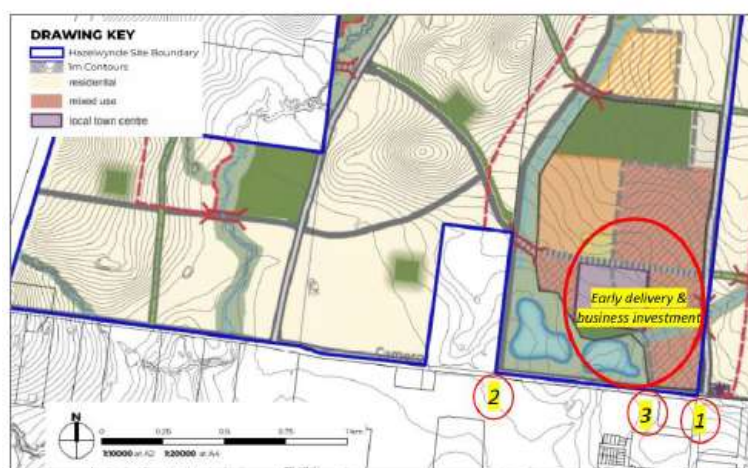
The issue is:

- should a note be added to PSP Plan 09 to allow flexibility in the design of access into the Southern Town Centre (STC)?

#### (ii) Evidence and submissions

YVW stated that to facilitate the early delivery of and access to the STC, it had sought in submissions to the VPA the inclusion of a signalised T intersection for access into the STC from Camerons Lane. YVW proposed three options with option 3 considered the most viable (see Figure 15).

**Figure 15** YVW options for Camerons Lane T intersection<sup>91</sup>



YVW submitted that access option 3 is desirable to enable early delivery and the opportunity for this to be a signalised T intersection should not be foreclosed or limited at this stage of the planning process. It stated that it was not seeking this access to be added to the ICP but rather that the opportunity for this signalised intersection be reflected on the relevant PSP plans.

It requested that the following note be added to PSP Plan 09:

<sup>91</sup> Document 158, [113].

Potential signalised intersection access from Camerons Lane to the Southern Town Centre (subject to approval by the Responsible Authority)<sup>92</sup>

The VPA stated that the intersection at the location proposed by YVW is opposed by DoT because the eastern legs of the proposed intersection would terminate close to or at the proposed IN-01 on Camerons Lane, and the additional break in traffic caused by the proposed signalised intersection would impact negatively on traffic flows along Camerons Lane at a critical part of the road network. The VPA opposed the introduction of the intersection through the PSP process but noted that its delivery could be sought at a planning permit application stage. It submitted that:

Given there is no prohibition for such an application, and in circumstances where the identification of the intersection does not serve to initiate any funding arrangements, it is the view of the VPA that its identification on plan 9 is premature at this time.<sup>93</sup>

### **(iii) Discussion**

Access to the Southern Town Centre will need to be provided when the centre is developed. The submissions made by the VPA do not rule out access via a T intersection on Camerons Lane along the lines proposed by YVW. It may be that such access will be acceptable to DoT based on a traffic impact analysis at the time of a planning application. It should certainly not be closed off now as an option in the future.

While identifying it as its preferred access option at this time, YVW has not sought a change to specifically include it in the ICP or PSP. Rather it has requested that a note be added to PSP Plan 09 to give it some comfort that the option for a potential signalised intersection is not lost at this stage of the planning process and it could still be considered as part of a planning application for the development of the STC. The issue then is should such an annotation be added to PSP Plan 09.

Annotations to PSP plans similar to that proposed by YVW are not uncommon and can be appropriate.

Adding the proposed annotation would not be inconsistent with the PSP objectives and would do no harm. The Committee is of the view, however, that annotations to PSP plans should only be made when they are needed to provide clarity and appropriate guidance to relevant responsible authorities in assessing permit applications. In this instance, the test is really whether the annotation is necessary to preserve the T intersection as an option. The Committee thinks not. With or without the annotation, YVW can include the T intersection access option as part of a future planning permit application for assessment by the relevant authority.

### **(iv) Conclusion**

The Committee concludes that the annotation requested by YVW is unnecessary and should not be added to PSP Plan 09.

<sup>92</sup> Document 158, [119].

<sup>93</sup> Document 195, [137].



## 9 Other issues

### 9.1 Affordable housing

#### (i) The issue

The issue of whether the PSP had appropriately dealt with affordable housing was discussed in Amendment C106 with the Panel recommending several changes to the PSP and UGZ.

The issue is now whether the PSP has responded to the Amendment C106 Panel recommendations and whether there should be further changes relating to affordable housing.

#### (ii) Submissions

Council submitted that the VPA should be required to undertake the necessary strategic work to provide for affordable housing and should update the Guideline in the PSP accordingly. It submitted that it is 'remarkable' that the provision of affordable housing at not been progressed since Amendment C106.

VPA in response noted that Council had not prepared an affordable housing study for the municipality and considered that Council is best placed to do this. It submitted that it had implemented the Amendment C106 Panel recommendations as required.

YVW stated while it does not have any statutory responsibility for providing affordable housing, as a public body, it wishes to conduct its affairs that reflect its general public responsibilities.

#### (iii) Discussion and Conclusions

The Committee accepts that the VPA have implemented the Amendment C106 Panel recommendations to encourage the provision of affordable housing through guidelines G16 in the PSP as follows:

An application for subdivision of land into residential lots or development of land for residential or mixed-use purposes should provide affordable housing as defined by the Planning and Environment Act 1987. The affordable housing should be located within walkable catchments and provide for a range of housing typologies to meet demonstrated local need.

The UGZ3 also requires an application for subdivision of 10 lots or more to provide a written statement outlining how the proposal contributes to the delivery of affordable housing in the precinct.

YVW, a significant landowner in the PSP, has indicated a willingness to consider affordable housing, and other Applicants will need to address this guideline at the planning application stage. In implementing this guideline, Council can seek for affordable housing to be delivered through negotiation and voluntary agreements between the parties.

If the strategic work is undertaken to determine the affordable housing requirements of the municipality, or for the future Beveridge North West community more particularly, then this will provide for a more strategically justified rate of affordable housing to be applied. The Committee agrees that Council is best placed to undertake this work for the municipality.

**(iv) Conclusion**

The Committee considers that the PSP and UGZ3 have responded to the Amendment C106 Panel recommendations relating to affordable housing and no further change is required.

**9.2 Sodic soils****(i) The issue**

Sodic and dispersive soils were discussed at length at the Amendment C106 Hearing. The Amendment C106 Hearing concluded that the revised Amendment C106 PSP and UGZ3 Schedule had satisfactorily addressed its conclusions with respect to impacts and management of sodic soils.

The issues for this Amendment are whether the existence of sodic soils throughout the PSP has been allowed for in:

- the waterways management and drainage approach in the PSP
- the Specific Controls Overlay
- the design and costings of ICP infrastructure items.

Waterways and drainage issues including sodic soils are discussed in Chapter 9.8 below.

**(ii) Evidence and submissions**

The exhibited SCO requires that a planning permit application for extractive industries must include a sodic and dispersive soils management plan which includes the extent of sodic and dispersive soils in the works area. In addition, a permit for Extractive Industry must include a condition that a site management plan be prepared that implements the recommendations identified in the sodic and dispersive soils management plan.

Dr Peter Sandercock for the VPA stated in his expert evidence that he considered the proposed sodic soil provisions to be appropriate and to provide a process for managing sodic soil erosion risks.

The VPA submitted that the direct evidence of Dr Sandercock that the quarry site should be subject to a sodic soil assessment was not seriously challenged under cross examination. It added that if appropriate testing shows that no sodic soils exist in the quarry area, then there ought be a mechanism in the SCO where the requirement for a sodic soil management plan is not required.

In its tracked changes to the SCO in the section headed Sodic Soils, Conundrum proposed the underlined additional words:

Sodic Soils

A permit for Extractive Industry must if required by a sodic soils assessment, include a condition...<sup>94</sup>

Mr David Slade and Mr Benny Vocale provided an expert witness statement for the VPA on the design methodology and cost implications of the sodic soil conditions. It concluded that:

- the civil designs have appropriately addressed the potential erosion issues of sodic soils
- the additional cost to the infrastructure is estimated to be 15 to 20 per cent above expected construction costs.

<sup>94</sup> Document 184a, pdf page 7 of 13.

**(iii) Discussion**

The sodic soil issues were dealt with extensively during the Amendment C106 Hearing.

The Committee considers that no new evidence or submissions have been made that would warrant further consideration of the management of the potential impacts of sodic soils during the development of the PSP, or the operations of the quarry, should a quarry permit be issued.

The Committee considers the additional words in the SCO requested by Conundrum to be unnecessary.

**(iv) Conclusion**

The Committee concludes the provisions in the PSP, ICP and SCO are appropriate to manage the potential impacts of sodic soils in the PSP area.

**9.3 Town centres****(i) The issue**

The issue is whether the impact of the quarry on the timing of the delivery of the northern and eastern town centres should warrant a revised FUS.

**(ii) Submissions and evidence**

Mr Rhys Quick, on behalf of Conundrum, stated that he did not consider there to be any significant consequences for the future residents of the PSP from a delay to the delivery of the northern town centre (NTC). He considered that the town centre could be sustained after phase 3 of the quarry's operations, however earlier delivery could be facilitated by moving the NTC out of the buffer areas.

Mr Quick noted that the northern part of the PSP is expected to be delivered late in the life of the PSP, given development is expected to extend from existing residential areas south of Cameron's Lane to the north. This would therefore reduce the time period when northern residents do not have convenient access to a centre. Furthermore, while acknowledging that there would be future residents beyond the desired 800 metres of a centre, most residents would be within 1 kilometre of another centre.

Mr Abery in the conclave report also agreed that the slightly extended travel distances to access the southern or western LTC's would not present a significant disadvantage to residents until such time the NTC and eastern town centre (ETC) are delivered. The conclave report noted that distances of 1 kilometre or slightly further to local shopping facilities is not unusual and not considered sufficiently inconvenient to warrant changing the spatial pattern of centres.

In relation to the eastern town centre, Mr Quick's assessment was that approximately one third of the centre catchment is impacted by the buffer areas. Given this centre is a smaller centre co-located with other activity generators, his evidence was that it should be viable once the population around it outside the buffer areas is established. After Phase 3 of the quarry's operations, almost the entire 800 metres catchment would be available to the centre. At this stage, there should be no impact on the operation of the centre.

Mr Abery however considered that the impacts to the ETC would be greater, being on the urban edge for many years, with access to only small areas of population given the open space, playing

fields and Spring Hill Cone. He considered that a small local convenience centre may establish at best.

Mr Abery did not consider the issue of buffers contracting progressively, and the effect of this on the delivery of the ETC.

### **(iii) Discussion**

Based on the general agreement at the conclave of economic experts, the Committee is satisfied that while there will be a delay in the delivery of both the NTC and ETC given the impacts of the quarry and its buffers, residents would still have reasonable access to retail facilities. As discussed in Chapter 6, the Committee also supports the provision of the buffers being progressively retracted as the quarry stages move, to release land for urban development as soon as possible and reduce the delay of community infrastructure. On this basis, the Committee does not consider that there needs to be any change to the FUS to relocate the NTC or ETC.

### **(iv) Conclusion**

The Committee is satisfied that residents in the northern part of the PSP will have reasonable access to retail facilities, despite the delay to the delivery of the NTC and ETC if the quarry proceeds.

## **9.4 Schools**

### **(i) The issue**

The issue is whether the location of proposed schools should be revised in the PSP.

### **(ii) Submissions and evidence**

#### **Northern primary school**

Mr Abery's evidence was that the northern primary school was unlikely to be needed until the residential catchment around the quarry is developed, and therefore the school would be delayed whether it is within the quarry buffer or not. He considered that the eastern, southern and western government schools were well placed to take enrolments from the northern school's incomplete catchment.

Mr Rhys acknowledged that constrained population may delay the delivery of one or more schools until the buffer areas are contracted or removed but did not consider this issue in detail.

#### **Eastern non-government school**

615 Hume Freeway Pty Ltd submitted that the eastern non-government school located within parcel BN-15 should be re-located. It submitted that its proposed revised location to move the school away from being adjacent to the waterway as shown in the Part A PSP, had the benefits of providing a street along the waterway corridor integrated with a residential layout. It stated that this would provide for higher amenity residential lots and a higher lot yield given lots sizes could be reduced to take advantage of the amenity provided by the waterway.

It submitted there were also benefits for the school by having:

- an increased frontage to a connector street
- a regular shaped parcel

- road frontages on three sides in accordance with the PSP Note for Non-Government Schools
- linkages to the cycling and walking network through the local road network, SR-02 and the adjacent waterway reserve.

In its closing submission the VPA stated that it did not oppose the relocation of the eastern non-government school site westward, away from the drainage reserve. Its updated PSP provided for this revised Future Urban Structure.

### **Alternative layout for the Northern Town Centre, Sports Reserve and School location**

YVW submitted that the future urban structure should be re-configured on its land in proximity to the quarry to 'flip' the active open space to the edge of the EAR and within the quarry buffer and move the future residential area in this location to the west to be outside the proposed buffer. It submitted that this would have benefits of increasing developable land outside the quarry; minimise the long-term sterilisation of land; would potentially assist with the delivery of the western arterial road through greater incentives for works in kind; and would provide for more resilience given the uncertainties relating to impacts from the quarry.

The YVW alternative plan also provided for the community centre and government school to be sited on the northern side of the east west collector to maintain direct connections with the active open space.

Mr Mark Woodland giving planning evidence on behalf of YVW agreed that this alternative FUS would provide a more sympathetic buffer to burruṅṅ buluk and would reduce the number of houses on arterial roads. He noted that the school and community centre would be located within the proposed outer buffer area, but considered this acceptable on the basis that it would not be required until after 2046, by which time the quarry operations would be close to ceasing operations based on the VPA exhibited 20 years blasting timeframe.

In response to evidence and submissions regarding a re-configured layout for the northern town centre, active open space and school location, the VPA presented two options for discussion, Alternative AB and Alternative BB which are shown in Figure 11 and Figure 12. These adopted some of the principles of the YVW alternative layout, but retained the school, town centre and community facility to the south of the connector road.

The VPA consulted with DET given the changes to the proposed government school in relation to access and connection to open space. DET confirmed a preference for Alternative AB but also considered Alternative BB to be acceptable. DET's preference is also that the school remain in its current location, south of the east west connector. This would allow the school to be sited on two connector roads, therefore providing better access and flexibility in design. If located to the north of the east-west connector, it would have only one abuttal to a connector road, and require a local access street to be provided between the school and open space. The VPA also noted that the school shape was irregular in the northern YVW option, that provides a development constraint in designing the school.

YVW preferred option BB, but also considered that option AB would deliver benefits. It continued, however, to advocate for its 'alternative layout' showing the school and community centre to be located on the northern side of the collector rather than the southern side, shown on both AA and AB concepts.

Council submitted that it did not object to further consideration of YVW's concept plan together with the Alternative BB scenario proposed by the VPA. It considered that the plan should be further developed, in consultation with Council and other stakeholders.

The VPA requested that option AB or BB be adopted, determined by the Committee's findings on the appropriate alignment of the EAR.

### **(iii) Discussion and conclusion**

The Committee accepts the relocation of the eastern non-government school as shown in the VPA's revised FUS.

In relation to the alignment of the EAR and open space, the Committee agree that the YVW and the VPA revised options provide benefits to the PSP, primarily in limiting land sterilised by the buffers. Like most parties, the Committee considers that either Option AB or BB is workable, but ultimately agrees that option BB, that was also preferred by Council and the landowner (YVW) is preferred. This maintains the straight alignment of the EAR along the quarry work authority boundary, and as discussed in chapter 9.3 was accepted by DoT.

The Committee also accepts that the school could be located on the northern or southern sides of the east-west collector, however on the basis of DET's preference for the south, considers this alignment should be supported.

### **(iv) Conclusion and recommendations**

The Committee concludes that relocation of the eastern non-government school is appropriate, and that alignment BB should be supported in relation to the EAR and open space.

The Committee recommends:

**Relocate the eastern non-government school as shown on the Part C version of Plan 03 - Future Urban Structure.**

**Adopt the proposed Future Urban Structure BB in relation to the alignment of the Eastern Arterial Road and open space, Northern Town Centre and the proposed Government school in the vicinity of the quarry proposal.**

## **9.5 Indoor recreation facility**

### **(i) The issue**

The issue is should the indoor recreation facility (CL-05) be relocated given its location in the quarry buffer.

### **(ii) Submissions and evidence**

Council submitted that the indoor recreation facility (CL-05) is an important piece of community infrastructure and was concerned about its potential delayed delivery given its location within the quarry buffer. Accordingly, Council submitted that its location should be re-considered.

Council recommended that it be moved to the area of the southern town centre, and more particularly to the north of the open space SR-03. This would also necessitate the relocation of the non-government school to the west.

Mr Abery supported the Council's suggestion to move the indoor recreation facility for the PSP south to the current location of the school, and the school move west. His evidence was that this would remove the community facility from the encumbered amenity buffer to facilitate its earlier delivery, and that it would be a central and accessible location.

YVW was also supportive of this approach.

The VPA also considered that this relocation was a logical response to the complexities of delivering development.

### **(iii) Discussion and conclusion**

The Committee agrees with the submissions and evidence that the indoor recreation facility should be re-located in the FUS to the southern town centre.

### **(iv) Recommendation**

The Committee recommends:

**Amend Plan 03 – Future Urban Structure to relocate the indoor recreation facility (CL-05) to the Southern Town Centre.**

## **9.6 Retail floor space**

### **(i) The issue**

The issue is whether the PSP has catered for enough retail floor space for the projected population.

### **(ii) Submissions and evidence**

Mr Chris Abery provided economic evidence on behalf of YVW. In considering the impact on population-driven infrastructure if the quarry was established, his evidence was that the northern and eastern areas of the PSP will be deficient in retail floorspace, as one or two of the Local Town Centres (LTC) fail to develop until potentially 2060 due to incomplete catchments.

Mr Abery's evidence was also that there was an underlying deficiency of retail floorspace for the long-term population of the PSP. Mr Abery noted that the Economic Assessment Report prepared by Ethos Urban in 2019 that formed the basis of the retail allocation, was based on a population that was 16 per cent less than now provided for in the PSP (40,300 people estimated by Ethos Urban in 2019 compared to 46,734 people now provided for in the Part A PSP). This, together with the population establishing in the northern and western LTC catchments, but without the provision of these retail centres establishing until 2055 or later, would likely result in a retail shortage across the PSP. He considered that additional retail floor space is required irrespective of the quarry and its buffers. His evidence was that this increased retail provision would be required in the long term and would address expected long delays in the development of the northern and/or eastern LTC's.

Mr Abery highlighted the low retail provision per capita, being 0.52 sqm per capita in the Part A PSP, compared to other centres such as Donnybrook/Woodstock PSP with an average retail provision of 0.99 sqm per capita and Wollert PSP at 0.95 sqm per capita.

On this basis, Mr Abery recommended that Southern LTC be given a wider role and a higher retail and non-retail floorspace allocation to address this deficiency. Mr Abery considered that an expanded southern LTC should accommodate a retail floorspace allocation of up to 22,000 sqm without impacting on the planned provision of centres elsewhere. This would comprise two major supermarkets (7,600 sqm); one discount department store (6,500 sqm); one discount supermarket (1,800 sqm) and mini majors and specialty shops (6,000 sqm). This would result in a retail provision across the fully developed PSP of 0.85 sqm per capita.

Mr Quick did not expressly address the issue of retail floor space, given that his focus was on the quarry, however he agreed in the conclave report that the provision of retail space relative to the adjusted PSP population is modest in comparison to what is planned on other parts of the northern growth corridor. He also agreed that the Southern LTC would be the logical location to provide for an expanded offer.

### (iii) Discussion and conclusion

The Committee considers Mr Abery's evidence is sound and that there does appear to be an under-supply of retail floor space within the PSP. Given the quantum of difference between the provision of retail floor space in the exhibited PSP and that recommended by Mr Abery, the Committee considers that the VPA should revisit the floorspace allocation in PSP Table 5.

### (iv) Recommendation

The Committee recommends:

**Reassess the provision of retail floor space in the Precinct Structure Plan, and if required, provide additional retail floor space within the Southern Town Centre.**

## 9.7 Balcon Beveridge matters

### (i) The issue

The issues are should the following changes be made:

- change the location for the community facility – CI-06 to the south-west side of the local park
- include the land area of the local convenience centre in the PSP
- revert to the original wording of R32.

### (ii) Evidence and submissions

Balcon Beveridge has an agreement to develop the land known as Lot 1, Camerons Lane, Beveridge, being Property BN-14 in the PSP. It has sought pre-application advice from Council in relation to facilitating a proposed Master Plan for this site. Through this process several detailed issues have arisen, and Balcon Beveridge is seeking changes to the PSP to resolve these issues.

#### Community Centre

Balcon Beveridge submitted that a further change to the location of the community centre CI-06 should be made. While the VPA had responded to the Balcon Beveridge submission by moving it to the eastern side of the local park LP-04a, Balcon Beveridge requested it be located on the south-west side of the local park. It considered this a more appropriate location being adjacent to commercial uses in the south west corner of the land and also adjacent to a potential emergency



services facility. It also submitted that there were constraints in providing CI-06 on the eastern side due to drainage and servicing.

Council did not object to Balcon Beveridge's proposed revision of the community facility. However, it submitted there would be limited benefit in co-locating with the adjoining commercial land, given it is likely to be developed for highway associated uses such as a service station or fast food.

The VPA in its part C version of the PSP provided for the re-location of the community facility (CI-06) to the south west of local park (LP-04a) as requested.

### **Local Convenience Centre**

Local Convenience Centre LCC2 is shown in the south east corner of the site, with a shop floor area in Table 5 of the PSP as 1,000sqm. The Balcon Beveridge Masterplan has sought to provide for 1.17ha to accommodate this LCC2, that also includes land for car parking, access roads, landscaping etc. This has been queried by DoT in a pre-application enquiry response. Accordingly, Balcon Beveridge has submitted that additional details should be provided in the PSP to include the total land area associated with the LCC via an additional column to Table 5.

The VPA and Council do not support the nomination of an overall land area and considers that the size of the LCC can be provided through the 'generally in accordance' with principles.

### **Local Parks**

The VPA supported a request by Council to amend R32 (in the Part A PSP, and R33 in the Part C PSP) from *'basic improvements to local parks'* to *'improvements to local parks and open space to the satisfaction of the responsible authority'*.

Balcon Beveridge does not support this change. Through its pre application process, Council has required in proposed conditions the provision of a skate park in Local Park LP-04a, at the developers cost. Balcon Beveridge considers that this is inequitable and unacceptable. It accordingly seeks that R32 revert to its original wording. It also requested that any reference to skate park be deleted.

The VPA did not consider that any of these issues should require changes to the strategic planning in the PSP, but rather should be subject to detailed negotiations with Council at the application stage, and if necessary, review proceedings.

Council agreed with the VPA, submitting that what facilities are appropriate in what park should be dealt with by permit conditions.

### **(iii) Discussion and conclusions**

The community facility CI-06 re-location as requested, has been made by the VPA in the Part C version of the PSP, and the Committee supports this change.

In relation to the LCC, Table 5 - Beveridge North West Town Centre hierarchy, lists the 'shop floor area' and 'commercial floor space' associated with each of the proposed town centres. The Committee agrees that 'shop floor area' is different to land area, and logically additional land will be required for car parking, landscaping and access etc. This is similar to the 'maximum leasable floor area' requirements in schedules to commercial zones, that seeks in some circumstances to control retail or commercial floorspace provision to manage retail hierarchies. It is however only

the retail or commercial floorspace that is controlled, not other land requirements that will vary from site to site, associated with car parking, loading, landscaping or other requirements.

The Committee does not support an additional column being included in the PSP, given the inherent uncertainties of what the land requirements for each centre may be. While Balcon Beveridge may have done some detailed design to ascertain what is required under its proposed masterplan, a consistent provision would be required for other centres, where the land requirements are unknown. The Committee considers that this should be able to be resolved at the planning application stage.

In relation to local parks, the Committee supports the change by Council and agreed to by the VPA in relation to R32/33 – Subdivision Works.

The reference to skate park appears in R34 in the Part C PSP (R33 in the Part A PSP). It states:

All public open space (where not otherwise provided via Beveridge North West ICP) must be finished to a standard that satisfies the requirements of the responsible authority prior to the transfer of the public open space, including but not limited to:

- .....
- installation of park furniture including barbeques, shelters, tables, local scale play grounds and other local scale play elements such as half basketball courts, and hit-up walls, a skate park with associated amenities, rubbish bins and appropriate paving to support these facilities, consistent with the type of public open space listed in the open space delivery guide at Table 7 and approved Council policy<sup>95</sup>.

LP-04a is listed as a Local Park of 0.75ha, described as '*passive open space, central to the surrounding community*'.

The Mitchell Play Space Strategy<sup>96</sup> states that:

Provision of play space service and associated amenities should reflect the catchment serviced. These will be based on the service hierarchy established in the MOSS for social/family recreation open spaces – 'local', 'district' or 'Shire-wide/regional'.

For new residential areas, it is important to have clear levels of service defined so that infrastructure provided by developers and which becomes Council's responsibility is appropriate and affordable for ratepayers.

Within this strategy, at Appendix 4 – *Standards for the provision, design and maintenance of open space*, skate facilities, mountain bike or BMX facilities are included in 'District' and 'Shire Wide' open spaces, but not 'Local' open spaces.

Accordingly, based on R34, it would appear that a skate park is not consistent with the type of public open space listed in the open space delivery guide at Table 7 and approved council policy, for LP-04a.

The Committee concludes that while the detailed conditions of permit and requirements of Council will ultimately be a decision at the planning permit stage, and there may be good reasons to locate a skate park in this location, to 'require' this of the developer, would appear to be inconsistent with the requirements of the PSP.

#### **(iv) Recommendation**

The Committee recommends:

<sup>95</sup> Committee underlining.

<sup>96</sup> Document 164b.

**Amend Plan 03 - Future Urban Structure to relocate the community facility (CL-06) south west of local park (LP-04a).**

## 9.8 Drainage and waterway management

### (i) The issue

At the Amendment C106 Panel Hearing, Melbourne Water confirmed that it was reviewing the Kalkallo Creek Development Services Scheme (**DSS**). This DSS covers most of the PSP area. The Amendment C106 Panel concluded that development in accordance with the PSP provides a significant opportunity for existing waterways to be improved and waterways constructed to deliver an environmentally sustainable outcome to manage sodic soils. The Panel also concluded that the VPA and land owners should work with Melbourne Water to review the Kalkallo Creek DSS to achieve that outcome.

The issues are:

- whether the revised Kalkallo Creek DSS response to sodic soils and the associated waterway corridor widths is appropriate
- whether the drafting changes to PSP R23 sought by YVW are appropriate.

### (ii) Evidence and submissions

In its Part A submission, the VPA advised that Melbourne Water has revised the Kalkallo Creek DSS to include:

- a waterway corridor width of 130 metres in response to soil conditions and to allow for works to stabilise banks to a maintainable standard
- a 30-metre set back to apply to the top of the bank to act as a buffer to manage erosion risk
- a number of sediment ponds to retard and restrict flows.

The VPA stated that to accommodate the revised DSS, several changes to the PSP are proposed.<sup>97</sup> It noted that the revised DSS and associated changes will impact the net developable area and ICP.

The VPA added that Melbourne Water's revised DSS considers the work undertaken by Dr Sandercock. It submitted that the PSP is not the forum to interrogate a DSS under the *Water Act 1989*, but the PSP contains the usual form of wording to provide the flexibility to refine and adjust waterways should functional designs be approved by Melbourne Water that reduce some waterway corridor widths. The VPA tabled a memo<sup>98</sup> from Melbourne Water providing further information on the waterway widths included in the ICP and a Melbourne Water Technical Guidance Note<sup>99</sup> that elaborates on Melbourne Water's rationale for its corridor widths. It also comments on the work done by Jacobs which forms part of Dr Sandercock's witness statement.

In its Substantive Submission, the VPA submitted that no evidence has substantively challenged the appropriateness of the Kalkallo Creek DSS as incorporated in the PSP. The VPA advised that after further discussions the following changes to the Part A PSP requirement R243 (R24 in Part C PSP) has been agreed between the VPA, Melbourne Water and YVW (in its landowner capacity):

<sup>97</sup> See Document 14, Table 1: PSP Changes Resulting from Revised DSS.

<sup>98</sup> Document 77, Attachment 1.

<sup>99</sup> Document 77, Attachment 2

Stormwater conveyance and treatment must be designed to avoid or mitigate the risk of erosion from sodic and/or dispersive soils to the satisfaction of Melbourne Water and the Responsible Authority. Waterway and Drainage reserves as indicated on Plan 11 and as detailed in the Kalkallo Creek DSS are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water. Changes to waterway corridor widths may be considered once functional designs and any supporting background work has been completed.

Note: this may result in a variation to MW DSS as shown on Plan 11

Note: Waterway and Drainage Reserves indicated on this plan and as detailed in the Kalkallo Creek DSS are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water.<sup>100</sup>

The VPA submitted that this revised wording of R23 provides a suitable framework for the design and delivery of the DSS and is consistent with the approach endorsed by the Amendment C106 Panel.

YVW stated that its present acceptance of the Part A drainage corridor widths, subject to the agreed wording changes to R23, should not be taken as YVW's acceptance of the technical validity or appropriateness of the waterway widths shown in the Part A PSP. Instead, it accepted the flexibility for these matters to be refined at a later stage. YVW is also supportive of entering a memorandum of understanding with Melbourne Water regarding the design and delivery of drainage infrastructure within the Hazelwynde Project.

615 Hume Freeway Pty Ltd sought:

- the inclusion of waterway width information in the PSP as per the 2019 Amendment C106 version of the PSP
- clarification as to whether any changes are proposed to waterway WI-03
- clarification if no changes are proposed, why are updates to PSP Table 9 required, and
- clarification if updates to Table 9 are required, whether additional changes to the Land Use Budget in PSP section 4.4 are required.

### (iii) Discussion

The Committee is satisfied that the revisions made by Melbourne Water to the Kalkallo Creek DSS and incorporated in the revised PSP address the management of sodic soils and will provide an opportunity for the rehabilitation of existing waterways, notably Kalkallo Creek, as recommended by the Amendment C106 Panel. The Melbourne Water memo and technical report tabled by the VPA set out in some detail how Melbourne Water has made the revisions to the DSS including responding to the Jacobs 2022 DSS Waterways Report.<sup>101</sup>

As noted by the VPA, no evidence has been presented which substantively challenged the DSS or how it is reflected in the revised PSP.

The Committee notes that the changes to the PSP to reflect the revised Kalkallo DSS will have an impact on the net developable area of the PSP yet no parties raised this issue in submissions.

While it could be said that the PSP as exhibited already provides sufficient flexibility to allow for changes to the waterway corridor widths at the detailed design stage subject to the approval of

<sup>100</sup> Document 144, [175]

<sup>101</sup> Kalkallo Creek Development Services Scheme (DSS) Design, Jacobs, 7 April 2022

Melbourne Water, the changes to R23 (R24 in Part C PSP) agreed by the VPA, YVW and Melbourne Water will confirm this flexibility. That should give some comfort to developers that changes to waterway widths can be submitted after detailed design at the planning permit application stage.

The Committee endorses the proposed changes to R24 as shown in the Part C version of the PSP.

The waterway width table (Table 13) in the 2019 C109 version of the PSP referenced by 615 Hume Freeway was removed from the final version of the PSP on the suggestion of the VPA to allow for waterway widths to be determined through the detailed design stage in accordance with the DSS. The Amendment C106 Panel endorsed that change. The Committee is not convinced that any utility would be gained by reinstating a table of waterway widths in the PSP as requested by 615 Hume Freeway. The reason for the deletion of such a table endorsed by the Amendment C106 Panel still applies.

The other issues with respect waterway WI-03 raised by 615 Hume Freeway are matters of clarification and should be taken up with the VPA.

#### **(iv) Conclusions**

The Committee concludes:

- the revised Melbourne Water Kalkallo Creek DSS responds appropriately to issues concerning the management of sodic soils and rehabilitation of existing waterways
- the revised PSP appropriately incorporates the revised Kalkallo Creek DSS
- the agreed changed wording for R24 as set out in the Part C version of the PSP will provide greater certainty regarding flexibility in the detailed design of waterway corridors
- a table listing waterway widths as requested by 615 Hume Freeway should not be added to the PSP.

## 10 Summary of changes to the PSP

### 10.1 Overview

The Committee directed that ‘without prejudice’ drafting of the PSP and associated documentation be provided outlining the VPA proposed changes to the draft amendment (if any) and include the response to these changes from the relevant parties.<sup>102</sup>

The VPA provided a schedule of PSP responses as per Direction 41(a)<sup>103</sup> and final table in its closing submissions.<sup>104</sup>

The more significant issues were addressed in detail above. This chapter provides a high level summary of the changes to the PSP.

### 10.2 Changes to the PSP

#### (i) burring buluk

The changes in relation to burring buluk are discussed in Chapter 7.

#### (ii) Landscape values

Conundrum have submitted that the FUS Plan 3 should be amended as it relates to ‘landscape values’ on the WA1473 land. It requested that this be re-identified as ‘future network link’ or similar to recognise the loss of landscape values through the quarrying process and to allow for some flexibility on alignment. The VPA while accepting that the area may not have landscape values post-quarrying, considers that the nomination should remain.

The FOMC requested ‘a substantial and continuous’ band of ‘landscape values’ or similar extend east-west across the northern edge of the precinct in the FUS. The VPA partially supported this and agreed to change the designation of the burring buluk from ‘ecological values’ to ‘landscape values’.

Council requested that Plan 5 – Image, Character and Housing should extend the landscape values interface to the western side of the western arterial road to protect the inter urban break. The VPA disagreed stating that housing was proposed on the western interface.

The Committee does not support the change to Plan 5 requested by Council, with the ‘interface landscape values’ relating to the interface with open space areas and not roads.

The FOMC also requested burring buluk to be specially mentioned as a potential wetland feature. The VPA did not support this given that the vision, form and area for burring buluk will be resolved through the concept plan.

As noted in Chapter 7, the Committee agree that the concept plan process will allow for the future vision and management of burring buluk to be determined.

<sup>102</sup> Directions 41 a, b, c.

<sup>103</sup> Document 195(b).

<sup>104</sup> Document 222.

**(iii) Quarry buffers**

Quarry buffers are discussed in detail in Chapter 6.

**(iv) Bridges/culverts**

Changes in relation to bridges and culverts are discussed respectively in Chapters 15.4 and 15.5.

**(v) Land use budget**

The VPA notes that the Land Use Budget will need to be updated in accordance with the FUS Plan 3. The Committee agrees.

Mr Milinkovic in evidence for 615 Hume Freeway Pty Ltd noted that the land use budget included 0.8ha for a Community facility on land parcel BN-15, despite a community facility not provided for on this land. The VPA agreed this was an error to be rectified.

**(vi) Introduction to PSP**

Conundrum sought the words in the introduction to the PSP to be amended to state that the precinct 'will' rather than 'may' *'develop in conjunction with a time-restricted quarry at WA1473'*. The VPA did not support this, and the Committee agree that the wording should remain flexible.

**(vii) Applied zone provisions of the quarry land**

Conundrum sought the RCZ to be the applied zone for land within the WA1473 and outer buffer until it is released from extractive purposes, then to revert to the underlying residential zone.

The VPA did not support Conundrum's submission and considered that the applied zoning should be treated in the same way as the rest of the PSP.

The Committee agrees with the VPA that the underlying zone should reflect its ultimate form in the PSP.

**(viii) Future regional park**

Crystal Creek requested that references to the regional park be removed from the PSP (that is, at 2.1 Vision, 3.4.1 Guideline G42; Plan 07 – Open Space and Community Facilities). It noted that the regional park is speculative, and the 'Wallan Regional Park Feasibility Study' has not been publicly released. The VPA does not support the removal of these references in the PSP given that the regional park has been committed to at a political level.

The Committee notes that the wording in the PSP is that *"there is the potential"* for the hilltop environments and burrung buluk to form part of a future regional parkland. This acknowledges that there is no certainty around the regional park at this stage, however recognises the high level commitment for this to be delivered. The Committee considers that the word 'potential' should be added to G42, and do not support removal of references in the PSP.

**(ix) Slope**

YVW requested a definition be included of 'design slope' in R5 to avoid confusion. The VPA agreed to delete the word 'design', with R5 to state: *'Subdivision of land with a ~~design~~ slope of greater than 10%....'*

The Committee agrees that this wording is clearer.

**(x) Retaining walls**

Council requested that Guideline 19 relating to retaining structures be amended to require these to be architecturally aesthetic and to avoid concrete or timber sleepers. The VPA disagreed, stating that materials can be addressed at the planning permit application stage. The Committee agrees with the VPA that this level of detail is not required within the PSP.

**(xi) Sporting Reserve 04**

Council submitted that SR-04 was poorly orientated and that the western arterial road should be moved to the east slightly to enable this active area of open space to be more useable. The VPA considered that the road and open space design can be aligned slightly based on the 'generally in accordance' principles.

The Committee agree with the VPA, and in the absence of any concept plans or further information highlighting Council's concerns, considers that at detailed design stage, minor adjustments to deliver sporting facilities can be made if required.

**(xii) 3.1.2 Housing, Guideline 15**

Council submitted that the cross sections at 4.7 of the Part A PSP should refer to the Urban Design Guidelines for Victoria. It also noted that G15 appears to incorrectly cross reference Appendix 4.5, instead of the relevant cross sections at clause 4.7.

The Committee agrees that it appears that the reference in G15 should state, '*See Appendix 4.7 for open space interface guidance*', rather than referring to Appendix 4.5 relating to Beveridge North West Local Town Centre – Design Principles. The Committee does not consider that the Urban Design Guidelines for Victoria need to be referenced, already being a Reference Document to the Planning Scheme.

**(xiii) Integrated water management**

YVW submitted that R23 (previously R22) and R24 (previously R23) should be revised as per the agreed wording between the VPA and YVW (in its capacity as landowner) as highlighted in the VPA Part B submission.

R23 is to include the additional words:

*Specific consideration should be made for the Strategic Outcomes for IWM and enablers endorsed by the Yarra IWM Forum.*

R24 is to be revised as follows:

*Stormwater conveyance and treatment must be designed to avoid or mitigate the risk of erosion from sodic soils to the satisfaction of the Melbourne Water and the responsible authority. Waterway and Drainage Reserves as indicated on Plan 11 and as detailed in the Kalkallo Creek DSS are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water. Changes to waterway corridor widths may be considered once functional designs and any supporting background work has been completed.*

*Note: Waterway and Drainage Reserves indicated on this plan, and as detailed in the Kalkallo Creek DSS are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water.*



The VPA accepted these changes as included in the Part C PSP.

**(xiv) Waterway widths**

This issue was considered in detail in Chapter 9.8.

**(xv) Intersection treatment of IN-03**

This issue is discussed in more detail in Chapter 15.2.

**(xvi) Pedestrian crossing**

Council submitted that Plan 13 shows over a 1km stretch of the Western Arterial Road between IN-05 and IN-06 that has residential development on one side and a waterway buffer on the other. Council considered that a mid-block pedestrian crossing should be considered and included in the ICP.

The VPA did not support this noting that developer works can link residential areas over the Western Arterial Road and pedestrian signals are to be provided as part of major intersections. It also noted that a pedestrian bridge (BR-02) is provided to the south to connect open space to the town centre.

The Committee agrees with the VPA that mid-block pedestrian crossing should not be included in the ICP.

**(xvii) Camerons lane interchange in PIP**

YVW submitted that Camerons Lane interchange should be listed in PIP (State funded), because this is a key enabler of development in the precinct.

The VPA supported this submission, noting it is to be provided by DoT as State provided infrastructure via the Public Acquisition Overlay. It can be listed in the PIP not ICP. The VPA agreed to include a new category of non-ICP funded infrastructure items, and to include Camerons Lane.

The Committee agrees that the Camerons Lane Interchange should be listed in the PIP as state-funded infrastructure.

**(xviii) Biodiversity**

In its original submission Council pursued a number of minor changes to wording in the PSP around biodiversity including changes to requirements and guidelines for native vegetation retention. The VPA did not support the changes and they were not pursued in the Hearing. The Committee has reviewed the suggestions and does not think they warrant further changes to the PSP.

DELWP sought changes to Guideline G42 in section 3.4.1 of the PSP to reflect the potential Wallan Regional Park. The Committee thinks this is an important issue and supports its inclusion in the final PSP.

## 10.3 Changes to the ordinance

The VPA provided a tracked changes version of the ordinance with its closing submission.<sup>105</sup>

<sup>105</sup> Document 195(c).

**(i) Schedule 3 Urban Growth Zone**

The changes to Schedule 3 – Beveridge North West Precinct Structure Plan, of the UGZ from the exhibited version have included:

- updates to Plan 1 to reflect the final FUS
- change of references from Road Zone to Transport Zone, to align with Amendment VC205
- introducing the area of burrung buluk concept plan into the UGZ and apply the RCZ as the applied zone
- providing provisions relating to 'Approval of burrung buluk Concept Plan' setting out requirements for the concept plan under Use (CI 2.3), Subdivision (CI 2.4) and Building and Works (CI 2.5)
- revising the provisions relating to the Kangaroo Management Plan (**KMP**) to respond to the DELWP Melbourne Strategic Assessment (**MSA**) program comments<sup>106</sup>
- removal of reference to Areas 1 and 2 in the application requirements relating to the bushfire management plan to align with the condition.

The Committee supports these changes and a recommended schedule is included in Appendix E.

**(ii) Schedule 2 to clause 35.06 Rural Conservation Zone**

The change to Schedule 2 – Conservation Values, of the RCZ from the exhibited version included:

- change to the description of conservation values in accordance with the evidence of Mr Glossop.

The Committee supports this change.

**(iii) Schedule 4 to clause 43.03 Incorporated Plan Overlay**

The change to Schedule 4 – Beveridge North West Precinct Structure Plan, of the Incorporated Plan Overlay from the exhibited version included:

- Revision of the provisions relating to the KMP to respond to DELWP MSA program comments<sup>107</sup>

**(iv) Schedule to clause 52.17 Native Vegetation**

The change to Schedule 4 – Beveridge North West Precinct Structure Plan, of the Incorporated Plan Overlay from the exhibited version have included:

- changed exemption provisions to state: '*All native vegetation in the levy area within the meaning of the Melbourne Strategic Assessment (Environmental Mitigation Levy) Act 2020*' to respond to DELWP MSA program comments<sup>108</sup>

**(v) Schedule 3 to clause 45.11 Infrastructure Contributions Overlay**

The changes to Schedule 3 – Beveridge North West Infrastructure Contributions Plan 2021, of the Infrastructure Contributions Overlay from the exhibited version have included:

- Update to the heading to refer to 2022 (rather than 2021) to align with the Infrastructure Contributions Plan

<sup>106</sup> Submission 947.

<sup>107</sup> Submission 947.

<sup>108</sup> Submission 947.

- Inclusion of an additional exemption provision to state, '*Use and development associated with agriculture that is existing or approved at the approval date of this provision*', in accordance with the submissions of YVW

## 10.4 Conclusion

The Committee accepts the changes as proposed by the VPA and outlined in the final table (Document 222), except where discussed above, or elsewhere in the report.

# 11 The SCO and Incorporated Document

## 11.1 Specific Controls Overlay

The SCO is proposed to apply to the extractive industry and surrounding buffer land.

The purpose of the SCO is:

To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

It allows land to be used or developed in accordance with a specific control contained within an Incorporated Document corresponding to the notation on the Planning Scheme map. The specific control may:

- allow land to be used or development in a manner that would otherwise be prohibited
- prohibit or restrict the use or development of land beyond the controls that may otherwise apply
- exclude any other control in the scheme.

It is SCO2 that is proposed to apply to the land and the Incorporated Document referred to in the schedule to the overlay is *Extractive Industry & Buffer Areas, Beveridge North West – Incorporated Document*.

## 11.2 Incorporated document

### 11.2.1 What does the Incorporated Document include?

#### (i) Purpose

As described by Mr Woodland, the purpose of the *Extractive Industry & Buffer Areas, Beveridge North West – Incorporated Document*, as outlined in the Part A version is generally:

- To allow the grant of a planning permit for Extractive Industry for a fixed duration.
- To coordinate any extractive industry with the implementation of the Beveridge North West PSP in a manner that will not prejudice the operation of the Extractive Industry for the designated extent and duration of the permitted activity.
- To identify and protect as necessary the buffer areas of any approved Extractive Industry for the duration of the approved Extractive Industry use.
- To secure the rehabilitation of land to enable the land to be developed in accordance with the Beveridge North West PSP once any Extractive Industry use ceases.
- To facilitate the use of land and associated works for Agriculture and Renewable Energy Facility (and potential additional uses) within the buffer areas for the duration of the quarry operation.

#### (ii) Specific Controls – Extractive Industry

##### Exemptions

The Incorporated Document states that any provision of the Mitchell Planning Scheme that would prohibit extractive industry does not apply, and no permit is required for bulk earthworks under the provisions of the zone.

**Permit requirements**

The provisions require a permit for extractive industry and to construct or carry out works associated with extractive industry.

**Application requirements**

The application requirements for extractive industry include:

- process statement including staging
- staged rehabilitation plan
- a plan showing all structures and access roads
- sodic and dispersive soils management plan
- traffic impact assessment
- kangaroo management plan.

The provisions relating to extractive industry also includes:

- decision guidelines associated with the use of land for extractive industry,
- conditions of permit
- expiry provisions
- kangaroo management plan, and
- sodic soils

**(iii) Specific controls within the inner buffer area**

This part of the Incorporated Document provides permit requirements for a public road and buildings associated with a limited range of uses, and prohibition of all other buildings and works.

**(iv) Specific controls within the outer buffer area**

This control prohibits a range of uses (including accommodation, education centre, hospital, office, place of assembly and retail premises) prior to 31 December 2027 to allow time for the quarry to establish. After this time a permit is required for these uses within the outer buffer area.

A permit is required for subdivision and for buildings and works.

The provision includes notice and referral requirements; application requirements; decision guidelines and permit requirements.

**(v) Expiry of the document**

The Part A version of the Incorporated Document stated that:

This Incorporated Document will expire:

- a) If
    - i) planning permit application PLP268/19 is refused; or
    - ii) the permit issued for the extractive Industry site in accordance with cl 4.0 of this control expires,
  - b) On 31 December 2052.
- whichever occurs first.

**11.2.2 Evidence and submissions**

The VPA provided a Part A Incorporated Document at the commencement of the Hearing.

In its substantive submissions, the VPA stated that following submissions and evidence that the Incorporated Document would be further amended to address issues of:

- providing discretion for a responsible authority to waive application requirements where applicable
- avoiding the need for a planning permit for a single dwelling, once a subdivision had been approved and the necessary conditions of use are adequately secured on title, and
- requiring acoustic assessment for compliance with the Noise Protocol as suggested by the noise conclave.

Mr Glossop considered that the Incorporated Document was generally drafted appropriately and in a way that provides clear direction for the extractive industry site and land within the buffers. He provided some comments via a tracked change version of the Incorporated Document, including suggested formatting improvements.

Council submitted that the Part A Incorporated Document was generally appropriate but it required changes to provide a greater level of certainty to the future community of Beveridge, the quarry operator, landowners and developers and the Council. It provided some recommended changes and additions including:

- that the eastern arterial road should be located not less than 250 metres from the extraction limit
- that it should specify that the end use comprise residential densities of between 18 and 25 dwellings per hectare and landscape values area linking Spring Hill to open space and burring buluk
- specify that the final contours of the rehabilitated site must match the contours of the adjoining land to the north, west and south
- should consider traffic impacts from rehabilitation
- prohibit sensitive uses until the cessation of quarrying and completion of rehabilitation
- prohibit subdivision of land until the end of quarrying and completion of rehabilitation.

Council considered that the document should be specific to the planning application PLN268/19 but the VPA did not share this view. It submitted that the current permit application should be refused but the Incorporated Document should allow Conundrum or another operator to seek a permit.

Mr Milner's evidence on behalf of Council concluded that the Incorporated Document should include:

- Timelines and milestones that provide for the appropriate balance between the two objectives and conflicting land uses
- A requirement for a section 173 agreement to be entered between the responsible authority and operator prior to the issue of a permit outlining commitments to be bound and abide by nominated timelines to critical stages and mitigation strategies or penalties in the event it are not met.
- A requirement to nominate a minimum and necessary rehabilitation period; rehabilitation to a suitable residential standard and to levels generally consistent with the plan in Figure 14 of the Tract Planning Report
- A requirement that the operator or any successor shall be required to demonstrate that it own or control the buffer areas prior to the issue of a permit.

YVW submitted that the Incorporated Document should set an objective that any approved quarry manages its operations to ensure its pollution is contained within its title boundaries, and where this is not practical, to minimise its emissions as far as reasonably possible.

It supported the VPA's position on time limits for stone extraction and rehabilitation.

In relation to rehabilitation, YVW submitted that the Incorporated Document should require the preparation of a rehabilitation plan which documents how a land form will be provided to enable the PSP end uses to be subsequently developed.

Mr Woodland generally supported the SCO but he made comments on the content of the Incorporated Document, including:

- that the mapping should be updated to reference the buffer measurements from the extraction boundary of any statutorily endorsed work plan for WA1473
- the document should require the submission of a phasing plan which demonstrates how and when quarrying and rehabilitation activities will be phased to minimise the impact of quarrying activities on the future urban development of adjoining land
- that the phasing plan should deal with both the location and management of quarry activities within each phase as the off-site impacts of quarrying are not solely related to distance between it and a sensitive use
- that the phasing plan should be endorsed under any permit granted for quarrying and enforced via a section 173 Agreement
- supporting all other provisions, including those specified in the VPA Part A amended Incorporated Document.

Mr Garrett Hall in giving expert evidence in relation to extractive industry statutory approvals and environmental compliance, recommended that the phased contraction of the inner and outer buffer areas be accommodated in the Incorporated Document, as well as an alternate amenity protection buffer during the rehabilitation of each stage. He recommended that a series of four maps be included in the Incorporated Document, to document the progressive contraction of the blasting and sensitive buffers. To reduce the imposition of buffers on surrounding land, Mr Hall considered that the buffers should be directly linked to the various quarry phases (that is activity boundary) rather than the WA boundary.

Conundrum agreed that the SCO should allow for and plan for a quarry but submitted that the timeframes included (proposed 20 years of blasting or end date of 2052) were inappropriate and instead agreed to an overall 30 year blasting timeframe and for rehabilitation to be completed within 5 years following the cessation of blasting. It also required time to establish the quarry.

Conundrum also objected to the rehabilitation requirements to a standard to facilitate the end use identified in the PSP, and instead submitted the relevant standard should be to a safe, stable and sustainable condition and capable of supporting the end land use. Conundrum provided additional comments in its tracked change version of the Incorporated Document.

Mr Clarke stated in his evidence that while it was common for Incorporated Documents under the SCO to not require a further permit for a particular use and development, the inclusion of requirements for both extractive uses and urban development was appropriate in this circumstance. He considered that the control was appropriate and clear in managing both extractive use and urban development.

At the conclusion of the Hearing, the VPA provided a Part C version of the SCO incorporating comments from parties.

### 11.2.3 Discussion and conclusion

There was general acceptance regarding the key elements of the Incorporated Document, namely that it should control the use and development of extractive industry; use and development within the inner buffer area; and use and development within the outer buffer area. The issues raised were instead about the detailed provisions within the document.

Firstly, the Committee agrees that the title should refer to Wallan South as well as Beveridge North West, given that part of the buffer land extends into the Wallan South PSP. It also considers that the objectives should be made clearer that the purposes of the Incorporated Document is not only to manage the extractive industry, but also to progressively allow for urban uses to establish in accordance with the PSP, as the phasing progresses and the buffers retract over time.

The Committee agrees with the VPA that the Incorporated Document should be drafted to allow for the current or an alternative permit to be sought, noting that even if the current permit is approved, there may be changes over time. The Incorporated Document's role is to provide a planning framework in which the quarry and buffer land can be used and developed, and within this framework there may be various proposals or permits that can satisfy the objectives and respond to the application requirements and decision guidelines.

The critical issue of expiry dates and time limits is discussed in Chapter 6.6, and for the reasons outlined, the Committee has accepted the VPA's ultimate expiry date of 31 December 2052. The Committee does not consider that there also needs to be expiry limits to blasting within this overall time period, as this will be dependent on the time taken to commence; and time taken for rehabilitation, including progressive rehabilitation over time. The Committee also supports the revised provisions Expiry provisions of the document, that removed reference to the current permit application.

As previously discussed in Chapter 6.4, the Committee agrees with most of the evidence and submissions that the Incorporated Document should allow for a permit to issue for sensitive uses within the buffer area, subject to detailed assessment. While Council opposed this, the Committee was satisfied that the combination of controls within the Incorporated Document, and conditions of a permit, will allow the Responsible Authority to make an informed assessment about whether a sensitive use is appropriate at a point in time. Given the competing demands for urban development in the context of this extractive industry proposal, it is important that land is not sterilised unnecessarily. Furthermore as the phasing of the quarry moves over time, the SCO boundary may remain, however the phasing buffer will retract in accordance with the activity source.

The Committee also accepts that there should be a prohibition on allowing an application to be made for a sensitive use until 31 December 2027 to allow time for the quarry to commence.

In relation to the term 'buffers', the terminology suggested by YVW and adopted by the VPA in closing submissions, of an 'outer zone of potential risk' and an 'inner zone of potential risk', while the Committee considers has merit, it is not terminology used within the Planning Scheme or associated documents.

There are a range of terms used, including:

- 'Threshold distance' at clause 53.10 of the Planning Scheme, relating to *Uses and Activities with Potential Adverse Impacts*
- 'Separation distance' in EPA Guideline 1518, and



- ‘Buffers’ in Planning Practice Note 92: *Managing Buffers for land use compatibility* and in the ‘Buffer Area Overlay’ within the Victoria Planning Provisions.

The Committee considers that the term ‘buffer’ is well known and understood and should be used in the Incorporated Document.

On the extent of the buffers, there was clear evidence that the buffers should commence from the extraction or activity boundary rather than the title boundary. However as discussed in Chapter 6, the Committee consider that the SCO boundary be taken from 20 metres inside the boundary to accord with clause 52.09-6, however for the retracting buffers to be taken from the activity boundary at each stage.

The key area of the Incorporated Document where the Committee considers there should be further work undertaken is in relation to phasing plans. The Committee agrees with Mr Woodland that it is important that phasing plans are required by the Incorporated Document to show how the activity areas within the quarry will move over time, to allow for buffer land to be ‘released’ for urban development. It is important that this information is available to landowners and developers seeking to make applications in the buffers, as well as to guide decision making.

Conundrum suggested that the phasing plan from Mr Ramsay’s evidence (Figure F6) be included in the Incorporated Document to the SCO. The Committee agrees that this type of plan is appropriate. It considers, however, that it should be endorsed under any planning permit issued, rather than form part of the Incorporated Document. The Incorporated Document should however further expand on the application requirement for ‘phasing’ and clarify that the phasing plan is not only required in relation to assessing blasting impacts within 200 metres of the Eastern Arterial Road, but also to inform assessment of sensitive uses within the buffer over time. The Committee has included suggested provisions in Appendix G.

Rehabilitation matters are discussed in Chapter 17.3.6, however generally the Committee accepts the wording provided in the VPA closing submission version of the Incorporated Document, that has regard to the end use within the PSP, without requiring matching contours to surrounding land or referencing to the plan in the Tract planning application report.

The final version of the Incorporated Document provided by the VPA has included many of the comments from the various submitters, including Council, YVW, Conundrum, DoT, EPA, Merri Creek Management as well as expert evidence from planners and quarry experts. These include formatting changes; revised wording for the Kangaroo Management Plan; updated decision guidelines; requirements relating to blasting impacts on the operation of the Eastern Arterial Road; expanded prohibited uses until 31 December 2027; and acoustic requirements. Generally, the Committee accepts these changes as outlined in the VPA’s closing submission, except where different to the matters discussed above.

### 11.3 Recommendation

The Committee recommends:

**Adopt draft Planning Scheme Amendment C158mith as exhibited subject to:**

- drafting changes as shown in the last column of Document 222, Victorian Planning Authority response to Direction 41(c), and the recommended changes in this report**
- rezoning the burring buluk area to the Urban Growth Zone**

- c) **changes to the Urban Growth Zone Schedule 3 as shown in Appendix E to this report.**
- d) **changes in relation to burring buluk in the Precinct Structure Plan as shown in Appendix F to this report.**
- e) **changes to the Incorporated Document “Extractive Industry & Buffer Area BEVERIDGE NORTH WEST November 2021” as shown in Appendix G to this report.**

## Part III – Draft Planning Scheme Amendment C161mth, Supplementary Levy Infrastructure Contributions Plan

## 12 Planning context and strategic justification

### 12.1 Planning scheme provisions

#### (i) Policy

Clause 19 of the Mitchell Planning Scheme provides state wide policy relating to Infrastructure. Its objectives include planning for social and physical infrastructure to enable it to be provided in an efficient, equitable, accessible and timely way. It also seeks to ensure that planning recognises social needs and provides for accessible community resources such as education, cultural, health and community support facilities. Planning authorities are directed to consider the use of development and infrastructure contributions in the funding of infrastructure.

The local policy at clause 21.10 Infrastructure, provides local content to support clause 19. This policy recognises that the provision of community facilities is crucial to the balanced and healthy development of a local community. Strategies include developing community facilities that are multifunctional and accessible to the community in terms of cost, location, administration and design.

Physical infrastructure is directed to be provided to plan for future development needs, including the equitable and timely provision of physical and community infrastructure through effective structure planning.

#### (ii) Infrastructure Contributions Overlay

The draft Amendment includes a proposed ICO Overlay, Schedule 3 (ICO3).

The purposes of the ICO are:

- To implement the Municipal Planning Strategy and the Planning Policy Framework
- To identify the area where an infrastructure contributions plan applies for the purposes of imposing contributions for the provision of infrastructure.
- To identify the infrastructure contribution imposed for the development of land.

### 12.2 Ministerial Directions

#### (i) Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans, 24 February 2021

The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans sets out the requirements in the preparation of an infrastructure contributions plan. It includes:

- Monetary component at clauses 10 to 18, setting out the requirements for allowable items to be funded from a standard levy or a supplementary levy (or combination of both)
- Land component at clauses 19 to 27, setting out the method for calculating the value of public purpose land; calculation of land use credit amounts and land equalisation amounts per parcel; method of adjustment of land credit amounts and land equalisation amounts.

Levies under an ICP can only be used to fund 'allowable items'. Allowable items are listed in Annexure 1 of the Ministerial Direction:

- Table 2 lists allowable items for the community and recreation standard levy – these include a range of community and sport and recreation facilities, such as kindergartens, neighbourhood houses, football ovals, netball courts and the like.
- Table 3 lists allowable items for the transport construction standard levy – these include arterial roads consisting of two lanes in one carriageway in a road reservation; intersections; walking and cycling infrastructure; and bridges and culverts constructed up to specified standards. For example, for arterial road lanes, the standard of the provision is ‘construction of one through lane in each direction’
- Table 4 lists allowable items for transport construction supplementary levy. These include arterial roads, signalised intersections or roundabouts at the intersection, arterial road bridges, pedestrian or cyclist bridges and accessways, generally where the estimated cost of the item must exceed the standard levy rate ‘*as a result of the topographical, geographical, environmental or physical conditions of the land on which the item will be constructed*’.

Clause 16 states that a planning authority may only include a supplementary level in an infrastructure contribution plan if:

- (a) the works, services or facilities to be funded from the supplementary levy are, in the opinion of the planning authority, essential to the development of the ICP plan area;
- (b) the works, services or facilities to be funded from the supplementary levy are identified in a precinct structure plan or equivalent strategic plan applying, or to be applied, to the land; and
- (c) any other requirements specified in the applicable Annexure to this Direction are met.

## (ii) Other Ministerial Directions

Other Ministerial Directions that are applicable, include *Ministerial Direction No. 9 – Metropolitan Strategy* and *Ministerial Direction 11 – Strategic Assessment of Amendments*.

The VPA submitted that the Amendment accords with Direction 9 as it will facilitate the collection of development levies to fund the required infrastructure to service future urban land within the UGB.

The VPA also submitted that the Amendment meets the assessment criteria set out in Ministerial Direction 11 by:

- Implementing the objectives of planning in Victoria by providing for the fair, orderly, economic and sustainable use of land identified for urban purposes.
- Has addressed environmental effects as the pattern of land use and development was guided by flora and fauna, flooding and drainage studies.
- Has considered the relevant social, environmental and economic effects and will result in a net community benefit.

## 12.3 Infrastructure Contributions Plan Guidelines (DELWP, March 2021)

The *Infrastructure Contributions Plan Guidelines* (DELWP, November 2019) (the ICP Guidelines) provide a high level overview of the ICP system, and advice on how to prepare, implement and administer an ICP.

The ICP Guidelines state on page 8:

Infrastructure contributions help fund basic and essential infrastructure for new and growing communities, such as local roads, community centres, kindergartens, maternal and child health facilities, local parks and sporting facilities, which are vital for creating sustainable communities. It helps to ensure that new communities have the essential infrastructure to meet their needs.

The ICP Guidelines outline a number of principles of the ICP system on page 9, including:

- infrastructure is basic and essential
- timely and orderly provision of infrastructure
- need and nexus
- equity
- certainty
- accountability and transparency.

## 12.4 Discussion and conclusion

### (i) Supplementary levy

The Ministerial Direction allows items to be funded by a transport construction supplementary levy when the estimated cost of an item will exceed the standard levy rate *‘as a result of the topographical, geographical, environmental or physical conditions of the land on which the item will be constructed’*.

Investigations have established that sodic soils are widespread in the PSP area. The Committee considers that sodic soils which are prone to erosion are a specific environmental condition that meets the criteria set out in the Ministerial Direction. Their existence has added significantly to the cost of transport infrastructure items whereby the estimated construction cost of items listed as a supplementary item will exceed the standard transport levy rate.

On the advice of Mr De Silva, the VPA added words to the ICP to expressly recognise the impact of sodic soils on the design and cost of transport infrastructure items which has resulted in greater costs and consequently a supplementary levy to fund some transport infrastructure items.<sup>109</sup>

The items listed in the ICP Table 6: Supplementary Levy Transport Construction Projects are arterial roads, signalised intersections and arterial road bridges all of which are allowable items under the Ministerial Direction, Annexure 1, Table 4. These items are considered to be essential to the development of the ICP plan area thereby meeting the Ministerial Direction requirement for including a supplementary levy.

The Committee considers therefore that the requirements for the imposition of a transport supplementary levy and the items to be funded by the supplementary levy in the ICP have been met in accordance with the Ministerial Direction.

### (ii) Infrastructure Contributions Plan Amendment

Overall, the Committee is satisfied that the ICP including a supplementary levy is an appropriate use of the Victoria Planning Provisions, is strategically justified, and subject to the changes recommended in this report consider Amendment C161 should be adopted.

<sup>109</sup> Document 195c Appendix C2, Infrastructure Contributions Plan, Part C version (June 2022), page 3

## 12.5 Recommendation

The Committee recommends:

**Adopt draft Planning Scheme Amendment C161 with as exhibited subject to changes to the Incorporated Document “Beveridge North West Infrastructure Contributions Plan, November 2021” as recommended in this report.**

Other consequential changes may be required for issues such as the final alignment of the WAR as discussed in Chapter 8.3.

## 13 Inclusion of quarry land in ICP

### 13.1 The issue

The exhibited ICP covers all the land in the PSP including the land on which the proposed quarry is located (property BN-05 on Plan 01 of the ICP).

The issues are:

- should the quarry land (and associated buffers) be retained in the Infrastructure Contributions Plan?
- if so, when should contributions be levied against that land?

### 13.2 Evidence and submissions

In its Part A submission, the VPA noted that submissions seek to excise the quarry land and associated buffers from the ICP on the basis that the proposed quarry will be in-situ for some 30 years and will present a barrier to the collection of ICP levies. Based on proposed levy rates, approximately \$57 million will not be collected until the quarry ceases operation and the land rehabilitated and the buffer land is released.

Mr Mark Woodland for YVW stated in his expert evidence that it was appropriate for the land within WA 1473 and its buffers to be included in the ICP. He also stated that depending on any decision relating to limiting the life-span of quarrying activities, the ICP timeframe should be at least 30 years.

Mr Chris De Silva for the VPA stated in his evidence that, if the land impacted by the quarry and its associated buffers cannot be developed for a period of 30 years, this should be made explicit in the PSP and the land should be excluded from the ICP. In excluding the impacted land from the ICP, he recommended that the following steps be taken:

- assess the relationship between the revenue potential of the impacted land and the value of public land and infrastructure projects that are located within or serve the impacted area and if there is a mismatch, review the infrastructure priorities and/or consider responsibilities for the funding gap
- assess the need and funding potential to secure land for the northern active open space reserve and indoor recreation land in its entirety in the first 30 years which may necessitate a review of public land priorities
- review whether the transport network can function without the northern part of the EAR and if it is determined that the network cannot function without the EAR northern section, consider the inclusion of financing costs in the ICP to deliver that link.

The VPA acknowledged that there are advantages with Mr De Silva's approach in that the funding of the ICP will not rely on the quarry and the ICP will be completed in a more conventional time frame. It submitted, however, that there are practical and equitable difficulties with the approach suggested by Mr De Silva, and acknowledged that there is inevitably tension when accommodating a quarry in a PSP and this results in the need to accept less than perfect outcomes on a range of matters including contributions.

The VPA submitted that the principles of equity require that the quarry area pay ICP contributions at the time it is developed for residential purposes. It argued that if the quarry area was excluded,



there would be no mechanism in place to collect contributions from the quarry area effectively providing future development in this area with infrastructure and increasing the cost of infrastructure for the balance of the PSP area.

The VPA noted that even if a permit were to be granted, it is not certain that a quarry will be established. It submitted if the ICP is applied and the quarry is established, the outcome would be a delay in the collection of contributions, but if the ICP is removed and the quarry is not established, the consequence is disorderly infrastructure planning.

The VPA noted that in oral evidence, Dr Spiller acknowledged that if the quarry was removed from the ICP and costs reallocated across the remaining net developable area this would create a ‘freeloading’ problem where the ultimate development of the quarry land would benefit from the precinct infrastructure that had been funded by others. The VPA added:

Further, when asked about alternative funding mechanisms that could collect contributions from the future development of a quarry excised from the ICP, the experts could only offer generalised statements regarding the need for a further ICP and section 173 agreement. The problem of what infrastructure (if any) would be left undelivered at the time of residential development also arises in these discussions.<sup>110</sup>

The VPA noted that one way to respond to funding challenges posed by a quarry use would be to levy contributions from non-residential uses such as the quarry. Its stated preference, however, was for the alternate approach of levying the end residential land use at the end of the quarry life. This position was preferred because of the need to ensure a nexus between the levy payer and the infrastructure to be funded by the levy.

The VPA requested that the Committee recommend that the quarry and associated buffers are retained in the ICP with contributions levied when the land is developed for residential uses post rehabilitation of the quarry land and not levied against a quarry in WA1473.

Council noted that the evidence of Mr De Silva and Dr Spiller indicated that the ICP will not fully fund the infrastructure for which levies are to be raised if a permit was granted for the quarry.

YVW stated that it supports the VPA’s position on Mr De Silva’s recommendation for the quarry land and associated buffers. It submitted that the land should not be excised from the ICP although the issue raised by Mr De Silva highlights the importance of a time limit on quarrying, the need for a feasible quarry rehabilitation plan to facilitate PSP end uses and the desire to minimise sterilised land within buffers as far as practicable.

Conundrum submitted the ICP should not apply to the quarry land. It argued that future infrastructure contributions associated with the quarry land should be determined at the time residential development is approved for the quarry which, if its submissions on the timing for the quarry are accepted, may not be for 40 years.

Conundrum argued that Mr De Silva’s opinion is consistent with the *Infrastructure Contributions Plan Guidelines 2019* which provides that an ICP should not exceed 25-30 years. It submitted that whilst the guideline is not mandatory, it should be given significant weight by the Committee.

In conclusion, if the Committee formed the view that the quarry should be included in the ICP, Conundrum requested that the Committee recommend that a new clause 5.9.3 be added to the ICP as follows:

5.9.3 – Extractive Industry

<sup>110</sup> Document 144, [205]

The development of land for Extractive Industry at WA1473 including any access road and/or land affected by sensitive land use buffers is exempt from the requirement to pay an infrastructure contribution levy until such time as it is developed for residential purposes.<sup>111</sup>

### 13.3 Discussion

The main argument made to exclude the quarry land from the ICP was that the ultimate use of the land would not occur for at least 30 years which would mean that the ICP would have to apply beyond the timeframe set out in the *Infrastructure Contributions Plan Guidelines 2019* that an ICP should not exceed 25-30 years.

In the Committee's view, that is not sufficient reason to excise the quarry land from the ICP. Firstly, the *Infrastructure Contributions Plan Guidelines 2019* timeframe is a guideline and not mandatory. Conundrum conceded that point. Secondly, what would be the alternative mechanism for collecting infrastructure contributions from the developer of the end use of the land?

It would be inequitable and unfair for the ultimate residential development on the quarry land not to contribute to funding the infrastructure in the PSP. Perhaps as suggested by the experts in oral submissions, a new ICP could be prepared and applied to the quarry land at a future date and/or the residential development of the land could be subject to a s173 agreement as part of any planning permit. The Committee does not see that approach as a realistic or desirable option. There is no ICP funded infrastructure in the quarry land area so there is no basis on which a new supplementary levy ICP could be prepared to cover the quarry land. Nor, for that matter, is there any basis on which a s173 agreement could be required.

Thirdly, what happens should the quarry land be excluded from the ICP, no quarry is established, and the land is developed for residential use earlier than anticipated? While an option could be another planning scheme amendment to extend the ICP over the quarry land at that point, to the Committee that would be an unsatisfactory process. The Committee considers that retaining the quarry land in the currently proposed ICP would be fairer, more orderly and would deliver better planning outcomes.

This raises the question, if the quarry land remains in the ICP, should the ICP levy be applied to the quarry use? The Committee agrees with the VPA and Conundrum that the levy should be collected when the land is developed for residential use and not during its interim use as a quarry. This is fair and equitable in that the establishment of the quarry and its operations will not rely on ICP funded infrastructure in the PSP and its owner should not therefore be obliged to pay the ICP contribution. That contribution should rightly be levied on the end-use residential development whose residents will utilise the ICP funded infrastructure.

The VPA supports that outcome, but the exhibited ICP appears to be silent on this matter. Conundrum sought that a clause be added to the ICP to make it explicit that the ICP levy would not be applied to the land while its use is Extractive Industry. This would confirm that the ICP is not to apply to land while used as a quarry and seems to the Committee to be a reasonable request.

The Committee accepts that applying the ICP to the quarry land and, by implication extending the life of the ICP beyond 30 years, is not perfect but in the circumstances, it considers that it is the appropriate outcome.

<sup>111</sup> Document 184, [269]

## 13.4 Conclusions and recommendations

The Committee concludes:

- the quarry land and buffer areas should be retained in the ICP
- the ICP levy should not be applied to the land while it used as a quarry or buffers
- the additional clause requested by Conundrum would made it explicit that the ICP contribution is not to be levied against the quarry use.

The Committee recommends:

**Retain the quarry land (WA1473) and buffers in the Infrastructure Contributions Plan.**

**Apply the Infrastructure Contributions Plan levy to the quarry land post quarry use when it is no longer required for quarrying or quarry buffers by including a new clause 5.9.3 to the Infrastructure Contributions Plan as follows:**

5.9.3 – Extractive Industry

The development of land for Extractive Industry at WA1473 including any access road and/or land affected by sensitive land use buffers is exempt from the requirement to pay an infrastructure contribution levy until such time as it is developed for residential purposes

## 14 Monetary component project identification

### 14.1 The issue

PSP Plans 09 and 10 show bridges on two east-west connector streets over waterways flowing through Property BN-14.

The issue is:

- should the ICP Plan 2 – Monetary Component Projects be amended to include these bridges/culverts on Property BN-14 as Supplementary Items in the ICP?

### 14.2 Submissions

Balcon Beveridge noted that the bridges/culverts on Property BN-14 on the connector streets crossing the waterway are not included on ICP Plan 2 – Monetary Component Projects but, in contrast, BR-01 on the eastern north- south arterial road has been included in the ICP. It submitted that the connector streets on Property BN-14 are key to the broader road network and also provide the ultimate access to Property BN-15 to the east. Balcon Beveridge considered therefore it was appropriate that a contribution to this infrastructure be made by surrounding development.

Balcon Beveridge submitted that the ICP Guidelines March 2021 state that ‘infrastructure contributions help fund basic and essential infrastructure’ and therefore if the bridges/culverts are required to service new communities and specifically provide access to the land to the east, they should be included as ICP funded infrastructure. Balcon Beveridge submitted that the arguments put by Council and the VPA that the items in question are developer related infrastructure items ignore recent examples where connector roads have been included in ICPs and cited as examples the Sunbury South/ Lancefield Road, Mt Atkinson and Tarneit Plains and Plumpton/Koroit ICPs. If they are not considered essential, Balcon Beveridge argued that the road network should be changed to remove these costly connections.

The VPA submitted that the connector road in the PSP is necessary for the transport connectivity of the area and it is not simply a matter of being able to ‘design out’ bridge/culvert structures. The VPA added that connector roads are essential infrastructure planned at the PSP stage that are not funded by an ICP. It submitted that the situation is not as binary as that put by Balcon Beveridge in that it is possible the connector roads and the required culverts to be both essential to the transport network and not funded by the ICP.

The VPA noted that this is recognised in the ICP Ministerial Direction which contemplates that connector roads are not usually included in ICP levies unless specific requirements are met. It submitted those requirements are not met in the case of the bridges/culverts on connector streets on the Balcon land.

### 14.3 Discussion

The Committee is not persuaded by the submissions made by Balcon Beveridge. It considers the connector streets to be rightly part of the PSP street network which was essentially settled at the Amendment C106 Hearing and it is not simply case of removing those connector streets from the street network identified by Balcon Beveridge.

The issue comes down to whether the culverts/bridges identified by Balcon Beveridge are allowable supplementary items under the ICP Ministerial Direction. The Committee accepts that there are recent examples of such cases including those cited by Balcon Beveridge. In this case, however, the Committee agrees with the VPA that all the requirements set out in the Ministerial Direction have not been met. Specifically, the items are not to be constructed on or adjoining fragmented ownership; they are all within single ownership.

The Committee does not support an amendment to the ICP Plan 02 to include the culverts/bridges on Property BN-14 as a Monetary Component Project in the ICP.

## **14.4 Conclusion**

The Committee concludes ICP Plan 02 – Monetary Component Project should not be amended to include the culverts/bridges on Property BN-14 as ICP items.

## 15 Specific items in ICP

### 15.1 Apportionment of intersections IN-08 and IN-09

#### (i) The issue

The Precinct Infrastructure Plan in the exhibited PSP apportions the cost of the intersections on Hadfield Road with the western arterial road (IN-08) and the eastern arterial road (IN-09) 50/50 between the PSP and the Wallan South PSP.

The Amendment C106 Panel concluded that that 50/50 apportionment was appropriate.

With the alignment of Hadfield Road now likely to be further north into the Wallan South PSP, the issue is:

- what percentage of the cost of intersections IN-08 and IN-09 on Hadfield Road in the Wallan South PSP should be the apportioned to the PSP?

#### (ii) Evidence and submissions

Ms Hilary Marshall on behalf of YVW stated in her evidence that the now proposed locations of IN-08 and IN-09 are not in the BNW ICP area and the GTA traffic modelling indicates that only about 5 per cent of trips generated by the PSP area are likely to be to the north. She considered this level of traffic from the BNW through Wallan South to be minimal and only a very small proportion in comparison to the proposed apportionment of 50 per cent for both intersections. She expressed the opinion that there is no nexus between either IN-08 or IN-09 to the PSP and neither intersection should be included in either the PSP or ICP.

The VPA submitted in its Part A Submission that while the potential inclusion of burring buluk may result in a change to the location of Hadfield Road (from the boundary between the two PSPs further north into the Wallan South PSP), the principle underpinning the funding of the intersections remains the same - 50 per cent between the two PSPs.

The VPA subsequently stated that it recognised that on the evidence of Mr Humphreys, with Hadfield Road relocated to the north, the Hadfield Road intersections would be used by a smaller percentage of BNW users than identified in the Amendment C106 version of the PSP. It submitted that although the location of Hadfield Road in the Wallan South PSP is yet to be finalised, on the basis of current knowledge, an appropriate apportionment would be to reduce the contribution of the BNW to 25 per cent, that is, 25 per cent to BNW and 75 per cent to Wallan South.

In further submissions, the VPA noted that YVW had accepted the 50/50 apportionment in Amendment C106 when Hadfield Road was located on the PSP boundary but now oppose apportionment based on (traffic) modelling using an agency draft road formation for Wallan South. It added that there is no explicit guidance in the ICP Guidelines on how likely use, or fair and reasonable contributions should be calculated, with usage one factor and population another. It submitted that the traffic modelling suggests that the location of Hadfield Road to the north in the draft Wallan South PSP reduces the level of usage of the intersections by BNW generated traffic and that:

The Committee can be satisfied that there is a need for the intersections generated by BNW, there is a nexus, the remaining question being where equity lies. In the absence of finalised information of the location of the intersection the extent of contribution meets the fair and reasonable requirement. It does so in part because as Crystal Creek Properties submit in

their primary submission it would be unreasonable that PSP to take responsibility for all of the cost.<sup>112</sup>

In oral submissions, Crystal Creek submitted that if the alignment of Hadfield Road changes, the appointment of IN-08 and IN-09 needs to be reconsidered.

YVW noted that IN-08 and IN-09 are now located external to the BNW ICP plan area and on the evidence of Ms Marshall, only 1-5 per cent of BNW traffic is expected to use these external intersections. YVW submitted that IN-08 and IN-09 should accordingly be removed from the BNW PIP and ICP.

### **(iii) Discussion**

With the likely relocation of Hadfield Road north into the Wallan South PSP, it is necessary to review the apportionment of IN-08 and IN-09 between the two PSPs. While the proportion of traffic using these intersections will be lower than would have been case with Hadfield Road located on the PSP boundary, some traffic generated by the PSP area will still use these intersections to travel to the north. Indeed, these intersections although outside the PSP are still an important part of the PSP street network. Without them, the WAR and the EAR will be 'roads to nowhere' and could not perform their function as part of the sub-regional street network.

Furthermore, without the development of the PSP and its street network, there would be no need for the two intersections with Hadfield Road. Notwithstanding that they are now likely to be located wholly outside the PSP area, there is clearly a nexus between the two intersections and the development of the PSP. Some apportionment of their cost should therefore be attributed to the PIP and ICP.

The question then becomes what should be that apportionment? Circumstances have changed (with the likely relocation of Hadfield Road some distance to the north and the consequent reduction in PSP traffic forecast to use these intersections) since this matter was considered by the Amendment C106 Panel. The Committee considers that due to these changed circumstances a 50/50 apportionment is no longer justified and the apportionment to this PSP should be reduced.

Apportionment of infrastructure costs between PSPs is never an exact science and relies on a degree of judgement in considering a number of factors including usage and population as noted by the VPA but also the more ephemeral considerations of need and nexus. On the evidence and submissions before it and no strong evidence to determine otherwise, the judgement of this Committee is that as recommended by the VPA the apportionment of costs of both intersections should be 25 per cent to this PSP and the balance of 75 per cent to the Wallan South PSP.

### **(iv) Conclusions and recommendation**

The Committee concludes:

- the apportionment of intersections IN-08 and IN-09 should be 25 percent to this PSP and 75 per cent to the Wallan South PSP
- the Precinct Infrastructure Plan and ICP should be adjusted accordingly.

The Committee recommends:

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<sup>112</sup> Document 195, [49]

**Amend the Precinct Infrastructure Plan and Infrastructure Contributions Plan to apportion 25 per cent of the cost of intersections IN-08 and IN-09 to the Beveridge North West Precinct Structure Plan and 75 per cent to the Wallan South Precinct Structure Plan.**

## 15.2 Apportionment of intersection IN-03

### (i) The issue

The signalised intersection (IN-03) of Camerons Lane with the western arterial road is shown in the exhibited ICP as a four-leg intersection and apportioned 50/50 to the PSP and the Beveridge South PSP.

The issue is:

- should the intersection IN-03 be modified to a three-leg intersection and be wholly funded by the Beveridge North West ICP?

### (ii) Evidence and submissions

In her statement of evidence, Ms Marshall considered the proposed 50 per cent apportionment inappropriate and from a practical point of view, until the land to the south is rezoned and a developer is ready to commence, the land and funds required for the fourth leg would not be available and would be unlikely to coincide with the development of the PSP. She stated that in her opinion, it would be far more practical to include 100 per cent of a signalised T- intersection in the ICP with the fourth leg fully funded by the future PSP to the south. She noted that as it is not possible to construct 50 per cent of an intersection and claim ICP credit for works in kind, the proposed apportionment will significantly delay the construction of this intersection.

YVW noted the evidence of Ms Marshall and submitted that the straddling of ICP projects across different PSP/ICP areas presents practical difficulties including securing all the required land, and the potential inequities when only part of an ICP item is constructed as works in kind which will usually involve a credit reduction to the developer on account of works 'thrown away' as a result of splitting an item into two parts and stages.

It submitted that in the circumstances, IN-03 should be redesigned and re-costed as a three-leg T intersection wholly within BNW and wholly funded by the BNW ICP. YVW noted that under cross examination, Mr De Silva accepted the logic of Ms Marshall's recommendation to split the intersection between the PSP and the future Beveridge South area on an 'in principle' and 'prima facie' basis.

Council submitted that the 50 per cent apportionment of the intersection to the PSP and 50 per cent to the future Beveridge South ICP makes little sense and requested that 75 per cent of the IN-03 be apportioned to the ICP. It made no comment on the proposal by YVW that the PIP and ICP be amended to show a three-leg T-intersection fully funded by the ICP.

The VPA submitted that there is merit in Council's submission that IN-03 should be 75 per cent funded given that the PSP will be delivering three of the four legs. The VPA in response to a question from the Committee commented that it would not be fatal if 100 per cent funding of a T-intersection as proposed by YVW was included in the PIP and ICP.



**(iii) Discussion**

The Committee agrees that the 50/50 apportionment of IN-03 as set out in the exhibited PSP and ICP is not appropriate. The intersection will most likely be needed and constructed by YVW or some future owner as part of its development of the PSP well before development to the south is likely to occur. YVW as the relevant landowner has proposed that the ICP fund effectively 75 per cent of the intersection. That makes sense given the expected timing of development in the PSP will be well in advance of development to the south.

The issue then becomes whether the ICP should fund 75 per cent of the full intersection works or as proposed by YVW, 100 percent of a three-leg T-intersection. Either option is feasible and would have a very similar outcome in contribution terms from each ICP.

The Committee notes the examples given by Ms Marshall of other recent PSPs where the fully funded T-intersection approach has been followed. The VPA did not oppose the T-intersection proposal and in the view of the Committee, that would be a cleaner, more practical approach. It would provide greater certainty for the PSP developers than would the alternative of 75 per cent funding of a full intersection and would place delivery of a functional intersection to serve the PSP solely within the hands of the PSP developers.

**(iv) Conclusions and recommendation**

The Committee concludes:

- the most appropriate apportionment of the cost for the Camerons Lane/Western Arterial Road intersection (IN-03) is that the PSP PIP and ICP fund 100 per cent of a three-leg T-intersection
- the PSP PIP and ICP should be amended accordingly.

The Committee recommends:

**Amend the Beveridge North West Precinct Structure Plan Precinct Infrastructure Plan and Infrastructure Contributions Plan to fund 100 per cent of a three-leg T-intersection at the Camerons Lane/Western Arterial Road (IN-03).**

**15.3 Camerons Lane west of IN-03****(i) The Issue**

Camerons Lane west of the Camerons Lane/ Western Arterial Road intersection (IN-03) is shown on Plan 9 of the exhibited PSP as a connector street. It is therefore not included for funding in the exhibited PSP PIP or the ICP.

The issue is:

- should the section of Camerons Lane west of intersection IN-03 be included in the PSP PIP and ICP?

**(ii) Evidence and submissions**

Council submitted that based on the evidence of Mr Pelosi, Camerons Lane west of IN-03 is likely to play an important role in providing access to Old Sydney Road heading both north and south but is deficient in its current and proposed form and ought be constructed to an appropriate standard.

In Council's view, this section of road can be funded under relevant parts of the Ministerial Direction.

Council expressed concern that as currently drafted it is not clear to a developer that Council may impose a valid permit condition requiring the developer to construct this section of Camerons Lane. It submitted that if the section of Camerons Lane west of IN-03 is not included for funding through the ICP, the PSP should expressly allow for a permit condition to be imposed on development fronting that section of Camerons Lane, on PSP Plans 3 and 9 and providing a corresponding requirement in the PSP.

The VPA noted that the status of this section of Camerons Lane was discussed at the Hearing for Amendment C106 and that Panel concluded that given its designation as a connector street, its inclusion in the PIP was not justified.

It submitted that no analysis was provided by the Council to support how funding of this section of road could occur under the Ministerial Direction given its status as a connector street. The VPA noted that the section of road sits within the ICP Plan area and adjoins properties BN-09 and BN-10. It submitted that this cannot be regarded as a fragmented ownership structure and therefore the Council's case is not made out.

The VPA noted that Camerons Lane is within the PSP boundary and therefore R32 in relation to the timely delivery of connector streets binds a future developer.

### **(iii) Discussion**

The designation of Camerons Lane west of Intersection IN-03 and its possible inclusion in the PIP and ICP was canvassed extensively at the Amendment C106 Hearing. The Committee has not heard evidence or submissions that would convince it to reach a different conclusion to the Amendment C106 Panel. That is, there is no basis to include Camerons Lane west of IN-03 in the PIP and ICP.

That leaves the subsequent issue raised by Council. The Committee is not persuaded by Council's arguments that the PSP as drafted is unclear with respect the obligations of a developer to construct Camerons Lane abutting its property and that the Council may not have the power to impose a permit condition on a developer with respect to the road's construction as developer works. The Committee agrees with the VPA that the requirements set out in PSP R32 must be met by a developer including the timely delivery of connector streets.

Camerons Lane west of IN-03 is already shown on PSP Plans 03 and 09 as a designated connector street with a cross section in the PSP and Council could include a permit condition based on the provisions of R32.

The Committee does not consider the PSP needs to be amended as per Council's request.

### **(iv) Conclusions**

The Committee concludes:

- there is no basis to include the section of Camerons Lane west of its intersection with the Western Arterial Road (IN-03) in the PIP and ICP
- there is no need to amend the PSP because that section of Camerons Lane is already shown as a connector street and R32 provisions will need to be met by developers with respect to the road's timely delivery in accordance with the relevant PSP cross section.

## 15.4 Bridge BR-01 on PSP Properties BN-13/BN-14

### (i) The Issue

The issue is:

- Should Bridge BR-01 be redesigned as a culvert and the ICP designs and costs updated accordingly?

### (ii) Evidence and submissions

Mr Milinkovic noted in his evidence that BR-01 as a 165 metre long super T bridge is the most expensive projected to be funded through the ICP and stated that:

- there is no additional information in the PSP or ICP as to why BR-01 needed to be 165 metres long and a super T structure
- he was not aware of any environmental reasons that would justify such a long bridge
- the bridge will cross a constructed waterway and therefore there will be disturbance of the soils
- the proposed waterway will be 45 metres wide and the bridge 165 metres in length and the contours do not justify the proposed length of bridge
- the magnitude of flows reported in the evidence of Ms Barich typically require box culvert crossings of specified sizes
- the Benchmark Infrastructure Report provides costs for these typical culvert crossings in the order of \$914,000 to \$1,625,000.

He concluded that there are no known hydrogeological or environmental reasons to justify constructing BR-01 as a super T structure and such a design was not warranted. He considered that a culvert provides a more cost effective outcome suitable for purpose and a culvert solution should be investigated and used if proven appropriate.

The Conclave Statement<sup>113</sup> on infrastructure costings reported agreement that based on available data, using culverts was a viable option and would be less costly than a super T bridge structure and further analysis would be required to confirm if a culvert solution is viable and in turn less costly.

The VPA noted the evidence of Dr Sandercock that either a bridge or culvert would be possible as the waterway is a constructed waterway. It submitted in oral submissions that the presence of sodic soils was not an operative consideration. The VPA advised that Melbourne Water's preference was always for crossings to be bridges as they have less hydraulic and environmental impact on waterways. It added, however, that does not mean that a culvert would not be considered by Melbourne Water at the detailed design stage subject to further assessments.

The VPA submitted that a key benefit of a bridge is that it sits clear of the creek which is ideal as should defects emerge, rectification works can be managed much more easily with less impact on the creek and environment. With a culvert which sits in the waterway, there are more requirements to be satisfied through the design phase such as blockages, afflux, culvert sizing, maintenance agreements and planting. The VPA submitted that the ongoing maintenance and renewal of both asset types need to be considered in the context of sodic soils and potential disruptions to the arterial road network with the risk of culvert failure causing failure in the road

<sup>113</sup> Document 69.

asset above it. In addition, any future remediation works on a culvert would most likely require the culvert and the road to be removed whereas bridge maintenance can occur while maintaining traffic flows and much of the structure. The VPA submitted that in light of these factors, the design of this item should remain a bridge structure.

The VPA subsequently tabled a memorandum<sup>114</sup> and a further Cardno costings report<sup>115</sup> which confirmed that with a shorter span (from 165 metres down to 50 metres), the cost estimate of the super T bridge structure has been reduced from approximately \$21.8 million to \$7.6 million.

It submitted that given the preference of Melbourne Water for bridges and with these reduced costs, the balance lies in adopting the proposed bridge design. The VPA added that if through detailed design the bridge can be replaced with a culvert with the agreement of Melbourne Water, the cost savings would be realised by the Council thus freeing up funds for other projects. Alternatively, if delivered as works in kind, the Council could factor the cost saving into the works in kind credit offered to the developer.

Council submitted that it is more appropriate that BR-01 and BR-03 be funded by the supplementary levy and not the standard levy as requested by 615 Hume Freeway.

615 Hume Freeway Pty Ltd stated that it did not believe that the VPA's substantive submissions on BR-01 reflected the issues at hand. It responded (Committee's summary) that:

- Dr Sandercock gave expert evidence on sodic soils, not infrastructure design and cost, and he did not consider the presence of sodic soils would be a key determinant between a bridge and a culvert
- Melbourne Water have not been available for questioning by parties
- It was understood that the VPA would be undertaking further work before the conclusion of the Committee Hearing
- BR-01 crosses a fully constructed waterway WI-03 not a creek, and there are no known site conditions such as vegetation or cultural heritage that require a minimal interface with any "wet parts of the creek"
- Mr Vocale's evidence states that BR-01 will add an additional cost of one per cent for sodic soils compared with 15 to 20 per cent across the PSP which suggests that sodic soils are not a key consideration for BR-01.
- They were unaware that culverts have a higher risk of failure or that remediation works are more disruptive compared with bridges.

While agreeing with YVW's submission that there should be flexibility to allow for waterway crossings to be constructed as culverts or bridges, 615 Hume Freeway saw a difficulty with that approach in that some costings of these items will be locked into the ICP and any cost savings through changes in design will likely only benefit the specific landowner and will not reduce the levy amounts payable by others.

615 Hume Freeway requested that based on expert evidence at the Hearing, the Committee should require further independent investigation of this matter.

YVW supported the submissions made by 615 Hume Freeway Pty Ltd and Balcon Beveridge. YVW submitted that as a key principle of the ICP system as stated in the ICP Guidelines, infrastructure should be 'basic and essential' and not 'gold plated'. It added that the issue raised in relation to BR-01 has broader relevance. While it considered that flexibility in design already exists in the PSP,

<sup>114</sup> Document 185.

<sup>115</sup> Document 186.

it supported this being more explicit but BR-01 should not be singled out as the same principles should apply to all waterway crossings.

YVW noted that the PSP Plans 09 and 10 show several waterway crossings along connector streets as bridges and that on the evidence of Mr Milinkovic, culvert crossings may be sufficient and more cost-effective. It sought the addition of a note to Plans 09 and 10 as follows:

Note: Bridges as detailed on this plan are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water and the Responsible Authority. These authorities may approve, to their satisfaction, construction of these crossings as culverts.<sup>116</sup>

Balcon Beveridge stated that it agreed with the opinion of Mr Milinkovic that culverts should be constructed over waterways as the span bridge is a high-cost item that is not the most appropriate solution for constructed waterways. It added that the evidence of the experts was clear that water management and sodic soils could be managed and culverts could be used as an appropriate design outcome for BR-01. Balcon Beveridge submitted that although a bridge would be a 'nice to have' item of infrastructure, it is not necessary because of its high cost being a huge impost on each landowner when a more cost effective and appropriate design outcome, a culvert, is available.

The Merri Creek Management Committee noted that PSP Plan 10 shows an off-road shared path along the waterway crossed by BR-01 which forms an important part of the off-road pedestrian and bicycle network. MCMC added that this shared path appears to be shown on Plan 10 as going under the arterial road at BR-01 and Plan 09 does not show a signalised crossing for users of the shared path at this point. It submitted that it was important that a decision about BR-01 take into account the off-road shared path.

### **(iii) Discussion**

With the redesign of BR-01, its cost has been substantially reduced and this reduced cost is reflected in a revised ICP supplementary levy. Nonetheless, BR-01 remains a high-cost item compared to the alternative of a culvert based on the evidence of Mr Milinkovic.

As noted by MCMC, a bridge over the waterway could also allow for the shared path along the waterway to pass under the arterial road and give a safe crossing point for users of the shared path. While a consideration, in the Committee's view this should not be a determining factor in preferring a bridge over a culvert.

On the evidence before the Committee, and notwithstanding Melbourne Water's expressed preference for a bridge, a culvert is a viable option and should not be ruled out. The question then is when should this detailed assessment be done. It could be done as implied by the VPA after the ICP is approved with an allowance for the more costly bridge included the supplementary levy and any subsequent cost savings by replacing a bridge with a culvert realised by the Council. That would seem to the Committee to be an unsatisfactory outcome. In its view, the further analysis needed to determine whether BR-01 could be replaced with a culvert could and should be done before the ICP is finalised and any cost savings reflected in a reduced supplementary levy to the benefit of all property owners covered by the ICP and not just realised by the Council.

It may be, as suggested by YVW, that other bridges in the PSP could be replaced by culverts at lower cost to developers. These bridges are along connector streets, are not included in the ICP

<sup>116</sup> Document 194, [7]

and therefore any substitution of these bridges with lower cost culverts would not affect the ICP supplementary levy. There is flexibility implicit in the PSP to allow developers, subject to the approval of the Responsible Authority, to replace bridges with culverts at the permit application stage. The Committee considers, however, that there would be no harm in making this flexibility more explicit by adding a note to PSP Plans 09 and 10 with the words suggested by YVW.

#### (iv) Conclusions and recommendations

The Committee concludes:

- further analysis should be done prior to the finalisation of the ICP to determine if bridge BR-01 could be replaced by a culvert
- if a replacement culvert is agreed with Melbourne Water, the ICP should be amended before it is adopted and any cost savings reflected in a reduced ICP supplementary levy
- a note should be added to PSP Plans 09 and 10 to make explicit the flexibility to replace bridges with culverts along connector streets.

The Committee recommends:

**Undertake further analysis to determine whether bridge BR-01 could be replaced by a culvert. If a replacement culvert is agreed with Melbourne Water, amend the Infrastructure Contributions Plan to reflect cost savings in the supplementary levy before the Infrastructure Contributions Plan is adopted.**

**Add the following note to Precinct Structure Plans Plan 09 and Plan 10:**

Note: Bridges as detailed on this plan are subject to confirmation through functional and detailed design to the satisfaction of Melbourne Water and the Responsible Authority. These authorities may approve, to their satisfaction, construction of these crossings as culverts.

## 15.5 Additional culverts on Camerons Lane

#### (i) The Issue

The issue is:

- should three additional culverts (one between IN-01 and IN-02 and two west of IN-03) be included in the ICP?

#### (ii) Evidence and submissions

Council requested that three culverts should be added to the ICP – one between intersections IN-01 and IN-02, one just west of intersection IN-03 and one further west of IN-03 close to Old Sydney Road. It submitted that these culverts should be ICP funded as they would be extremely expensive and onerous for a developer or Council to fund.

The VPA stated in its submission response table<sup>117</sup> that it would include two additional culverts along Camerons Lane directly west of IN-03 and between IN-01 and IN-02. In closing, the VPA submitted that the applicable cross section for Camerons Lane remains a connector street and, therefore, it does not support Council's request for the third culvert on the western end of Camerons Lane as that culvert is developer works in accordance with PSP Requirement R32.

<sup>117</sup> Document 15, issue 4.04.10

In oral submissions, Council stated in view of the VPA's response, this issue is now resolved.

**(iii) Discussion and conclusion**

The Committee notes Council's oral statement in response to the VPA's proposal. It considers the matter is resolved and makes no further comment.

## 16 Allowance for funding costs

### 16.1 The Issue

The issue is:

- should further work be done to establish a case for financing costs for part of the north-south WAR and EAR to be added to the ICP as a supplementary item

### 16.2 Evidence and submissions

Council stated that in submissions made to the VPA in February 2022, it raised the issue of whether consideration should be given to a supplementary levy to facilitate the finance led delivery of the WAR as an early works funding component. It suggested in submissions to the Hearing that the extent of WAR that may need early works funding is from the northern boundary of the PSP to a point at which the road is likely to be delivered by YVW, which is likely to be either the location of and including RD-03C or IN-06 as shown on ICP Plan 02. The Council estimated the cost of delivering the northern section of WAR to be \$19.88 million and noted that the collection of some \$54.63 million in ICP levies are delayed by the inclusion of the quarry in the PSP.

Council added that it is unable to make a case for early works funding for the EAR as the information to satisfy the Ministerial Direction is not available. Council submitted that the Committee could recommend that work be done by the VPA to determine whether early works funding is warranted.

The VPA noted that the inclusion of finance costs in the ICP are allowable under the ICP Ministerial Direction subject to meeting conditions. It set out in its closing submissions<sup>118</sup> some initial estimations of funding costs based on delivery of the Western Arterial Road in 2040 under two roll out assumptions (Patch Spiller and VPA) which give financing costs over 20 years of \$2.9 million for the first assumed roll out and \$860,000 for the second.

The VPA noted the total cost of the transport levy is approximately \$130 million in the final ICP. It submitted:

Having regard to the total cost of the transport levy and the broad scope of assumptions inherent in the assessment, the VPA considers the cost benefit to seeking to justify that these items are essential is marginal given the vagaries inherent in the process to undertake that assessment.<sup>119</sup>

The VPA added that the Committee should be comfortable that the costings methodology is robust and the implications of funding a conservatively large estimate of the necessary portion of the WAR are not substantial having regard to the fluctuating nature of funding over the life of the ICP. It concluded that:

While the VPA acknowledges that the Ministerial Direction makes financing costs possible, the test in that document as outlined in the Part B is a mandatory test. The shortfall, if any, is limited and not inconsistent with the usual ebb and flow of cash management of the ICP making financing a speculative request.<sup>120</sup>

<sup>118</sup> Document 195, Appendix A.

<sup>119</sup> Document 195, [77].

<sup>120</sup> Document 195, [79].



YVW stated in submissions that it supported the VPA's position on the issue of forward funding and financing costs.

### **16.3 Discussion**

The focus of Council in seeking forward funding was for the delivery of the northern section of the WAR although it did concede that it was unable to make a case for the EAR due to the lack of information.

Based on the VPA analysis, the financing costs to provide forward funding for the northern section of the WAR, even under the more conservative roll out assumption, is relatively small in the context of the total transport funds to be collected over the life of the ICP.

It may be that a case could be made which meets the requirements of the Ministerial Direction for financing costs for the northern section of the WAR (and potentially part of the EAR although which part is not clear to the Committee) to be included in the ICP. However, on the evidence before the Committee, any financing costs that could be included seem to be limited and the benefit, net of the expense in making out the case, would in the Committee's view appear to be marginal.

The Committee is not satisfied that a sufficient case has been made to establish that further work should be done to justify adding financing costs to the ICP for some of the transport infrastructure.

### **16.4 Conclusions and recommendations**

The Committee concludes:

- a case has not been made to justify doing further work necessary to meet the requirements under the Ministerial Direction for adding financing costs of either the WAR or the EAR to the ICP.

## Part IV – The Quarry Planning Permit Application

## 17 Planning permit application (PLP268/19) assessment

### 17.1 Permit triggers

Under the Terms of Reference, the Committee is required to advise the Minister whether a permit:

...should be granted to 'use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1' at the Conundrum Quarry Land under WA 1473 having regard to the Mitchell Planning Scheme (as modified by the planning controls proposed by Amendment C158), and if so, the appropriate permit conditions.

The permit triggers for stone extraction prior to the introduction of the SCO through draft Amendment C158 are outlined in the Council Officer Report of 15 February 2021 and are summarised in the tables below.

**Table 4** Zone permit triggers

Zone	Permit/Application Requirement(s)
cl 35.06 Rural Conservation Zone	Stone extraction Buildings and works
cl 35.07 Farming Zone	Stone extraction Buildings and works
cl 37.07 Urban Growth Zone	Stone extraction Buildings and works

**Table 5** Particular provision permit triggers

Particular provision	Permit/Application Requirement(s)
cl 52.08 Earth and energy resources industry	Stone extraction
cl 52.09 Extractive industry and extractive industry interest area	Statutory endorsement of Work Plan required

In this case, the SCO and its associated Incorporated Document are being introduced into the Planning Scheme through Amendment C158 to explicitly allow for the extraction of stone as discussed in Chapter 11. As required in the Terms of Reference the permit assessment has been considered in the context of the SCO.

### 17.2 Relevant considerations

There are a number of relevant considerations in deciding whether a permit should issue. Section 60 of the PE Act requires the Responsible Authority to consider a range of matters including, in summary:

- the Planning Scheme
- the objectives of planning in section 4 of the PE Act
- objections and submissions which have not been withdrawn
- decisions and comments of referral authorities

- significant effects of the development on the environment or the environment on the development
- significant social and economic effects the development may have.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area. The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

Clause 71.02-3 of the Planning Scheme requires a Responsible Authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development. It also requires the consideration of bushfire risk to human life.

## 17.3 Key issues in the planning permit application

### 17.3.1 Resource availability

#### (i) The issue

Is the need and availability of stone a relevant consideration in deciding to issue the planning permit?

#### (ii) Submissions and evidence

Mr Rhys Quick gave evidence for Conundrum and Mr Justin Ganly gave evidence for Council on resource availability.

Mr Ganly and Mr Quick met via videoconference and produced a conclave statement.<sup>121</sup> Key points from the conclave statement were:

- The experts agreed the estimates for consumption of hard rock in the EY report *Demand analysis of extractive resources in Victoria* prepared for DEDJTR in May 2016 should be increased.
- They disagreed on the extent of the area of potential supply (Mr Ganly considered the area within a 25 kilometres radius of the proposed quarry was the appropriate area of interest while Mr Quick suggested product could go out to 50 kilometres).
- Mr Ganly considered resource availability since he prepared his July 2020 statement for Amendment C106 is much higher and recycled product is being used in higher quantities.
- Mr Quick considered that the extent of available resources are not accurately known, given some Work Authorities mentioned in the strategic work have not been granted, and resources are not guaranteed supply until planning approvals are issued.
- Mr Quick considered that the potential shortfalls in the north due to increase demand and the lack of new quarries being approved means there are economic benefits of this quarry given its location (reduced transport costs) and extracting the resource would add price competition in the market.
- Mr Ganly did not consider there will be a shortfall of rock in the quarry operating period and there is little economic benefit to extracting the stone.

Council submitted that the question of need is important in the context of a planning permit. In this case it submitted the need to be considered is the community need for stone, not the economic or financial needs of Conundrum. It submitted that Mr Ganly's evidence should be preferred given his extensive work in estimating supply and demand.

Conundrum submitted that Mr Quick's evidence should be preferred over Mr Ganly's. It submitted that Mr Ganly's evidence is irrelevant in the context of considering the planning permit application. It submitted that:

...while a demonstrated need for a proposal may be a relevant factor in a decision, the lack of a need will rarely, if ever, be a ground for refusing to grant a planning permit.<sup>122</sup>

### (iii) Discussion

The Committee notes that there has been significant submissions and evidence in recent times through Amendment C106 and Amendment C241wsea to the Whittlesea Planning Scheme (Shenstone Park) about the demand and availability of hard rock resources.

In this case the Committee is considering the resource and whether a planning permit should issue for its extraction, or some of it in the context of a time limited proposal. The quality of the stone and its suitability for a variety of uses is not in dispute. The key question then becomes is it needed?

This is a complex question. Quarry operators are notoriously circumspect in publicly stating their extraction rates and in-ground resources. Given the quarrying activities and resources across northern Melbourne, there is nothing before the Committee that suggests if the quarry does not

<sup>121</sup> Document 68.

<sup>122</sup> Document 184, [205] drawing upon authority in *Shell Company of Australia Pty Ltd v City of Frankston and Anor* 8 APAD 127.

proceed there will be a critical shortage of supply of hard rock resulting in some sort of wider economic impact resulting from delayed construction.

However, the Committee considers that this is not the appropriate test for a planning permit application. The Applicant does not need to prove a particular level of need. It is sufficient that, if a permit is granted, the Applicant may develop the quarry and this may have local and/or subregional benefits in improving supply and competition.

If the quarry is not developed, there will be likely flow on effects in terms of supply and demand, but the implications of this are unclear and should not carry significant weight in terms of whether a permit should issue.

#### **(iv) Conclusion**

The Committee concludes:

- The extent of hard rock supply and demand is unclear and the evidence not consistent
- A critical need for the resource has not been demonstrated, but this does not mean a permit shouldn't issue.

### **17.3.2 Groundwater and surface water**

#### **(i) The issue**

The issue is whether potential impacts on groundwater or surface water requires permit conditions.

#### **(ii) Submissions and evidence**

Mr Rod Huntley gave evidence on quarry design and operation for the VPA. In his evidence he noted that the groundwater under the site is reported in the Work Plan as being at 54 metres depth but could occur between 20 metres and 50 metres. His evidence was that there is some uncertainty about whether groundwater will be encountered and observed that a bore for water supply is proposed on the western side of the quarry.

He stated that if groundwater is encountered then extraction will stop until appropriate approvals are obtained.

The major parties to the Hearing did not make significant submissions about groundwater and surface water except in relation to rehabilitation.

Some community submitters raised stormwater management as a concern with the quarry. For example, FOMC did not consider that stormwater management has been adequately addressed, and were concerned about the potential downstream impacts on waterways and wetlands of the Merri Creek.

Submitter Mr Sturdy was concerned about the impact of blasting and the potential for chemicals to leach from the quarry to the groundwater aquifer and hence downstream into the Merri Creek and beyond. He listed a range of chemicals that he considered might be an issue and also identified sediment runoff from haul roads and hydrocarbon contamination as risk.

#### **(iii) Discussion**

As with any quarry there are potentially risks to groundwater and surface water, as indeed there are from urban development.

In this case the Committee considers the risk from the quarry is likely to be low and can be managed through standard procedures such as sediment ponds and proper management of potential pollutants on site. The Committee considers these can be all be managed through the regulatory process and particularly through the MRSD Act consent.

There are no surface water channels or waterbodies in close proximity to the site. If groundwater is encountered then it can be managed accordingly through the MRSD Act.

#### **(iv) Conclusion**

The Committee considers the potential impact to groundwater and surface water is low and can be managed through design and operation.

### **17.3.3 Traffic**

#### **(i) The issues**

The issues are:

- what potential impact could heavy vehicle traffic generated by the proposed quarry have on the road network and on the amenity of the surrounding existing and future residential areas
- what permit conditions should be applied for traffic if a permit were to issue.

A traffic impact assessment was included with the planning permit application.<sup>123</sup>

#### **(ii) Evidence and submissions**

##### **Strategic issues**

Most of the submissions lodged by local residents raised concerns over the adverse impact that trucks travelling to and from the proposed quarry could have on the safe operations of the surrounding road network including the Northern Highway, the Hume Freeway and the streets through the Wallan township. Mr Coustley, Mr Hammond, Ms Wright and others submitted at the Hearing that the proposed traffic lights on the Northern Highway to the north of the Hume Freeway exit would worsen the current bank up of traffic on the Northern Highway and push even more traffic out on to the Hume Freeway. Ms Phillips submitted that adding 50-60 slow moving, heavily laden trucks will only add to existing traffic problems facing residents getting in and out of Wallan on the Northern Highway and Hume Freeway.

Ms Bonnie Rosen in her social impact evidence<sup>124</sup> for Council noted that one of the themes emerging from the submissions on the quarry planning permit application was the impacts of traffic and congestion, including on safety, damage to vehicles and travel times. A similar theme emerged from submissions to Amendment C158, raising the impacts of traffic on health and safety, quality of roads, falling debris from trucks and wear and tear on the roads. In her evidence statement, she expressed the opinion that:

The impact of traffic will be experienced beyond the confines of the two buffers. The increase in traffic associated with the operation and rehabilitation of the quarry for six days a week is likely to have a significant adverse amenity impact on the existing and new and

<sup>123</sup> Document V20, undertaken by GTA.

<sup>124</sup> Document 30, [88] and [89].

emerging communities of Wallan and Beveridge, and the broader community using the major arterial roads.<sup>125</sup>

Ms Marshall in her evidence noted that the quarry operations will generate significantly less traffic than would residential development of the quarry area and quarry traffic is anticipated to use primarily the Northern Highway access route and not the PSP road network. She stated that:

From a traffic perspective the quarry will generate relatively low traffic volumes and will operate largely independent of the BNW PSP road network, therefore having minimal impact on the operation of the PSP.<sup>126</sup>

Ms Charmaine Dunstan in her traffic evidence for Conundrum noted that the traffic volumes generated by the quarry development will be low and the additional traffic on a peak hour or daily basis is not significant in the context of the traffic volumes already using the Northern Highway.<sup>127</sup> She expressed the view that traffic signals (on the Northern Highway) are the most appropriate treatment to allow heavily loaded trucks to safely turn into and out of the quarry access road. On her analysis, the signalised intersection would operate at a level of service A (excellent) with modest delays and queues on the Northern Highway and with overall degrees of saturation of 0.387 in the morning peak and 0.381 in the afternoon peak. On this basis the intersection would operate well under its capacity. Ms Dunstan stated that delays and queues on the Northern Highway would be low and “[T]he analysis shows that the proposed intersection has the minimum possible impact on the operation of the Northern Highway.”<sup>128</sup>

Conundrum submitted that on the evidence of Ms Dunstan, there are no traffic issues which bear upon a decision as to whether a permit for the quarry should be recommended. Conundrum noted that the experts at the traffic conclave accepted the Dunstan evidence and that the traffic impacts are acceptable.

DoT did not object to the planning permit for the quarry subject to conditions including with respect to the intersection of the proposed quarry access road with the Northern Highway.<sup>129</sup> DoT subsequently proposed additional permit conditions.<sup>130</sup> These proposed permit conditions are discussed below.

### Planning permit conditions

Council submitted that if the Committee recommends that the quarry permit should be granted, any permit should contain the draft conditions prepared without prejudice by the Council first tabled on 22 April 2022.<sup>131</sup> In amended without prejudice draft conditions document was tabled by the Council on 10 June 2022.<sup>132</sup> This draft of set conditions included conditions with respect to traffic during quarrying operations and rehabilitation and the conditions sought by DoT.

In response to the planning permit application (PLP268/19) in 2019, VicRoads (the then road referral authority) required conditions be included in a planning permit that may be issued.<sup>133</sup> DoT requested three additional conditions<sup>134</sup> relating to the delivery of the EAR while the quarry is

<sup>125</sup> Document 30, [169]

<sup>126</sup> Document 60, [6.7.1]

<sup>127</sup> Document 49, [114] [115]

<sup>128</sup> Document 49, [127]

<sup>129</sup> Document 81, [10]

<sup>130</sup> Document 81, [13] and Document 145

<sup>131</sup> Document 23.

<sup>132</sup> Document 187.

<sup>133</sup> Document 81, Appendix 1.

<sup>134</sup> Document 94, Attachment 1.



operational and future access to the Northern Highway via the proposed Hadfield Road intersection. DoT advised that these additional conditions supersede condition 3 of the original VicRoads referral response.

Conundrum submitted that there are no traffic issues which bear upon the decision as to whether a permit should be recommended by the Committee and noted that DoT does not object to a permit being issued.

Conundrum tabled its preferred draft permit conditions<sup>135</sup> which incorporated the conditions sought by DoT. Conundrum provided comments on Council's amended draft permit conditions with the most substantive comments with respect to traffic conditions being:

- a Traffic Management Plan should not be required as there are no traffic issues with respect the quarry
- it did not agree with the need for a section 173 agreement for removal of the interim access road intersection with the Northern Highway as this should be covered by a permit condition.

The VPA tabled without prejudice draft permit conditions<sup>136</sup> which included some but not all the conditions requested by DoT. In particular, the additional conditions as set out in DoT supplementary submission were not included by the VPA in its draft permit conditions.

### **(iii) Discussion**

#### **Strategic issues**

The proposed quarry (should a permit be granted) will generate heavy vehicle traffic during its operational and rehabilitation phases. The concern of residents in the area as reflected in submissions is that quarry traffic will have an adverse impact on the road network and the amenity of the surrounding area. While that perceived impact is understandable, on the evidence, impacts are not likely to be significant.

The evidence before the Committee is that the volume of quarry-generated traffic will be relatively low in the context of existing and future traffic levels in the area, including on the Northern Highway and will be largely confined to a new quarry access road connecting to the Northern Highway. The impact on the PSP and broader street network and the amenity of the area will therefore be minimal. In addition, the evidence of Ms Dunstan that the proposed signalised intersection on the Northern Highway was the best option to provide heavy vehicle access to the quarry and would not materially impact the operating conditions on the Northern Highway, was accepted by the other traffic experts and was not challenged during the Hearing.

The Committee is satisfied on the basis of the evidence that should a quarry come into operation with the access arrangements as proposed, there will be minimal impact on the local street network and the amenity of the area will not be unreasonably adversely affected by heavy vehicle traffic generated by the quarry.

<sup>135</sup> Document 184c

<sup>136</sup> Document 198.

### Planning permit conditions

As discussed above, the traffic experts agree that the traffic generated by the quarry will have little impact on the surrounding area and the road network including the Northern Highway notwithstanding the existing traffic conditions on the Highway as cited by submitters.

The analysis provided by Ms Dunstan in her evidence demonstrates to the satisfaction of the Committee that the proposed signalised Northern Highway intersection with the quarry access road will cause minimal additional delays on the operation of the Highway with the new intersection operating well within its design capacity.

The delivery of the access road and intersection with the Northern Highway before the quarry begins operations will be essential in containing and minimising the impact of quarry traffic on the surrounding local street network and the amenity of the area.

The permit conditions sought by DoT will require construction of the road access works to its satisfaction before the quarry is operational. The Committee notes that DoT also requested that there be conditions relating to specified works and a Road Safety Audit, with respect to the creation of a quarry access road linking to the Northern Highway, and controls over blasting within 200 metres of the proposed Eastern Arterial Road.

DoT sought a condition covered by a section 173 agreement that the interim intersection with the Northern Highway is removed within three months of the proposed Hadfield Road/Northern Highway intersection becoming available. The sticking point with Conundrum is the requirement for a section 173 agreement rather than just a permit condition. The section 173 agreement sought by DoT covers not just removal of the interim access arrangements but also the scope of works to the satisfaction of the relevant Responsible Authority with respect to the Hadfield Road intersection and modifications to internal access arrangement to connect the quarry to Hadfield Road. Given the importance of the ongoing access arrangements to the quarry, the Committee considers that a section 173 agreement is an appropriate mechanism.

The draft permit conditions include a requirement for a Traffic Management Plan to be prepared and endorsed by the Responsible Authority. Conundrum argued that a Traffic Management Plan should not be required and considered DoT conditions to be more relevant. The draft condition specifies that the Traffic Management Plan should include proposed haulage routes to the quarry, frequency of vehicle movements, access arrangements for construction and emergency vehicles and a signage plan. Traffic Management Plans are commonly required via conditions of permits for large developments and in the circumstances, the Committee does not think it unreasonable for the Applicant to prepare a Traffic Management Plan. It would assist in allaying the concerns of surrounding residents over the potential impacts of quarry traffic.

The Committee notes too that the draft condition on hours of operation of the quarry<sup>137</sup> in effect restricts the arrival and departure of heavy vehicles to the approved hours of operation. This is a reasonable restriction to minimise the afterhours impact of quarry heavy vehicles and should be retained in the permit condition.

### (iv) Conclusions

The Committee concludes:

<sup>137</sup> Document 187, Condition 6.

- the volume of traffic generated by the quarry will have little impact on the area and road network given the existing and forecast future traffic volumes on the surrounding road network
- any impacts of the quarry generated traffic on the surrounding street network and the amenity of the area will be within acceptable levels and with the provision of an access road from the quarry linking directly to the Northern Highway, will be contained largely to that access road
- residual impacts of traffic generated by the quarry during its operations and rehabilitation can be contained and mitigated by the recommended conditions in the planning permit
- the conditions requested by DoT<sup>138</sup>, including the requirement for a section 173 agreement with respect to the interim and future access road connecting with the Northern Highway, should be included in the planning permit
- the requirement for a Traffic Management Plan (covering quarry operations and rehabilitation) as a permit condition should be retained<sup>139</sup>
- the restriction on arrival and departure hours of heavy vehicles should be retained in the permit condition covering hours of operation.<sup>140</sup>

The recommended permit in Appendix H reflects these conclusions accordingly.

### 17.3.4 Offsite amenity and safety

#### (i) Noise

##### The issues

The issues are:

- can noise from quarry operations be managed to an acceptable level within applicable standards, noting that the Wallan urban area is approximately 2 kilometres away
- what planning permit conditions are required to achieve an acceptable outcome

An environmental noise assessment was included with the planning permit application.<sup>141</sup> Key sources of noise include the processing plant (crushing and screening), and mobile plant including excavators and front end loaders, and trucks hauling product within the site and off the site.

##### Submissions and evidence

Expert evidence on noise was called by Conundrum (Mr Darren Tardio) and YVW (Mr Christophe Delaire). Mr Tardio and Mr Delaire met via video conference and produced an agreed expert statement.<sup>142</sup>

The agreed expert statement, included, in summary:

- noise limits are difficult to define in a future development area but the proposed zoning under the PSP is an appropriate starting point; limits can be revisited as development approaches

<sup>138</sup> Document 94, Attachment 1 (additional conditions a, b and c) and Attachment 3 (original planning permit conditions 1, 2 and 4).

<sup>139</sup> Document 198, Condition 15.

<sup>140</sup> Document 198, unnumbered condition after Condition 5.

<sup>141</sup> Document V18, undertaken by SLR.

<sup>142</sup> Document 65.

- use of the ‘shoulder’ operating hours of 6-7am means higher night time noise limits may apply
- the 500 metre amenity buffer proposed is consistent with EPA Publication 1518, but EPA Publication 1518 did not use noise to derive the separation distances; however the Environmental Noise Assessment prepared by SLR (SLR report) that accompanied the planning permit application, indicates there is unlikely to be noise impacts outside the 500 metre distance
- updated noise assessments are required to provide more detail beyond the SLR report
- under certain conditions, the distance needed to comply with the Noise Protocol<sup>143</sup> could be lessened, but caution is required, particularly during phase 1 of the quarry.

Mr Tardio and Mr Delaire provided revised provisions for the SCO and planning permit conditions. In essence these require more detailed assessment and reporting for noise, including as the quarry advances through its different phases.

YVW were of the view that based on its cross examination of Mr Tardio, there is a “*good prospect that noise from a quarry... can achieve compliance with noise limits at the first row of houses adjacent the Eastern Arterial Road*”<sup>144</sup> (that is, a full 500 metre buffer (the default buffer recommended in EPA Publication 1518) may not be required).

Council and Conundrum were both of the view that to provide a level of certainty regarding off site amenity impact, the default buffer recommended in EPA Publication 1518 should not be reduced.

## (ii) Air quality

### The issues

The issues are:

- can air quality (dust) from quarry operations be managed to an acceptable level within applicable standards
- what planning permit conditions are required to achieve an acceptable outcome

A dust impact assessment was undertaken by Ektimo and was included with the permit application.<sup>145</sup> Key findings were that in modelling the criterion level of 60ug/m<sup>3</sup> for PM<sub>10</sub> was not exceeded beyond 160 metres from the Work Authority at peak production in Phase 4. For PM<sub>2.5</sub> (finer particulates that can penetrate deeper into the lungs) in Phase 4 the criterion level of 36ug/m<sup>3</sup> did not occur beyond the Work Authority boundary with very small incremental increases at the nearest residences.

### Submissions and evidence

Expert evidence on air quality was called by Conundrum (Mr Peter Ramsay) and YVW (Dr Iain Cowan). Mr Ramsay and Dr Cowan met via video conference and developed an agreed expert statement.<sup>146</sup> Key points of agreement were that:

<sup>143</sup> 1826.4: Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, EPA Victoria, May 2021.

<sup>144</sup> Document 158, [30].

<sup>145</sup> Document V19.

<sup>146</sup> Document 111.

- EPA 1518 is the appropriate guideline for separation distances and the applicable distances are 250 metres (from the processing plant) and 500 metres (from the extraction (blasting) area)<sup>147</sup>
- The separation distances (buffers) can be adjusted through the phasing of the quarry.

Mr Ramsay included in his evidence a plan showing how the buffers may move (retract) as the quarrying operation moves through its four phases, shown in Figure 16.

**Figure 16** Buffers as quarry extraction area progresses<sup>148</sup>



On the question of varying (reducing) the separation distance they agreed that there is nothing to suggest the separation distance should be varied; a site-specific risk assessment to inform such a decision has not been undertaken.

Dr Cowan disagreed with Mr Ramsay regarding wind speeds on the site and the influence of the 'Kilmore Gap', potentially creating a higher frequency of stronger winds in a north to south direction across the site. Mr Ramsay's view was that the local topography and meteorology of the site are not considered to be exceptional for the area north of Melbourne.

Both experts agreed that the Ektimo assessment was suitable at the time it was prepared but diverged on what action is required now. Dr Cowan's view was that the assessment needs to be updated to account for known future land use and the changing air quality standards and the regulatory framework, including the EP Act.

<sup>147</sup> EPA 1518 defines the separation distances from the 'activity area', which in the case of quarry extraction is not usually static.

<sup>148</sup> Figure F6 from Document 55.

Mr Ramsay considered that the assessment was fit for purpose at the time and does not need to be undertaken again as the results are unlikely to change and the 500 metre separation distance would still apply. His position in the expert meeting was that additional modelling will not change the outcome and the operator will still need to comply with regulatory approvals and the EP Act including the General Environmental Duty (the GED).<sup>149</sup>

Some submitters considered that the quarry Applicant should undertake further assessment of the dust emissions to determine separation distances and what sensitive uses might be acceptable in the buffer, with others submitting that the 'default' 500 metre buffer is clear and unequivocal.

### (iii) **Blasting**

#### **The issues**

The issue is whether blasting at the proposed quarry can be carried out in a safe and acceptable manner.

#### **Submissions and evidence**

Evidence on blasting was called by Conundrum (Mr Adrian Moore) and YVW (Dr John Heilig). Mr Moore and Dr Heilig met and developed an agreed expert statement which was provided to the Committee.<sup>150</sup>

In the agreed statement they outlined the regulatory environment for blasting and explosives transport and provided commentary on potential issues being ground vibration, airblast overpressure and flyrock.

They noted that compliance with relevant standards does not mean there are not complaints from some members of the community, but at the regulated limits there is no risk of damage to residential buildings.

They agreed:

Blasting can be conducted safely and in compliance with the ERR limits at the proposed North Central Quarry, as indicated by predictive modelling of blast impacts. This can be achieved by adopting appropriate blast designs, accurate hole loading practices and establishing clearance areas around individual blast sites.<sup>151</sup>

In relation to the buffer zone needed, they stated:

The 500m quarry buffer zone that has been part of PSP discussions is based on an EPA Victoria guideline buffer to mitigate dust and odour impacts at sensitive receptors near quarries with blasting. However, a separation distance of 500m between extraction areas and sensitive sites is also generally appropriate to mitigate the impacts of blasting and help ensure quarry operators achieve compliance with prescribed criteria.<sup>152</sup>

There was considerable material provided to the Committee in submissions about how the blasting might be done to minimise offsite impacts though blast design, hole loadings, angle of blast and others.

<sup>149</sup> A general environmental duty was introduced into the new EP Act at section 25 'A person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably practicable.'

<sup>150</sup> Document 102.

<sup>151</sup> Document 102, [14].

<sup>152</sup> Document 102, [16]

At the Committee's request, a video of a blast at the Northern Quarry was shown in the Hearing, with both experts commenting that it was the type of blast they would expect to see at the Beveridge site.

#### **(iv) Community submissions**

As outlined in Chapter 3, there were many community submissions that objected to the quarry being located within the PSP, and a significant number of community submitters to the Hearing raised amenity issues.

Submitters also raised the issue of the strong winds through the Kilmore Gap and how this would create a greater dust problem than predicted with consequent health impacts.

Noise from quarry operations and blasting disturbing the area was expressed as a concern.

The amenity concerns were often put in the context of an inappropriate use in an area where urban development was the desired future and the incompatibility of that future with the quarry.

#### **(v) Discussion**

The Committee has been greatly assisted by the experts across the three amenity and safety areas in the chapter. From the evidence at a high level, there seems to be good agreement that the potential offsite impacts from the proposed quarry are typical of a hard rock quarry of this type, and the impacts should be able to be managed with appropriate quarry controls and operational design coupled with suitable separation distances (buffers).

One issue that attracted a lot of attention in the Hearing is whether the 'default' buffers in EPA 1518 can be reduced to reduce the impact on surrounding land. The Committee's understanding is that while some of the experts considered this is technically possible, for example the risk assessment for dust, none were strongly of the view that the EPA 1518 distances should be reduced, as they provide a long standing guideline that ensure minimal or no impact outside those distances.

The Committee does not consider there are strong arguments before it to reduce the separation distances at this time. As the quarry proceeds there may be opportunities through a better understanding of its real, as opposed to potential, impacts to allow sensitive development within the buffers<sup>153</sup>. It is also relevant to note that the Committee have agreed that the Incorporated Document should allow for applications for sensitive uses to be made within the buffers (refer Chapter 6.4), which will ensure that actual impacts can be considered at the time an application is made, when greater certainty about the quarry operations is known.

The Committee also considers that there is either support, or at least no opposition, in the evidence on amenity that the buffer in theory can move ('retractable buffers') as quarrying moves to maintain the separation distances between the source of amenity impact and any potential offsite receiver. This is discussed further in Chapters 6 and 11.

The timing of urban development approaching the quarry buffers is unknown to any level of detail but is likely to be at least ten years away so the potential for offsite amenity impacts until then is limited.

<sup>153</sup> The Committee discusses this issue further in Chapter 11.2.

On balance the Committee considers the amenity and safety impacts of quarrying can be managed to an acceptable level within the regulatory framework, including the planning permit and the future Work Authority. As urban development approaches, a more nuanced consideration of the required buffers will be required and the planning permit conditions, Incorporated Document under the SCO and other regulatory approvals should facilitate this.

The Committee has made changes to the recommended planning permit in Appendix H to address some of the specific issues raised in the evidence.

Lastly the Committee is conscious of the many community concerns, with some submitters to the Hearing being deeply distressed at issues such as blasting in the vicinity of their homes. The Committee understands these concerns but must provide its advice within the evidence based decision making framework, and on the evidence the impacts can be reduced to an acceptable level.

#### **(vi) Conclusions and recommendations**

The Committee concludes that the impacts of noise, dust and blasting can be managed to an acceptable level within the regulatory framework.

Changes have been made to the recommended permit conditions in Appendix H relating to amenity issues.

### **17.3.5 Flora and fauna**

#### **(i) The issue**

The issue is whether the quarry will have an unacceptable impact on flora and fauna.

#### **(ii) Submissions and evidence**

There was expert ecological evidence before the Committee but none of this addressed the ecological values of the proposed quarry site. The site has been grazed and cropped extensively and the Committee understands no threatened species or remnant vegetation is present.

The town planning report<sup>154</sup> lodged with the application noted that the site is part of the Melbourne Strategic Assessment (MSA) for Melbourne's growth areas for Golden Sun Moth habitat under the *Environment Protection and Biodiversity Conservation Act 1999*. The certificate of title for the quarry site confirms this.<sup>155</sup>

The approval of a Work Plan or amendment of a Work Plan under the MRSD Act is one of the triggering events where the levy would need to be paid under the *Melbourne Strategic Assessment (Environmental Mitigation Levy) Act 2020*.

There are extensive mobs of Eastern Grey Kangaroos in the area and the Committee observed a large mob on the quarry site on its inspection. The SCO requires a Kangaroo Management Plan be prepared as part of a permit application and to be implemented as part of any quarry operations. A plan was provided to the Committee along with an email from DELWP endorsing the plan.

<sup>154</sup> Document V9.

<sup>155</sup> Document 98a.



In its draft without prejudice planning permit conditions Council suggested a native vegetation condition requiring consent for removal of vegetation to which Conundrum objected.<sup>156</sup>

**(iii) Discussion and conclusion**

The flora and fauna values on the site are not considered significant and the potential for the site to be Golden Sun Moth habitat has been addressed through the MSA.

A permit condition is proposed to require approval of the KMP by the Responsible Authority which the Committee considers reasonable.

The Committee does not consider additional consent for native vegetation removal is required and has deleted the relevant condition in Appendix H.

### **17.3.6 Rehabilitation**

**(i) Background**

Requirements for rehabilitation planning are included in the discussion on the Incorporated Document in Chapter 11.2 and will be planned and managed through the interaction of the PE Act and the requirements of the MRSD Act.

The Committee address the timing of extraction and rehabilitation in Chapter 6.6 and concludes that all activities on the site, including rehabilitation, should be completed by 2052. This was a significant issue in the Hearing, essentially should the planning control (the Incorporated Document) require the quarry to be rehabilitated to the point where contours match development fronts on the boundaries with a development outline in place, or should the landform be rehabilitated to a 'made safe' type standard.

The Committee considers the Incorporated Document should require rehabilitation to a point having regard to the PSP, noting that the requirements of the MRSD Act for rehabilitation are stringent and comprehensive. Having regard to the SEWP discussion in Chapter 4, the Committee considers the contemporary rehabilitation standards that now exist under the MRSD Act should be applied through any future consideration of the Work Plan by ERR.

For context in the following discussion, the rehabilitation plan in the draft Work Plan is shown in Figure 17 and Figure 18 and the planning report future concept plan (Tract) is shown in Figure 19.

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<sup>156</sup> Document 23, condition 43.

Figure 17      Rehabilitation plan<sup>157</sup>

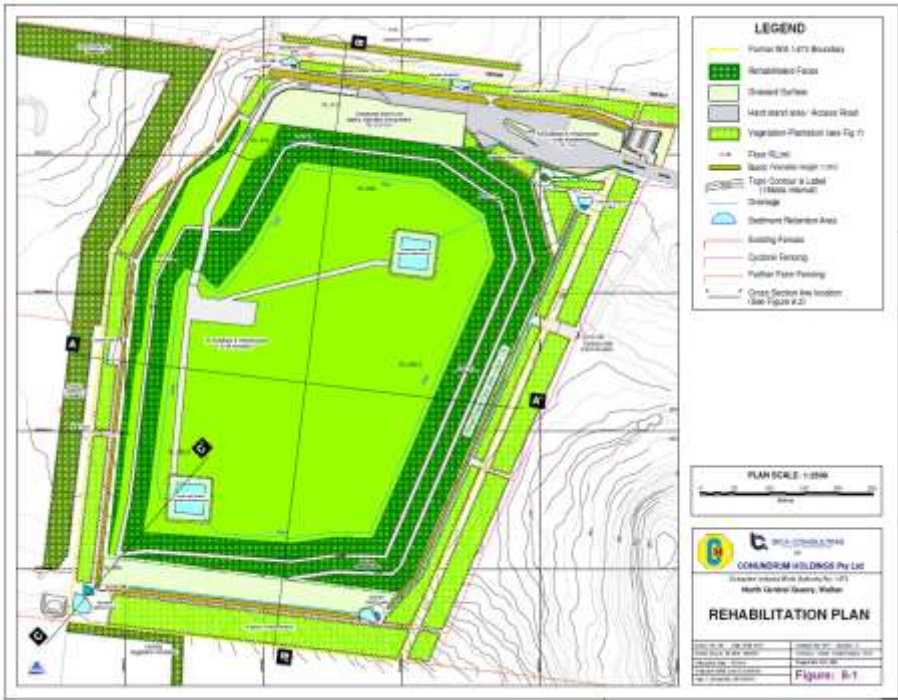
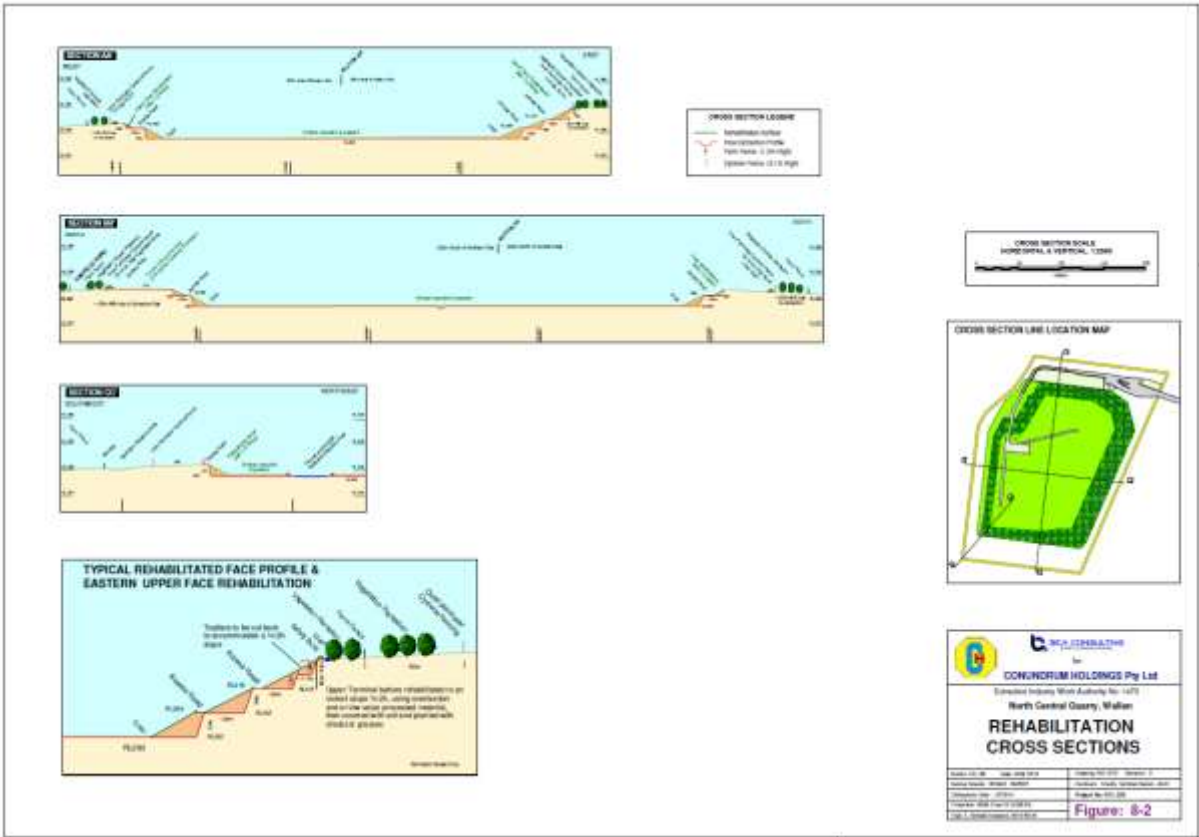


Figure 18      Rehabilitation cross sections<sup>158</sup>



157 Document V11.  
158 Document V11.

**Figure 19** Conceptual Development Plan<sup>159</sup>**(ii) The issue**

How should rehabilitation requirements be included in the planning permit.

**(iii) Submissions and evidence**

Conundrum called evidence on quarry operations from Mr John Mitas. Mr Mitas' evidence was that the quarry at end of life (or 2052) would be rehabilitated progressively:

....with overall face slopes of 1 vertical to 2 horizontal and a quarry floor which is free draining using imported clean fill which will be compacted to an engineered standard that would be suitable to be developed post quarrying to residential or other uses outlined in the Beveridge North West PSP.<sup>160</sup>

YVW called Mr Garrett Hall to give evidence. His evidence in relation to rehabilitation included:

- the suggestion that the Incorporated Document specifically reference the MRSD Act regulations
- the final landform in the draft amended Work Plan is not consistent with the future land use required in the PSP; and this will have implications for quality and quantity of fill required
- there is no assessment of the fill required or contingencies if it cannot be obtained
- his support for quarry phasing as part of progressive rehabilitation, and the need to include this phasing in the Work Plan or planning permit.

Council called evidence from Mr Luke Cattlin, largely on the issue of fill quantities needed, availability of fill and rehabilitation costs. He concluded that while future residential development is possible, the extent of filling required is similar in scale to the quarrying and is a significant project which would need to be coordinated with quarrying to avoid fill shortages.

<sup>159</sup> Document V9, page 31.

<sup>160</sup> Document 51 [8.1].

The VPA called Mr Rod Huntley to give evidence including on rehabilitation. Of the experts Mr Huntley was the most critical of rehabilitation planning. His key criticisms went to, in summary:

- there is no site material balance that would inform the quantity of material for rehabilitation
- there are minor inconsistencies in the excavation depth and consequent uncertainty about bench heights and slope stability
- stormwater management is not adequately explained
- there is no detailed rock mechanics
- there is no water balance in the rehabilitation plan to understand if a water filled void will remain.

While noting many deficiencies in the documentation, Mr Huntley did conclude that:

...it would appear that regardless of these deficiencies the site, based on the information provided to me, and assuming that the issues I have raised are not critical, is viable and, if suitably managed and regulated could operate with minimum impacts even when the PSP encroaches to within 500 metres of the operation.<sup>161</sup>

The experts above held an expert meeting on a range of quarrying issues.<sup>162</sup> In relation to rehabilitation they concluded:

It is agreed that backfilling the quarry to current surface contours is impractical and potentially unachievable within the desired rehabilitation timelines prescribed by the Incorporated Document. The draft Rehabilitation Plan has been prepared to meet the legislated Earth Resources Regulation requirements for a Work Plan. From a practical perspective, it may be beneficial for the Precinct Structure Plan to allow for land uses and development that complement the draft Rehabilitation Plan landform rather than backfilling the quarry to current surface contours.

Council submitted that rehabilitation should be required to a standard consistent with the future PSP land use and the conceptual development plan contained within the Tract planning report (Figure 19). It was critical of the 'two staged' approach whereby Conundrum would rehabilitate to a standard similar to Figure 17 and then another party would need to develop the property, potentially with significant further earthworks. Council outlined the approach ERR would take to rehabilitation in the MRSD Act Regulations and submitted that these require a significant improvement and more detail than what is before the Committee in regards to post quarrying land form.

YVW were of a similar view, in that the Incorporated Document should require a rehabilitation plan which requires determination of the final landform suitable for PSP development prior to a permit being issued.

YVW also outlined in detail the regulatory scheme through the MRSD Act and highlighted the rehabilitation requirements and standards that would be expected, submitting that the current state of rehabilitation planning in the draft Work Plan is not sufficient.

The VPA submitted that rehabilitation is an important consideration and should not be deferred. It submitted that a rehabilitation plan could be prepared now which would guide future development at the end of quarrying life including:

...This would reasonably include an assessment of water balance, servicing, access to the known framework of roads within the PSP and the delivery of a landform platform capable of supporting development. This capacity to undertake this work was accepted by the experts.

<sup>161</sup> Document 45, [120].

<sup>162</sup> Document 90.

The VPA does not seek to mandate an unrealistic rehabilitation proposal or deprive Conundrum from controlling its proposal. It is entirely probable that timing, efficiency and cost means that something closer to a Fyansford outcome or a Niddrie outcome is the appropriate solution that the figure that a number of witnesses have been taken to from the Tract Planning Report identifies.<sup>163</sup>

The VPA submitted that it did not consider it reasonable for Conundrum to resist a contemporary rehabilitation outcome or leave it as a ‘future developers problem’. It submitted:

...The VPA seeks that the land form in terms of land, water, access and levels is identified so that a future developer can later manage that platform. Conundrum suggest that roads are not known but in this context this is simply not the case.<sup>164</sup>

In closing the VPA submitted that:

In short, the VPA has indicated that the quarry operator will need to present a plan for the future landform, properly informed by supporting reports. Whether that is full filling because of an opportunity arising or partial fill to create the appropriate landform, that is for contemplation in a properly prepared rehabilitation plan.<sup>165</sup>

Conundrum submitted that rehabilitation planning should not be required to a higher standard than that proposed as there are extensive rehabilitation requirements under the MRSD Act that will inform and regulate rehabilitation. It also submitted that the VPA’s approach is inconsistent with the approach it took in the Shenstone Park PSP, where it argued that future post quarrying land use should not be shown.

In essence, Conundrum argued that it is unrealistic and unreasonable to expect it to do detailed planning for future land use so far into the future as land developers constantly change their plans in response to markets and other factors. It submitted:

How is a quarry operator expected to have any idea how the eventual developer of the quarry site will seek to achieve these things? Any attempt by the quarry operator is likely to prejudice that developer’s capacity to creatively respond to the quarry site as suggested by Mr Huntley as is demonstrated by the Niddrie Quarry site’s solution. How can the quarry operator determine where any road access point is going to be provided across the Gilbo land to the collector road within that land in the absence of any agreement between the developer of that site and the quarry site? How is the quarry operator to know what the developer’s solution of the quarry site’s drainage is going to be in 40 years’ time? Will there be a series of syphon ponds, a lake, a pumped system or some other technical solution currently unheard of? What will the then responsible authority’s aspirations be for a depleted quarry site?<sup>166</sup>

Conundrum submitted that a development concept plan should be required five years prior to quarrying ending as a more reasonable approach to ensuring a satisfactory post quarrying land use outcome.

#### **(iv) Discussion**

The Committee has concluded in this report that the contemporary requirements for rehabilitation through the MRSD Act are appropriate and will need to be considered going forward in that regulatory approval process.

<sup>163</sup> Document 144, [66].

<sup>164</sup> Document 144 [67].

<sup>165</sup> Document 195, [21].

<sup>166</sup> Document 184, [80].

Importantly, in the Committee's view there was no evidence to suggest that rehabilitation to a residential future in some form is not possible, albeit potentially a challenging task with many technical issues.

Fundamentally, at some point rehabilitation of the quarry will need to tie in with the future development proposals for the site and surrounding urban uses in the PSP. Exactly how this will be done is uncertain in terms of final landform, road access, water management, development and lot layout.

The Committee recognises that in trying to determine these issues in any detail at this point is to a large extent crystal ball gazing. While development at normal urban densities is planned, it may be that approaching 2052 other options are more desirable for the site, for example a smaller development footprint with higher density housing, or conceivably a different urban land use altogether driven by the needs of the day.

The Committee considers that there is little value in trying to design the exact future subdivision of the quarry site in the present day, and there was general agreement that the concept in Figure 19 is just that, a possible outcome for the future of the site, and in the Committee's view not even a particularly likely one.

In Chapter 11.2 and Appendix G the Committee outlines how rehabilitation should be considered at the Incorporated Document Level. Consistent with this the Committee has included in Appendix H recommended permit conditions which require rehabilitation planning for future land use, and detailed rehabilitation planning in the last period of quarrying before closure.

#### **(v) Conclusions and recommendations**

The Committee concludes:

- rehabilitation of the site to an eventual land use consistent with the PSP will be critical over time
- rehabilitation planning will be primarily managed through the MRSD Act, if permissions are granted through that process
- the planning permit should provide for detailed rehabilitation planning well prior to the quarry ceasing extraction.

The Committee has recommended permit conditions in Appendix H.

## **17.4 Other issues in the planning permit**

### **(i) Hours of operation**

The commencement of operations in the morning was an issue subject to submissions, with Conundrum applying for a 6am start for some activities but Council in particular supporting a later time of 7am. The Committee considers some site operations could commence at 6am but not quarrying operations such as excavation or winning, or of course blasting. This view has been reflected in the revised permit conditions in Appendix H.

### **(ii) Landscaping**

A quarry by its nature is progressively sunk into the ground and there should be no highly visible above ground elements except in the early days of excavation. That said the quarry site is on a west facing slope that will be visible to the southern part of Wallan, even if at approximately 2

kilometres. Landscaping, including bunding, will be an important element of screening the quarry and some of the landscaping could be kept longer term as the quarry transitions to an urban use. A landscaping plan condition is included in Appendix H.

## 17.5 Overall assessment of planning permit application

The range of issues that need to be considered in deciding whether a permit should issue are outlined earlier in this chapter. The Committee is cognisant of all these factors but is also aware the permit application is being considered within the SCO and Incorporated Document, the explicit intent of which is to allow a permit for extractive industry for a fixed duration, and subject to other requirements around buffer protection and rehabilitation.

The Committee considers there is a strong weighting in the proposed planning controls to support a quarry permit application. This weighting is clearly contingent on a time limitation for quarrying to allow the urban development of the quarry site within a reasonable time.

The Committee has commented earlier in this chapter that the Applicant does not need to demonstrate a critical need for the quarry resource to obtain a permit. However, it is different in this application to other extractive industry applications, in that the Applicant does also not have an open-ended extraction period; that is the critical *quid pro quo* in allowing the extraction of some (significant) resource.

The Committee considers that a permit should issue, and the ‘net community benefit’ considerations are as follows:

- the quarry should be able to operate successfully for up to 30 years (including rehabilitation) before the land use reverts to the long term desired outcome of urban development in the PSP; the benefit of extracting some stone can be achieved without unduly compromising the long term urban development
- the amenity impacts of quarrying should be able to be managed within buffers and the regulatory system. As quarrying moves through the site and urban development approaches, the location of the buffers should be able to move (retract) to unencumber more land
- the impacts of traffic from quarrying should be able to be safely managed within the road network
- other impacts on water resources and flora and fauna should be able to be managed to an acceptable level with standard extractive industry management measures
- rehabilitation to integrate into urban development in future should be possible and rehabilitation and planning should occur progressively through the life of the quarry

The recommended permit conditions in Appendix H have been drafted based on a combination of versions put to the Hearing with changes recommended in relation to the issues discussed in this chapter.

## 17.6 Conclusions and recommendation

The Committee concludes:

- a planning permit for the quarry should be approved with the conditions shown in Appendix H.

The Committee recommends:

**The Minister for Planning recommend the Governor in Council issue planning permit PLP268/19 with the conditions shown in Appendix H of this report.**



## Appendix A Terms of Reference



### Ministerial Advisory Committee:

### Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions Plan and Quarry Planning Permit Application

Version 1: August 2021

Advisory Committee appointed pursuant to section 151 of the *Planning and Environment Act 1987 (Act)*

#### Name

1. The Ministerial Advisory Committee is to be known as the 'Beveridge North West Precinct Structure Plan (PSP), Supplementary Levy Infrastructure Contributions Plan (ICP) and Quarry Planning Permit Application Advisory Committee' (**the Beveridge North West Committee [the Committee]**).

#### Skills

2. The Committee is to have members with the following skills:
  - a. Strategic, statutory and social planning
  - b. Civil engineering (infrastructure and transport)
  - c. Biodiversity
  - d. Economics/Infrastructure Contributions
3. The Committee will include a Chair, Deputy Chair and other appropriately qualified members.
4. The Committee may engage specialist advice including legal, technical or expert advice on any matter or referral that it sees fit.

#### Purpose

5. The purpose of the Committee is to advise the Minister for Planning (**Minister**) on whether:
  - a. Draft planning scheme amendment C158mth (**Amendment C158**) is acceptable and appropriately implements the recommendations of the Amendment C106mth (**Amendment C106**) Panel, and any appropriate consequential changes to the Beveridge North West Precinct Structure Plan (PSP) area;
  - b. Draft planning scheme amendment C161mth (**Amendment C161**) for the supplementary levy Infrastructure Contributions Plan (**ICP**) is acceptable; and
  - c. Planning permit PLP268/19 (**Permit Application**) should be granted to 'use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1' at the Conundrum Quarry Land under WA 1473 having regard to the Mitchell Planning Scheme (as modified by the planning controls proposed by Amendment C158), and if so, the appropriate permit conditions.

#### Background – Planning Scheme Amendment C158

6. On 28 March 2021, the Minister directed the VPA to prepare a new draft amendment (**C158**) for the Beveridge North West PSP to reflect the Panel recommendations about Amendment C106 which previously sought to introduce the PSP.
7. Amendment C106 was exhibited between September and October 2019. Amendment C106 was exhibited not showing the land at 175 Northern Highway, Wallan as a strategic extractive resource or planning for its future use as a quarry (the **Conundrum Quarry Land**).



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8. A draft work plan for a quarry on the Conundrum Quarry Land has been endorsed under section 77TG of the *Mineral Resources (Sustainable Development) Act 1990* (Vic) on 13 February 2014 and assigned Work Authority Number 1473 (**WA 1473**).
9. Submissions about Amendment C106 were considered by the Amendment C106 Panel in 2020, which produced a report dated 7 October 2020 with 17 recommendations (**Panel Report**).
10. The Amendment C106 Panel's recommendation in chief was to 'Revise Mitchell Planning Scheme Amendment C106 to explicitly include precinct level planning for resource extraction from Work Authority 1473.'
11. Amendment C106 has not yet been adopted by the VPA as the Planning Authority.
12. Draft Amendment C158 is being prepared by the VPA to reflect the recommendations of the Panel Report.

### Background – Supplementary Levy ICP - Amendment C161

13. When the VPA sought to introduce Amendment C106 into the Mitchell Shire Planning Scheme, it was envisaged that the PSP would be accompanied by a standard levy ICP.
14. The Amendment C106 Panel recommendations have increased the likelihood of the Beveridge North West PSP requiring a supplementary levy ICP (because of potentially reduced net developable area and increased infrastructure costs to mitigate sodic soils).
15. The VPA will, as necessary, prepare a supplementary levy ICP associated with the updated Beveridge North West PSP to be facilitated via draft Amendment C161.
16. The VPA will develop and undertake notice of the supplementary levy ICP for approval concurrently with draft Amendment C158 but as a separate planning scheme amendment.

### Background – Planning Permit – P1745/2020

17. The Permit Application seeks permission to '*use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1*' at the Conundrum Quarry Land under WA 1473. The Permit Application was before the Victorian Civil and Administrative Tribunal in proceeding P1745/2020 (**VCAT Proceeding**).
18. The Minister called in the VCAT Proceeding on 24 February 2021.
19. The Permit Application was lodged with Mitchell Shire Council prior to the commencement of the Amendment C106 Panel hearing. The VCAT Proceeding had not been filed at the date of the Panel Report.
20. The use and development proposed by WA 1473 and the Permit Application is directly relevant to the content of draft Amendment C158 given a number of interrelated issues, including (but not limited to):
  - a. Creation of potential buffers
  - b. Future Urban Structure
  - c. Management of the hours of operation
  - d. Any requirement that the use must cease by a specified date
  - e. Site remediation requirements
  - f. Site management requirements.

### Method

#### General

21. The Committee may inform itself in any way it sees fit.
22. The Committee may meet and invite others to meet with it when there is a quorum of at least two members, one of whom must be the Chair or Deputy Chair.

23. Having regard to its purpose, the Committee is to consider the matters outlined in these Terms of Reference (as set out in Paragraph 46) and any submission made in relation to those matters.
24. The Committee may apply to the Minister to vary these Terms of Reference in any way it sees fit before submitting its report.

#### Stage 1 - Notice

25. Notice of Amendment C158 (Beveridge North West PSP) and Amendment C161 (Supplementary Levy ICP) will be undertaken by the VPA on behalf of the Minister in accordance with section 20(5) of the Act. The parties to be notified include:
  - a. Mitchell Shire Council and relevant agencies.
  - b. All parties notified of Amendment C106 (including prescribed Ministers).
  - c. All submitters to Amendment C106.
  - d. All parties to the VCAT Proceeding.
  - e. Any parties required to be notified of the proposed Supplementary Levy ICP, as would normally be required under the Planning & Environment Act 1987.
26. When preparing documentation for public notice, the VPA must liaise with the Committee to confirm:
  - a. the directions hearing date
  - b. the public hearing dates

The agreed pre-set dates are to be included on all notices for public exhibition.
27. Petitions and pro-forma letters will be treated as a single submission and only the first name to appear on the first page of the submission will receive correspondence on Committee matters.
28. The VPA must refer all submissions to the Committee. Electronic copies of submissions will be made available on the VPA website.
29. The Committee must provide an opportunity to the permit applicant to amend its proposal to respond to draft Amendment C158.
30. Should the permit applicant wish to amend its plans, it must circulate amended plans in writing at least 30 business days before the Directions Hearing date.
31. Circulation of amended plans should be provided to Mitchell Shire Council, parties to the tribunal proceeding and any relevant referral authorities.
32. Circulation of any amended plans must provide a statement of changes specifying the nature of changes, the reason for the change and a detailed explanation of each change and how that will improve the proposal or respond to an issue that has been raised regarding the proposal. Any supporting material used to assess the application must be updated to reflect the proposed change to plans should also be circulated with any amended plans.
33. DELWP must provide all files to the Committee in relation to the VCAT proceeding.
34. The Committee is not expected to carry out any further public referral or notice but may do so, or direct others to do so, if it considers it to be appropriate.

#### Stage 2 - Public Hearing

35. Following the receipt of submissions, the Committee must conduct public hearing/s in relation to draft Amendment C158, draft Amendment C161 and the Permit Application and provide an opportunity for any submitter to be heard who wishes to be heard, including all parties to the VCAT Proceeding.
36. The Committee may conduct its hearings on draft Amendment C158, draft Amendment C161 and the Permit Application as a single hearing or in parts.
37. The Committee may limit the time available to parties appearing before it and may prohibit or regulate cross-examination.
38. The Committee may:



- a. Direct that parties meet, including by video conference, to further resolve issues, or
- b. Act as a mediator to seek to resolve issues in dispute.

### Stage 3 - Committee Assessment

39. The Committee may inform itself in any way it sees fit, but in relation to draft Amendments C158 and C161, it must consider:
  - a. Draft Amendment C158
    - i. how draft Amendment C158 implements the recommendations of the Amendment C106 Panel;
    - ii. whether in doing so, draft Amendment C158 constitutes an acceptable strategic planning outcome.
  - b. Draft Amendment C161
  - c. The recommendations made by the Amendment C106 Planning Panel.
  - d. The referred submissions, including the views of the Mitchell Shire Council and other agencies.
  - e. Plan Melbourne.
  - f. Any relevant Regional Growth Plan or Growth Corridor Plan.
  - g. The Mitchell Planning Scheme.
  - h. Relevant State and local policy.
  - i. Any other material referred to it.
40. The Committee may inform itself in any way it sees fit, but in relation to the VCAT Proceeding, it must consider:
  - a. Planning permit application PLP268/2019
  - b. The relevant provisions of the *Planning and Environment Act 1987* and the Mitchell Planning Scheme (as proposed to be modified by the planning controls in draft Amendment C158).
  - c. All relevant material prepared by or for the applicant
  - d. All material filed in the VCAT Proceeding including all submissions and objections.
  - e. Any other material referred to it.
41. The Committee is expected to provide all parties to the VCAT Proceeding with an opportunity to present submissions and evidence. The submissions and evidence, in relation to the Permit Application, must be assessed against the Planning Scheme having regard to the proposed planning scheme as modified by draft Amendment C158.
42. The Committee is directed not to consider (including submissions or evidence relating to these matters):
  - a. Whether draft Amendment C158 should "explicitly include precinct level planning for resource extraction from Work Authority 1473" (Recommendation 1 of the Amendment C106 Panel).
  - b. Whether draft Amendment C158 should implement the other recommendations of the Panel (Recommendations 2-17 of the Amendment C106 Panel).
  - c. The above is not intended to limit consideration of submissions and evidence related to how draft Amendment C158 implements the recommendations of the Amendment C106 Planning Panel and any matters consequential to implementing these recommendations.
43. The Committee must produce a written report for the Minister and the VPA, providing the following:
  - a. Consideration of the matters in these Terms of Reference.
  - b. A summary and assessment of the issues raised in submissions referred to it.

- c. Any other relevant matters raised during the Committee process, within the scope of the Terms of Reference taking into account paragraph 44.
- d. A list of parties that made submissions considered by the Committee.
- e. A list of tabled documents.
- f. A list of parties consulted or heard, including via video conference.

#### Stage 4 - Outcomes

44. The Committee is expected to advise the Minister on whether:
- a. Draft Amendment C158 is acceptable and appropriately implements the recommendations of Amendment C106 Panel, and any appropriate consequential changes to strategic planning for the PSP area (and surrounding road network). This includes whether draft Amendment C158:
    - i. Provides an appropriate statutory context to evaluate proposals for stone extraction from the land subject to WA1473 in advance of proximate urban development, whether through the planning permit application or a subsequent planning permit application; and
    - ii. Provides an appropriate planning response to:
      - 1. the commencement and end date for any stone extractive land use within the WA 1473 Area;
      - 2. any rehabilitation requirements arising from resource extraction within the WA 1473 Area;
      - 3. the future land use within proposed buffers from WA 1473 and within the WA 1473 Area;
      - 4. any other potential mitigation measures that may be required as a result of stone extraction within the WA 1473 Area; and
      - 5. any other precinct level planning matters resulting from the proposed extraction of stone within the WA 1473 Area and/or the Permit Application.
  - b. A planning permit should be granted for the Permit Application having regard to the proposed planning scheme as modified by the planning controls proposed by draft Amendment C158, and if so, the appropriate permit conditions.
  - c. Draft Amendment C161 is acceptable and any appropriate changes to the proposed supplementary levy ICP.

#### Submissions are public documents

45. The Committee must retain a library of any written submissions or other supporting documentation provided directly to it until a decision has been made on its report or five years has passed from the time of its appointment.
46. Any written submissions or other supporting documentation provided to the Committee must be made available until the submission of its report, unless the Committee specifically directs that the material is to remain 'in camera'.

#### Timing

47. The Committee should commence hearings as soon as practicable after the referral of submissions to the Committee.
48. The Committee is required to submit its report in writing to the Minister and the Victorian Planning Authority as soon as practicable but no later than 40 business days from the last day of the hearing or consultation process.

#### Fee

49. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

Terms of Reference | Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions  
Plan and Quarry Planning Permit Application

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50. The costs of the Committee will be met by the VPA,

  
Richard Wynne MP  
Minister for Planning

Date: 26/10/21

Terms of Reference | Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions  
Plan and Quarry Planning Permit Application

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The following information does not form part the Terms of Reference.

### **Project Management**

- 1 Administrative and operational support to the Committee process will be provided by Samuel Duff, Strategic Planner, Victorian Planning Authority on [samuel.duff@vpa.vic.gov.au](mailto:samuel.duff@vpa.vic.gov.au)
- 2 Day to day liaison for the Committee will be through Kimberly Martin, Senior Project Officer, of Planning Panels Victoria on [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)

## Appendix B Submissions received by the Committee

No.	Submitter
1	Jonathon Sarah
2	Ian Rossiter
3	Vishal Sood
4	Shane Gatt
5	Steven Patkopoulos
6	Angela Stock
7	Katherine McLarty
8	Madison M Wright
9	Michael Soligo
10	Irene Ooi
11	Narelle Ayson
12	Gary Sturdy
13	Kim Berger and Kenny Paul
14	Mandy Phillips
15	John Kitanoski
16	Marinela Kitanoski
17	Kate Berger
18	Travis Egan
19	Mariah Arrowsmith
20	Emmah Sanz
21	Tiffany Boer
22	Samantha Dickson
23	Borislav Todorovski
24	Leighton Barbu
25	Colin Davis
26	Geoff Burgoyne
27	Nicole McDougall
28	Rita Biondo
29	Carissa Marino
30	Laurence Dwyer
31	Paul De Luca

No.	Submitter
32	Maxine Miraglia
33	Sharon Phillip
34	Jo Liddy
35	Dominique Soliman
36	Geoffrey Burgess
37	Stacie Coleman
38	Pauline Harriden
39	Lesley Groenewald
40	Helen and Raymond Bowtell
41	Parminder Kaur
42	Deanne McCulloch
43	Daniel Patti
44	Hannah Robinson
45	Jessica Cantone
46	Diana and Dani Ishak
47	Laurayn Smeaton
48	Diane Wood
49	Sharney Byrne
50	Jeanenne Terry
51	Paul Dawson
52	Harvinder Singh
53	Rita and John Tolley
54	Gurpreet Gill
55	Nala Secgin
55.01	Nalan Secgin
55.02	Ilker Secgin
55.03	Ilker and Nalan
55.04	Nalan Secgin
56	Raman Gill
57	Greg & Trudy Mill
58	Kristi Dafos



No.	Submitter
59	Annette Owens
60	Joel Smith
60.1	Joel and Courtney Smith
61	Dave Marshall
62	Casey Jenkins-Weatherly
63	Jacquelyn Candy
64	Sandeep Karun
65	Jason ter Haar
66	Mike Stankiewicz
67	Julie Pittaway
68	Jenny Denny
69	Kevin Tao
70	Robert Thomas
71	Mat Tankey
72	Dion Moss
73	Caroline R Farrugia
74	Angela James
75	Carol Wright
76	Shane Thompson
77	Brian Mawhinney
78	Andrew South
79	Sri Sivapurapu
80	Chloe Johnson
81	Lynda Whitaker
82	Nirmala Lama
83	Beau Knowles
84	Stephanie Thompson
85	Narvair Singh
86	Alexandra Mitchell
87	Ashleigh Graham
88	Gagandeep singh Kamboj
89	Mark Dunne
90	Megan Symons

No.	Submitter
91	Ella Ocean
92	Carina Kufner
93	Chris Kufner
94	Jessica Ciccosillo
95	Kayla Leibhardt
96	Ari Sua
97	Natalie Leggo
98	Lisa Watt
99	Henry Gasko
100	Sandra Barnes
101	Gurpreet Singh Gill
102	Yasmina Elkadi
103	Chris Bellmont
104	Nathan Lowman
105	Kira Lowman
106	Julie O'Neill
107	Vidura Abeyratne
108	Renee Preece
109	Sandy Khera
110	Courtney Sexton
111	Jenny Yelverton
112	Matthew Smith
113	Shaun Cullis
114	Joshua Civitareale
115	Erin Foley
116	Olivera Todorovski
117	Ramanpreet Kaur
118	Melissa Vella
119	Jessica McKenzie
120	Sharman Harrison
121	Lalesh Kumar
122	Dianne and Tom Gladwin
123	Paul and Anne Stammers

No.	Submitter
124	Gill and Helen Berry
125	Judith Evans
126	Michelle Farman
127	Wayne Elder
128	Gurani Koldere
129	Cheryl Pocock
130	Greg Williams
131	Ashlee Milich
132	Jessie Callaghan
133	Patrick Farrell
134	Bhupraj Pangeni
135	Dominic O'Connor
136	Mark Johnston
137	Peter Fischer
138	Zoe May
139	Mark Vella
140	Mohammad Khodabocus
141	Jackson Nunn
142	Michael Busuttil
143	Mary Manicolo
144	Sumeet Singh
145	Jade Hamilton
146	Jenny Huang
147	Robert Radcliffe
148	Lorna Hardy
149	Allison and Matt Farrugia
150	Marie Barden
151	Zina Princes
152	Derek Jones
153	Nicole Mathers
154	Kyle Mathers
155	Jenni Ter Haar
156	Michelle Tuck

No.	Submitter
157	Lence Dumaloski
158	Louise Rabihayman
159	Trish Zulu
160	Kelly Critch
161	Rutendo Chirisa
162	Kerry Ellis
163	Mitchell Bryan
164	Gloria Marais
165	Jason Turner
166	Andrew Stirrup
167	Damian Pope
168	Faye Dickinson
169	Jennifer Richardson
170	Elise Zoch
171	Elizabeth Magdato
172	Matthew Merrick
173	Robert Shelley
174	Tania Simpson
175	Macmillan Kandawasvika
176	Eadaoin Wright
177	Willem Groenewald
178	Noreen Cullis
179	Kyle Cullis
180	Jeremy Smith
181	Karen Monk
182	Patricia A Jones
183	Rahul Trikha
184	Jennene Lazzaro
185	Lauren Connell
186	Kady Harrower
187	Paul Keating
188	Kathleen Andrews
189	Joshua Thompson

No.	Submitter
190	Ri Craig
191	Christopher Barber
192	Emren Hasim
193	Bianca Hasim
194	Georgia Fletcher
195	Erin Herrmann
196	Wilhelmina Kohler
197	Carolyn & Russell Herrmann
198	Amy Wood
199	Jemma Bulley
200	Anthony Brozic
201	Moustafa Mansour
202	Greg and Leila Afflick
203	Demi Bye
204	Maddison Inness
205	Noah Tolevski
206	Tara Kinsey
207	Makenna Davidson-Maltby
208	Cooper Price
209	Thomas Starkey
210	Ebony Collins
211	Kristin King
212	Rebekah McLaren
213	Lisa Zaicos
214	Josh Jordan
215	Melanie Rogers
216	Simon McInnes
217	Greg Bulley
218	Michelle Bulley
219	Shane Richardson
220	Yasmin Francisco
221	Stephanie Kufnet
222	Tony Di Falco

No.	Submitter
223	Lisa Di Falco
224	Matthew Groma
225	Timothy Bradbury
226	Megan Hooper
227	Charbel Awad
228	Robin Hubble
229	Mervyn Phillips
230	Rebecca Walford
231	Sonya Webb
232	Leigh Robson
233	Alama Timmins
234	Rebecca Coombs
235	Lazarous Ognenis
236	Hannah Robinson
237	Peter and Sue Lawrence
238	Thakar Singn
239	Jane Braddy
240	Deb Mitchell
241	Rocco Minella
242	Rhonda Kirby
243	Jessica Van Puenbroek
244	Brad Stoneman
245	Takai Pare
246	Lisa Bernard
247	Marlene Drummond
248	Hugo Correcher
249	Partrick & Michelle Costantino
250	Debra Anderson
251	Jenny-Lea Cahill
252	Karen J Casey
253	Taylan Hudaverdi
254	Tom Hidajat
255	Bobby & Melissa Veleviski

No.	Submitter
256	Sharon Yates
257	Stephen Vines
258	Joe and Susan Consiglio
259	Sue Filippi
260	Bruce & Lorraine Hamilton
261	Tracey Webster
262	Richard Webster
263	Georgia Webster
264	Ellie Webster
265	Stephen Longbottom & Shirley Macfarlane
266	Michael Treacher
267	Tas Koutes
268	Peter Andrews
269	David Whyte
270	David and Francis Lowe
271	Rebecca Plavcak
272	Paul Boyall
273	Richard Hermon
274	Malcolm Kay
275	Michael & Janine Preece
276	Keyna Dossor
277	Kiara Thompson
278	Kerry Free
279	Kym Leanne H
280	Kevin Mahon
281	Karen Jones
282	Kerry Young
283	Kin and Rob Smithers
284	Kay Camillea
285	Katherine Kovacs
286	Karen Ficheroux
287	Karen Woolacott
288	Kelly Wright

No.	Submitter
289	Karen McComiskey
290	Kanwaljit Kaur
291	Judy Kovacs
292	Jessica Roberts
293	Jessica Clark
294	Jonathan Valcarenghi
295	John Duffy
296	Jim Kostas
297	Jackie Mcdougall
298	Jeanette Williams
299	Jonas Finger
300	Jordyn Dempster
301	Sue Fares
302	Jessica Ford
303	Jennifer Healey
304	Jayden Willcox
305	Jaycee Calivn
306	Jason Calleja
307	Jasmin Shackleton
308	Jan Martin
309	Jagsir Singh Kaila
310	Jacob Dovile
311	Jack Robins
312	Joseph and Diana Furfaro
313	John O'Shea
314	Jess Attard
315	Janet Farrell
316	James Graham
317	Julia and Grace Milan
318	Jackie Allen
319	Jack Fox
320	James Addison
321	Irene Baxter

No.	Submitter
322	Hassan Kerbatieth
323	Honey Lou Refran
324	Geoff Clarke
325	Gavin Taylor
326	Grayson Ashley
327	Gavin Duffy
328	Grant Roddy
329	Geoff Martin
330	Greg Forbes
331	Fiona Chapman
332	Friedricks Michael
333	Emily Mazniovski-Young
334	Elizabeth Clarke
335	Elizabeth Agosta
336	Eloana Weiss
337	Eva De Joya
338	Elise Armstrong
339	Elyce Cowman
340	Maninder Kaur Khanijoo
341	Thakar Singh
342	Donna Randall
343	Diane Jones
344	Denise Frans
345	David James
346	Donna Duffy
347	Darren McGiltom
348	Dante Buffone
349	Diogo Hametiallo
350	Debra Wright
351	David Walsh
352	Darren Daynes
353	Danny Martin
354	Danijel Basic

No.	Submitter
355	Daniele Santu Saud
356	Damien Delle-Vergini
357	Dylan Wells
358	Dudley Wells
359	David Hook
360	David Fisher
361	Daniel Jenkins
362	David Miton
363	Corey Reeves
364	Christine Andreila
365	Claire Finger
366	Claudia Friedricks
367	Christine Cooper
368	Chantelle Ford
369	Carol Hayes
370	Cherie Young
371	Colin Hammond
372	Chanlton Koh
373	Craig Mcpharalane
374	Christine Chetcuti
375	Charmaine Rule
376	Cassandra McKenzie
377	Cameron Strike
378	Darrall and Suzanna Lisle
379	Richard Hermon
380	Hugh Laird
381	Marie Laird
382	Helen Wittwer
383	Joanna Hancock
384	Alexandria Fugle
385	Carly Martyn
386	Kevin Gillard
387	Joshua Brooks

No.	Submitter
388	Kai Bedggood
389	Bol Maya Regmi
390	Brenda Pisani
391	Bianca Daynes
392	Barbara Pum
393	Bailey Grindlay
394	Bradley Jansen
395	Brenda Rule
396	Ava Buffone
397	Aniko Presti
398	Annie Williams
399	Alesha Rodda
400	Ashlea Doolan
401	Asad Arshad
402	Antonio Buffone
403	Anthony Redican
404	Anita Potter
405	Alysha Haine
406	Alana Lanza
407	Amy Elston
408	Alan Thompson
409	Vito Rivaloro and Tamra Zagami
410	Ashlee Dewar
411	Anna Defacio
412	Amy (unknown)
413	Amanda Pulis
414	Amanda Pisani
415	Alois Pum
416	Alan Jones
417	Rocco and Mariana Villani
418	Aaron Thompson
419	Amy Woodward
420	Amanda Edsall

No.	Submitter
421	Paulines Evans
422	Sandra Nash
423	Liana Jeffs
424	Caroline and Shane Smyth
425	Matthew Boje
426	Liam Tweedie
427	Luke James
428	Leslie Shore
429	Leanne Shore
430	Lisa Evans
431	Lisa Gould
432	Lyall Chalmers
433	Lisa Kylo
434	Leighann Woon
435	Lauren Clayton
436	Troy Jeffs
437	Gordana Majeric
438	Peter Lawrence
439	Claudia James
439a	Wallan environment group inc.
440	Shelby Young
441	Rose Lanza
442	Bee Barker
443	L and T Williams
444	Zoe Mckeown
445	Yvonne Sayers
446	William Barker
447	Val Wells
448	Tolvwaleke Igadimini
449	Terry O'Leary
450	Theresa Buffone
451	Trent McKinley
452	Tim Ficheroux

No.	Submitter
453	Theresa Rain
454	Tayla Elovaris
455	Trish Hare
456	Tracey Kumar
457	Theo Smit
458	Susan Dossor
459	Stevannie Burns
460	Stephanie Turkozu
461	Scott Baird
462	Stacey White
463	Scott Jennings
464	Sarah Osbourne
465	Steven Elston
466	Suzanne Jamieson
467	Sharon Yates
468	Susan Jackson
469	Stuart Wright
470	Stephanie Love
471	Sabrina Buhagar
472	Susan Porter
473	Steve Milani
474	Siobhan Singh
475	Shane McKenzie
476	Sean Porter
477	Sandy Soltan
478	Rebecca Poppleston
479	Rebecca Hawke
480	Roy Kepa
481	Robert Franklin
482	Rachel Wilson
483	Jim McNulty
484	Rachel J
485	Robyn McConnell

No.	Submitter
486	Robyn Bowen
487	Robert Woon
488	Robert Ehrenreich
489	Rhiannon Johnson
490	Quentin Young
491	Pauline Evans
492	Phillip Pulis
493	Peri Pallant
494	Paula Simpson
495	Paul Camilleri
496	Pam Meiklem
497	Paul Angeloni
498	Olswynne Salins
499	Omar Kerbatieh
500	Noelle Vine
501	Nick Anthimidis
502	Natasha Warren
503	Neil Clow
504	Natalie Williams
505	Nicole Forte
506	Nicole Forbes
507	Narelle Slater
508	Nathaniel Allen
509	Naomi Noorbarccus
510	Nadine McPherson
511	Michelle Corbett
512	Morgan Woolacott
513	Metin Turkozu
514	Melissa Harkness
515	Russell Thorpe
516	Mathew Palmear
517	Marie Taylor
518	Marie Mahon

No.	Submitter
519	Murphy Finger
520	Melissa Henson
521	Megan James
522	Matthew James
523	Matthew Braham
524	Maryam Fatahi
525	Martin Johnstone
526	Mariam Baker
527	Makaela Cramp
528	Madison Knight
529	Misato Koh
530	Marie Hammond
531	Mandeep Kaur
532	Madeleine Nayler
533	Menageye Salins
534	Matthew Stevens
535	Matthew Huy
536	Lauren Russell
537	Lyndal Hafferden
538	Lorraine Duffy
539	Liz Franklin
540	Adrian Rocca
541	Addison Ayton
542	Aaron Long
543	Daniel Steffensen
544	Danny Peraica
545	Diane Scicluna
546	David Wilson
547	David Kerwin
548	Din Varvitsiotis
549	Daniel Cecchini
550	Don Spaseski
551	David Pym

No.	Submitter
552	Dianne Waters
553	Deanne Sturdy
554	Derer Booth
555	Donna Kelly
556	Donna Douglas
557	Clinton Bodilly
558	Catherine Smith
559	Chhau Bandlish
560	Charles Cauchi
561	Carole Wright
562	Chris Wurr
563	Christopher Mark Soltan
564	Corrina Hughes
565	Kyle Mathers
566	Chris Brent
567	Nicole Mathers
568	Cathrine Wallace
569	Charlotte Makins Morris
570	Christine Banks
571	Collette Glare
572	Chamkaur Singh
573	Christine Ogilvie
574	Col Cameron
575	Caroline Tracy
576	Christie Alki
577	Caryn Kowalensky
578	Carly Ficheroux
579	Corey Walker
580	Ben Collis
581	Brendan Thomas
582	Bich Ngo
583	Bianca Hodge
584	Bobby Nautu



No.	Submitter
585	Bonnie Maule
586	Bev Dixon
587	Brenda Ternti
588	Bev Mulvenna
589	Benjamin Cross
590	Brooke O'Neill
591	Ashley Cameron
592	Angela Sarbin
593	Ann Kidd
594	Alison Thomas
595	Alison Hook
596	Alex Egan
597	Aleida Beumer
598	Aaron Neven
599	Ashlee Koeleman
600	Arthur Moshopoulos
601	Andy Wellington
602	Andrew Samuels
603	Andrew Leach
604	Allison Taylor
605	Allison Bennett
606	Aleksandra Spaseski
607	Aleesha Wilson
608	Alan Farrar
609	Olwyn De Piazza
610	F.R and P.M. Laffan
611	Louise Komiat
612	Matthew Hoo
613	Mitchell Gill
614	Dominie Dale
615	Dorothy Kirby
616	Jan and Cath Babycz
617	Jason Black

No.	Submitter
618	Catherine Daamen
619	Pam Lawler
620	Angela De Jager
621	Luke De Jager
622	Rebecca Spadijer
623	Julia Freeman
624	Ian Kreykes
625	Denise Perrett
626	Elliott & Jody Kongas
627	Alexandra McFarlane
628	Olive Macumber
629	Nat Flores
630	Neil Cowan
631	Natalie Abdills
632	Neil Towler
633	Nicola Gordon
634	Natasha Pratt
635	Natalie Graham
636	Mark Perry
637	Megan Berger
638	Megan Harvey
639	Mark Bounds
640	Marlene Parker
641	Michael Baird
642	Mari Vern
643	Meilda Steffenson
644	Michael Jeffery
645	Moreen Crowley
646	Michael Mason
647	Maddies Walker
648	Matt Hughes
649	Rita Busuttil
650	Matthew Kelly

No.	Submitter
651	Maree Jongebloed
652	Muzna Siddiqui
653	Maxwell Virtala
654	Matt Giramardo
655	Madison Kelso
656	Murtuza Khan
657	Margaret McCarthy
658	Michelle Riddell
659	Matt Gennon
660	Michelle Daniel
661	Max Newman
662	Mathew Eldridge
663	Jaimish Pandya
664	Martin Elmslie
665	Michelle Garvan
666	Kellie Rowbottom
667	Karen Fihrrmeister
668	Kirsty Bryans
669	Kapil B Bandlish
670	Komala Faulkner
671	Kim Sammuels
672	Kate Leggieri
673	Kirsty Nauttall
674	Laura Humphries and Thomas Dewey
675	Leanne Kite
676	Lucy Robson
677	Lisa Maher
678	Linda and James Crooks
679	Lauren Hudson
680	Linda Gauci
681	Lisa White
682	Leigh Robinson
683	Liz Johnson

No.	Submitter
684	Lauren Smith
685	Laura Lane
686	Lale Doganay
687	Luke Farrugia
688	Lindsay Harvey
689	Lynette Howard
690	Lisa Opie
691	Luke Miraglia
692	Lana Banks
693	Leonie Stockdale
694	Leanne Egan
695	Lisa Bands
696	Lucy Williams
697	Lisa Smith
698	James Hall
699	Bruce Johnstone
700	Leanne Quon
701	Leanne Pimleff
702	Debbie Packham
703	Kim Keyes
704	Kayleen Bennett
705	Kelly Brand
706	Kane Keoleman
707	Kylie Ryan
708	Kathy Booth
709	Kerri Dimech
710	Kellie Long
711	Krashnan Nair
712	Jane McKimmie
713	Michele Gussenhoven
714	Kathleen Pratt
715	Keryn Manning
716	Kristie-Lee Doorbar

No.	Submitter
717	Ken Lane
718	Kim Darragh
719	Kerry & Brian Harding
720	James Sallivan
721	Jason Galea
722	Josh Behrndt
723	John Scott
724	Jamie Sherratt
725	Jacqueline Smith
726	Joseph Mizzi
727	Jan Pennell
728	Johannes Kupper
729	Janette Alford
730	Judith Montague
731	Joanne Wood
732	Jenny Bruce
733	Jenny Allen
734	J Steffersen
735	John Monk
736	Jashan Deep Singh
737	Jessica D'ath
738	James Wilson
739	James Coucill
740	James Darragh
741	Jessica Wisenden
742	Jenny Black
743	Jenny Cowell
744	John Steer
745	Jack Heghes
746	Jovinderjit Singh
747	Julia Sheedy
748	James Grant
749	Julie Butler

No.	Submitter
750	J Lang
751	Jane Booth
752	Joseph Campbell
753	Ioane Mauga
754	Ian & Michelene Tyson
755	Rosemary Muir
756	Hayley Stokes
757	Harvinder Pal Singh
758	Helen Clarke
759	Helen Kukula
760	Hiroko Takigawa
761	Heather Higgins
762	Helen Toma
763	Hayley McCarthy
764	Hayden Simmons
765	Helen Neator
766	Haylee Newman
767	Harinder Singh
768	Guiseppe Mamone
769	Greg Harris
770	Geoff Allen
771	Greg Heffernan
772	Glenda Dean
773	Gary Gulliver
774	Garry Saunders
775	Geoff Rapp
776	Geoff Symons
777	Greg Robson
778	Gayle Phillips
779	Graeme Kurzman
780	Grace Murray
781	Glenda White
782	Fluer Douglas

No.	Submitter
783	Frances Glare
784	Frank Schepis
785	Frank Lotito
786	Erin Nugara
787	Edmund Steffenson
788	Elizabeth McNicol
789	Elham Yassin
790	Emily Hodeing
791	Emerson Spriggs
792	Elaine Connell
793	Eva Cerezo
794	Elizabeth Lotito
795	Eric Gordon
796	Emily Reid
797	Peta Flowers
798	John McLean
799	Rita Tolley
800	John and Cora Grace (John)
801	John and Cora Grace (Cora)
802	Leanne Francis
803	Salman Ahmed
804	Anastasios Koutes
805	Widad Pitrus
806	Steve Uden
807	Margaret and Len Bulley
808	Brian Power
809	Bev Power
810	Bruce Uden
811	James, Pam and Andrew Bulley
812	Mark Hill
813	Kerry Uden
814	Leigh Uden
815	Sharna Uden

No.	Submitter
816	Jackie Bianco-Hill
817	Norman R Rose
818	Zack Walker
819	Wendy Blair
820	Warren Kidd
821	Warren & Diane Curwood
822	Val Maule
823	Victoria Adams
824	Vaedant Bandlish
825	Victor Sliclunn
826	Trevor Hughes
827	Tracey Azzopardi
828	Thomas Weeden
829	Trevor Allport
830	Thomas Stokes
831	Terry Hoskin
832	Teena Lee
833	Ti Tapatli
834	Tanisha Bartolo
835	Taliea Rendina
836	Tamara & Adam Georgelin
837	Tara Randall
838	Tia Farrar
839	Toa Sun
840	Tanya Schepis
841	Tracey McGrath
842	Tanya and Mark Christie
843	Ella Ocean
844	Brendan Hofer
845	Sandeep Singh Virk
846	Luke Stratford
847	Susan Peraica
848	Sarah Franzman

No.	Submitter
849	Steph M
850	Steven Micallef
851	Sue Lightband
852	Sara Czerny
853	Steve Alford
854	Sonya Thomas
855	Susan Considine
856	Spencer Hughes
857	Sheridan Miller
858	Steve Bird
859	Sienna Brozic
860	Sharee Mallia
861	Stephanie Kukula
862	Sarah Walpole
863	Shaun Madden
864	Shane Parker
865	Sue Wright
866	Sophie Watson
867	Stuart Locke
868	Sue Rapp
869	Sarah O'Neill
870	Samantha Brown
871	Sonya Webb
872	Susan Walsh
873	Simon Hynes
874	Scott Chamberlain
875	Sharon Fitzpatrick
876	Simranpreet Dhillon
877	Shane Clark
878	Susan Blackburn
879	Shayne Dey
880	Sharon O'Neill
881	Shawun De Piazza

No.	Submitter
882	Ria Perry
883	Rachel Berger
884	Regina Nevern
885	Rohan Dickson
886	Rob Pennell
887	Rodney Fuhrmeister
888	Rhonda Petschel
889	Renae Hall
890	Robert Stockdale
891	Rohan Keats
892	Rodney Higgins
893	Ray Gauci
894	Rhonda Stockdale
895	Rhiannon Everson
896	Rachel Grinnell
897	Roger Hardwick
898	Ray Hughs
899	Ramey Souru
900	Peter Bourke
901	Philip Rhodes
902	Paatricia Szuszkiewicz
903	Pauline Bourke
904	Paul Williams
905	Pat Thomas
906	Ricky Talarico
907	Pamela Noble
908	Pearl Christopher
909	Peter Brown
910	Peter Giles
911	Phillip Berry
912	Paul McGrath
913	Pam Walker
914	Phil White

No.	Submitter
915	Paige Zeven
916	Toua Lee
917	Rob Barany
918	S Catanzaro
919	Environmental Protection Authority
920	Andrew Gardiner
921	Leonie Watts
922	Bruce McIntyre
923	Lyndell Croft
924	See Lee
925	Salman Pitrus
926	Anthony French
927	Melissa Tucker
928	Christian Cassar
929	Sonia Jones
930	Jaqueline Jones
931	Pauline Cornish
932	Leanne Delany
933	Danielle Cook
934	Kudret Bayram
935	Neil Jones
936	Amanda Kobelt
937	Marrisa Sayago
938	Janet Catherine
939	Matthew Flowers
940	Thomas French
941	Olivia Moedt
942	Geroge Nitsis
943	Vanessa Belza
944	Crystal Creek Properties Pty Ltd c/ Reto Hofmann
945	Friends of Merri Creek
946	Hazelwynde - YVW

No.	Submitter
947	DELWP Melbourne Strategic Assessment
948	Cheryle Hunt
949	Amit Sharma
950	Marleen Westwood
951	Department of Education and Training (DET)
952	Melbourne Water (MW)
953	Megha Vasudev
954	DELWP Suburban Parks Program
955	Kaiya Jenson
956	Aaron Jensen and Janae Hendy
957	Kade Jenson
958	Gordon Musasa
959	Joesphine Cubley
960	John Cubley
961	John Robinson
962	Luisa MacMillan
963	Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC):
964	Mitchell Shire Council
965	YVW
966	Sharon Martin
967	Patricia Gilbo
968	Susan Gribble
969	Liz Ryan
970	William Rowe
971	Vanessa Borg
972	Tiffany Boer
973	Thomas Knight
974	Thomas De Sousa
975	Tahlia Zerafa
976	Steven Cromarty
977	Steve Strathder

No.	Submitter
978	Stephanie Kelly
979	Sophie Marsden
980	Silvana Matula
981	Sherman Potger
982	Shayne Marshall
983	Shauna Blackbourne
984	Sharon Brown
985	Shakira Woods
986	Sarah Dakos
987	Sandy Schultte
988	Sandeep Singh
989	Samantha Mckinly
990	Samantha Gook
991	Sally Krohn
992	Sabrina Jose
993	Rachel Novak
994	Prince Philip
995	Paul Coppleman
996	Michelle Zerafa
997	Meagan Mott
998	Margaret Smith-Warren
999	Louise and Steven Komiat
1000	Leah Hyndes
1001	Lauren Bulley
1002	Kristen May
1003	Kenny Paul
1004	Jackie Bender
1005	Ian Hill
1006	Henry Wallis
1007	Ebony Eden
1008	Daniel Martez
1009	Briony Gatt
1010	Bikramjit Singh

No.	Submitter
1011	Benjamin Keane
1012	Ben Vickery
1013	Anubhav Chaudhary
1014	Angela Kidson
1015	Aleisha Pendry
1016	Adriana Moroni
1017	Tim Robinson
1018	Rhian Bonnici
1019	Rebekah Surgeoner
1020	Caeleb Lukasz
1021	The Construction Material Processors Association (CMPA)
1022	Gilbo Family - Balance Property Partners
1023	Timothy Gilbo
1024	James Cisco
1025	Skye Forster
1026	Jason Pumpa
1027	Trish Pumpa
1028	Jade Pumpa
1029	UDMGT - 615 Hume Freeway
1030	Wendy Sommerfeld
1031	Tract - Conundrum Holdings PTY LTD
1032	Department of Transport
1033	Jai Cameron
1034	Katelyn Rendina
1035	Bernadette Maguire
1036	Colleen Newell
1037	John Tsapkounis
1038	Melbourne Archdiocese Catholic School (MACS)
1039	Ramandeep Batth
1040	Warren Afflick
1041	Adam Winton

No.	Submitter
1042	Aiden Clark
1043	Bill Coustley
1044	Christine Hanko
1045	Daniel Locandro
1046	Eric Brown
1047	Gordon Townsend
1048	Jason Ball
1049	Jenny Webster
1050	John Mihalakellis
1051	K.T. White
1052	Melanie Stevens
1053	Mollie McCormack
1054	Neil Harwood
1055	Patricia Townsend
1056	Paul Robinson
1057	Paul Sisicos
1058	Peter Ivory
1059	Peter Wilton
1060	Rose Wilton
1061	Samantha Cutting
1062	Jana H
1063	Dave Manahan
1064	Teresa and Joe Dempsey
1065	Cathy-Anne De
1066	Stephen Argent



## Appendix C Parties to the Committee Hearing

Submitter	Represented by
Victorian Planning Authority, representing a whole of Government position including: <ul style="list-style-type: none"> <li>- Melbourne Water</li> <li>- Department of Transport (amendments only)</li> <li>- Department of Education and Training</li> <li>- Yarra Valley Water (in its capacity as utility provider)</li> <li>- Department of Jobs, Precincts and Regions</li> <li>- Department of Environment, Land, Water and Planning</li> <li>- Environment Protection Authority (amendments only)</li> </ul>	Greg Tobin and Aaron Shrimpton of Harwood Andrews
Mitchell Shire Council	Graeme Peake and Kate Lyle of Counsel instructed by Maddocks
Conundrum Holdings Pty Ltd	Chris Wren QC and Geoff Lake of Counsel instructed by Best Hooper
Yarra Valley Water (as landowner through its entity Hazelwynde)	Stuart Morris QC and Sean McArdle of Counsel instructed by Norton Rose Fulbright
Crystal Creek Properties Pty Ltd	Matthew Townsend of Counsel instructed by Rigby Cooke
Balcon Beveridge Project Management	Matthew Beazley of Russell Kennedy
Mary Gilbo	Jess Kaczmarek of S&K Planning Lawyers
615 Hume Freeway Pty Ltd	Melinda Holloway and Shannon Hill of Urban Design & Management
Department of Transport (in respect of permit application)	Daniel Zaslona
Bill Coustley	
Carol Wright	
Colin and Marie Hammond	
David James	
Dominic O'Connor	
Dominie Dale	
Eadaoin Wright	
Friends of Merri Creek	Ann McGregor
Gayle Phillips	

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James Cisco

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Megan Symons

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Merri Creek Management Committee

Luisa Macmillan

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Mike Stankiewicz

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Gary Sturdy

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Skye Forster

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Timothy Gilbo

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Wallan Environment Group

Claudia James

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Wurundjeri Woi-wurrung Cultural  
Heritage Aboriginal Corporation

Andrew Gardiner (Elder), Professor David Watts (General  
Counsel)

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## Appendix D Document list

No.	Date	Description	Presented by
Documents tabled - VCAT Proceeding P1745/2020			
V1		Initiating Order 11 November 2020	Department of Environment, Land, Water and Planning (DELWP) <sup>167</sup>
V2		Preliminary Hearing Order 16 February 2021	DELWP
V3		Preliminary Hearing Order 22 February 2021	DELWP
V4		Application Form 30 September 2019	DELWP
V5		RFI Response 17 December 2021	DELWP
V6		Attachment to RFI Land Capability 14 September 2015	DELWP
V7		Attachment to RFI Fig 12 Site Access Road Area Map 19 November 2019	DELWP
V8		Land titles retrieved 23 July 2019	DELWP
V9		Town Planning Report 2 October 2019	DELWP
V10		Fig 10 Quarry Phasing and Buffers 28 August 2019	DELWP
V11		Fig 8-1 Rehabilitation Plan 6 September 2019	DELWP
V12		Building Plans 21 October 2015	DELWP
V13		WA1473 Statutorily Endorsed Work Plan 28 April 2015	DELWP
V14		Draft WA1473 and conditions undated	DELWP
V15		WA1473 Work Plan with Tracked Changes September 2019	DELWP
V16		WA1473 Draft Figures 6 September 2019	DELWP
V17		Cultural Heritage Advice 6 September 2019	DELWP
V18		Environmental Noise Assessment September 2019	DELWP
V19		Dust Impact Assessment 25 September 2019	DELWP
V20		Transport Impact Assessment 3 September 2019	DELWP
V21		Geological report extract undated	DELWP
V22		Extractive Industry Interest Areas Review extract 2003	DELWP
V23		Delivering Melbourne's Newest Sustainable Communities Land Capability Report June 2009	DELWP

<sup>167</sup> DELWP provided the VCAT files to the Committee

No.	Date	Description	Presented by
V24		Notes on roadmaking materials P Learmonth 26 May 1956	DELWP
V25		WA1473 within EIIA Map 12 September 2019	DELWP
V26		Hadfield Road Grazing License 22 June 2004	DELWP
V27		175 Northern Highway Wallan Vicplan Planning Property Report	DELWP
V28		Application for Review 19 October 2020	DELWP
V29		VCAT Correspondence Objectors and Referrals (Updated) - 175 Northern Highway, Wallan	DELWP
V29.1		List of objectors - 175 Northern Highway, Wallan	DELWP
V29.2		List of supporters - 175 Northern Highway, Wallan	DELWP
V30		Deloraine Pastoral Statement of Grounds 15 December 2020	DELWP
V31		VPA Statement of Grounds 16 December 2020	DELWP
V31.1		VPA Statement of Grounds Attachment 16 December 2020	DELWP
V32		Mary Gilbo Statement of Grounds 14 December 2020	DELWP
V33		Statement of Grounds YVW 16 December 2020	DELWP
V34		Mitchell PNPE2 - 175 Northern Highway Wallan	DELWP
V35		Council officer report – 175 Northern Highway 15 February 2021	DELWP
V36		Draft Council Minutes - 15 February 2021	DELWP
V37		Correspondence to VCAT regarding Statement of Service 18 February 2021	DELWP
V38		DOT Correspondence to VCAT regarding Statement of Service 18 February 2021	DELWP
V39		Minister Letter to VCAT Regarding Call in 24 February 2021	DELWP
V40		Minister Letter to VPA Regarding Call in 24 February 2021	DELWP
V41		Objection SOG Forster - not a party	DELWP
V42		Objection SOG Lee and McIntyre - not a party	DELWP
V43		Objection SOG Secgin - not a party	DELWP
V44		Objection SOG McSwain - not a party	DELWP
V45		Objection SOG Symons - not a party	DELWP
V46		Objection SOG Christakakis - not a party	DELWP

Documents tabled – Committee process			
1	26 Oct 21	Referral letter encl. Terms of Reference	Minister for Planning
2	2 Feb 22	Directions Hearing notification letter	Planning Panels Victoria (PPV)
3	10 Feb 22	Second Directions Hearing notification letter and Committee Directions	PPV
4	2 Mar 22	Decision and Statement of Reasons regarding objection to appointment of Mr Wimbush and Mr Hartigan	PPV
5	15 Mar 22	Suggested Committee Directions	Victorian Planning Authority (VPA)
6	15 Mar 22	New draft Committee Directions and draft Hearing Timetable	PPV
7	18 Mar 22	Letter regarding site inspection	VPA
8	22 Mar 22	Consolidated Committee Directions and v1 Timetable	PPV
9	25 Mar 22	Revised Statement of Grounds	Mitchell Shire Council (Council)
10	1 Apr 22	Revised Statement of Grounds	YVW
11	1 Apr 22	Revised Statement of Grounds	Department of Transport
12	1 Apr 22	Revised Statement of Grounds	Mary Gilbo
13	1 Apr 22	Revised Statement of Grounds	VPA
14	11 Apr 22	Part A Submission	VPA
15	11 Apr 22	Appendix 1 – Submissions response table	VPA
16	11 Apr 22	Appendix 2 – Part A tracked changes PSP document	VPA
17	11 Apr 22	Appendix 3 – Part A Planning Scheme ordinance tracked changes, enclosing: <ul style="list-style-type: none"> <li>a) C161mith – Explanatory Report</li> <li>b) C161mith – Instruction Sheet</li> <li>c) C161mith – 72.04s</li> <li>d) C161mith – ICO3</li> <li>e) C158mith – Explanatory Report</li> <li>f) C158mith – Instruction Sheet</li> <li>g) C158mith – 37.07s3</li> <li>h) C158mith – 35.06s2</li> <li>i) C158mith – 45.12s</li> <li>j) C158mith – 43.03s4</li> <li>k) C158mith – 52.17s</li> </ul>	VPA

		l) C158mith – 66.04s	
		m) C158mith – 72.03s	
		n) C158mith – 72.04s	
		o) SCO Incorporated Document	
18	11 Apr 22	Appendix 4 – Part A tracked changes ICP document	VPA
19	11 Apr 22	Appendix 5 – Beveridge North West Directions and Timetable	VPA
20	11 Apr 22	Appendix 6 – Beveridge North West Changes Matrix	VPA
21	22 Apr 22	Letter regarding site inspection	VPA
22	22 Apr 22	Site inspection map prepared by Council	VPA
23	22 Apr 22	Without prejudice planning permit conditions	Council
24	27 Apr 22	Committee letter confirming site inspection details	PPV
25	28 Apr 22	Evidence Statement - Jonathan Fetterplace, A Different City	Council
26	28 Apr 22	Evidence Statement - Marcus Spiller, SGS	Council
27	28 Apr 22	Evidence Statement - Rob Milner, Kinetica	Council
28	28 Apr 22	Evidence Statement - Luke Cattlin, Resolve Environmental	Council
29	28 Apr 22	Evidence Statement - Justin Ganly, Deep End Services	Council
30	28 Apr 22	Evidence Statement - Bonnie Rosen, Symplan	Council
31	28 Apr 22	Evidence Statement - Stephen Polosi, Movendo	Council
32	28 Apr 22	Evidence Statement - Aaron Organ, Ecology and Heritage Partners	Crystal Creek Properties
33	28 Apr 22	Evidence Statement - Chris Beardshaw, Afflux	Crystal Creek Properties
34	28 Apr 22	Evidence Statement - Jason Walsh, Traffix	Crystal Creek Properties
35	28 Apr 22	Evidence Statement - Peter Gell, Diatoma	Crystal Creek Properties
36	28 Apr 22	Evidence Statement - Nina Barich, Incitus	Crystal Creek Properties
37	28 Apr 22	Evidence Statement - Sandra Rigo, Hansen Partnership	Crystal Creek Properties
38	28 Apr 22	Evidence Statement - Tom Milinkovic, Urban Design & Management, and attachments: a) 6550-KalkalloCreek-DSS b) Incitus 615 Hume Hwy Catchment Memo Rev1	615 Hume Freeway
39	28 Apr 22	Evidence Statement - Chris De Silva, Mesh	VPA

40	28 Apr 22	Evidence Statement - Peter Sandercock, Jacobs	VPA
41	28 Apr 22	Evidence Statement - John Glossop, Glossop Town Planning	VPA
42	28 Apr 22	Evidence Statement - Reece Humphreys, Stantec	VPA
43	28 Apr 22	Evidence Statement - Rob Debal, Alluvium	VPA
44	28 Apr 22	Evidence Statement - Benny Vocale and Davin Slade, Stantec	VPA
45	28 Apr 22	Evidence Statement - Rodney Huntley, Groundwork Plus	VPA
46	28 Apr 22	Evidence Statement - Andrew Clarke, Matrix	Conundrum Holdings
47	28 Apr 22	Evidence Statement - Adrian J. Moore, Terrock	Conundrum Holdings
48	28 Apr 22	Evidence Statement - Basil Natoli, BCA Consulting	Conundrum Holdings
49	28 Apr 22	Evidence Statement - Charmaine Dunstan, Traffix	Conundrum Holdings
50	28 Apr 22	Evidence Statement - Darren Tardio, Enfield	Conundrum Holdings
51	28 Apr 22	Evidence Statement - John Mitas, John Mitas Consulting	Conundrum Holdings
52	28 Apr 22	Evidence Statement - John Patrick, John Patrick Landscape Architects	Conundrum Holdings
53	28 Apr 22	Evidence Statement - Mark Jempson, Venant Solutions	Conundrum Holdings
54	28 Apr 22	Evidence Statement - Oona Nicolson, Ecology and Heritage Partners	Conundrum Holdings
55	28 Apr 22	Evidence Statement - Peter J Ramsay, Peter J Ramsay & Associates	Conundrum Holdings
56	28 Apr 22	Evidence Statement - Rhys Quick, Urbis	Conundrum Holdings
57	28 Apr 22	Evidence Statement - Chris Aberly, Deep End Services	YVW
58	28 Apr 22	Evidence Statement - Christophe Delaire, Marshall Day	YVW
59	28 Apr 22	Evidence Statement - Garrett Hall, Golder Associates	YVW
60	28 Apr 22	Evidence Statement - Hilary Marshall, Ratio	YVW
61	28 Apr 22	Evidence Statement - Iain Cowan, Tonkin & Taylor	YVW
62	28 Apr 22	Evidence Statement - John Heilig, Heilig & Partners	YVW
63	28 Apr 22	Evidence Statement - Mark Woodland, Echelon Planning	YVW

64	4 May 22	Conclave report – land use economics	Chris Abery, Rhys Quick
65	4 May 22	Conclave report – noise	Christophe Delaire, Darren Tardio
66	4 May 22	Conclave report – ecology	Aaron Organ, Rob Debal
67	4 May 22	Letter advising EPA does not wish to be heard	Environment Protection Authority Victoria
68	5 May 22	Conclave report – quarry resource supply and demand	Justin Ganly, Rhys Quick
69	5 May 22	Conclave report – infrastructure costings	Tom Milinkovic, Benny Vocale
70	5 May 22	Conclave report – traffic engineering	Hilary Marshall, Jason Walsh, Charmaine Dunstan, Stephen Pelosi, Reece Humphreys, Len Hall, Tina Webb
71	5 May 22	Letter from Mr Humphreys – Correction to evidence	VPA
72	5 May 22	V2 Timetable	PPV
73	6 May 22	Opening submissions	Mary Gilbo
74	6 May 22	Opening submissions	YVW
75	6 May 22	Opening submissions, and attachments: a) DJPR-Vic-Gov-Quarry-Compendium-updated-web-version b) 36. Quarry Statement c) SCO Assessment Table - 175 Northern Hwy Wallan South d) Beveridge North West - Mith C158 - 72_01s - Conundrum May 2022 d)(1)Extractive Industry Buffer Area Incorporated Document (Conundrum comments)	Conundrum Holdings
76	6 May 22	Opening submissions, and attachment: a) Annexure 1 (Balcon Beveridge)	Balcon Beveridge Project Management
77	6 May 22	Opening submissions, and attachments: - Memo waterway widths as per Part A PSP - Technical guidance note from Melbourne Water - Cardno report	VPA



		<ul style="list-style-type: none"> <li>- Memo road infrastructure</li> <li>- ICP</li> <li>- DJPR letter</li> <li>- Sandow v Macedon Ranges SC</li> <li>- Preparation of Rehabilitation Plans Guideline for Extractive Industry Projects</li> <li>- MRSDA</li> <li>- MRSDA Extractive Industries Regulations 2019</li> </ul>	
78	6 May 22	Opening submissions	Council
79	6 May 22	Referral authority responses to permit application PLP268/19: <ul style="list-style-type: none"> <li>a) DJPR</li> <li>b) EPA</li> <li>c) Melbourne Water</li> <li>d) VicRoads</li> <li>e) YVW</li> <li>f) DELWP, Hume Region - Dec 2019</li> <li>g) DELWP, Hume Region - Dec 2020</li> </ul>	PPV
80	6 May 22	Opening submissions	Crystal Creek Properties
81	6 May 22	Opening submissions	Department of Transport
82	9 May 22	Opening presentation slides	VPA
83	9 May 22	Council summary of resolved and unresolved issues from February 2021 submission	Council
84	10 May 22	Conclave report – Beveridge North West ICP	Chris De Silva, Marcus Spiller
85	10 May 22	Skate park draft condition	Balcon Beveridge Project Management
86	10 May 22	Presentation – Mark Woodland	YVW
87	10 May 22	Part A PSP document - Updated clause numbers	VPA
88	11 May 22	Kangaroo Management Plan	Conundrum Holdings
89	11 May 22	Email correspondence – KMP approval	Conundrum Holdings
90	11 May 22	Conclave report – Quarry technical including rehabilitation	Basil Natoli, John Mitas, Garrett Hall, Luke Cattlin, Rod Huntley
91	11 May 22	Memo – Changes to ICP	VPA

92	11 May 22	Letter – Clarification of Crystal Creek interest	Crystal Creek Properties
93	11 May 22	Presentation – Stephen Pelosi	Council
94	12 May 22	Supplementary submission	Department of Transport
95	12 May 22	Letter – Clarification of Crystal Creek interest (updated)	Crystal Creek Properties
96	12 May 22	Email – Clarification of land titles	Conundrum Holdings
97	13 May 22	Letter – Correction to error in submission	Balcon Beveridge Project Management
98	13 May 22	Letter – Regarding Crystal Creek interest, enclosing: <ul style="list-style-type: none"> <li>▪ Land title – Lot 2 on Plan of Subdivision 006746</li> <li>▪ ASIC Extract Snapshot – Crystal Creek Properties Pty Ltd</li> </ul>	Council
99	13 May 22	Walsh Option B with modification	YVW
100	16 May 22	Presentation – Tom Milinkovic	615 Hume Freeway
101	16 May 22	Cultural Values Assessment (confidential)	Wurundjeri Wo- wurrung Cultural Heritage Aboriginal Corporation
102	17 May 22	Conclave report - Blasting	Adrian Moore, Dr John Heilig
103	18 May 22	Letter – Harwood Andrews to Maddocks	VPA
104	18 May 22	Letter – Maddocks to Harwood Andrews	Council
105	18 May 22	Beveridge SR-01 moved	YVW
106	18 May 22	Mr Beardshaw’s amended drainage scheme	Crystal Creek Properties
107	18 May 22	Presentation – Nina Barich (Amendment C106 Panel)	Crystal Creek Properties
108	18 May 22	Presentation – Friends of Merri Creek (Amendment C106 Panel)	Crystal Creek Properties
109	18 May 22	Submission from Nature Glenelg Trust dated 17 May 2020	Crystal Creek Properties
110	18 May 22	Draft Wallan Wallan Wetlands Maps dated 3 July 2020	Crystal Creek Properties

111	20 May 22	Conclave report – Air quality	Iain Cowan, Peter Ramsay
112	20 May 22	Presentation – Garrett Hall	YVW
113	20 May 22	V3 Timetable	PPV
114	23 May 22	Presentation – John Mitas	Conundrum Holdings
115	23 May 22	Further instructions provided to Mr Mitas on 9 March 2022	Conundrum Holdings
116	24 May 22	Presentation – Rhys Quick	Conundrum Holdings
117	24 May 22	Planning Permit 1505-2018	Conundrum Holdings
118	24 May 22	Approved Development Plan – Fyansford Quarry	Conundrum Holdings
119	25 May 22	Committee letter – Interests and lease	PPV
120	25 May 22	Nearmap image – Niddrie Quarry	YVW
121	25 May 22	Geology and Extractive Industry Conclave Statement (Amendment C106 Panel)	Council
122	25 May 22	Earth Resources Regulation Statistical Report 2019-2020	Conundrum Holdings
123	25 May 22	Extractive Demand Analysis EY Report 16 May 2016	Conundrum Holdings
124	25 May 22	Glen Iris Devco Pty Ltd v Stonnington CC [2022] VCAT 471	Conundrum Holdings
125	25 May 22	Alternative Beveridge SR-01	YVW
126	25 May 22	Extractive Resources in Victoria Demand and Supply Study 2015-20	Council
127	25 May 22	PWC Memorandum – Development of WA1473 dated 16 Nov 2017	Council
128	25 May 22	PWC Memorandum Northern Corridor hard rock analysis dated 3 May 2018	Council
129	26 May 22	Email – From Mr Quick regarding production rates for Conundrum Epping	Conundrum Holdings
130	26 May 22	Presentation – Bonnie Rosen	Council
131	26 May 22	Committee letter – Recordings and face to face Hearing	PPV
132	27 May 22	Appendix A to evidence statement of John Heilig – CV	YVW
133	27 May 22	Documents put to Ms Rosen during cross examination	Conundrum Holdings

134	27 May 22	Further email sent by Mitchell Advocacy to submitters and map showing “Stop the Quarry” signs erected by Council	Conundrum Holdings
135	27 May 22	Video released by Wallan Environmental Group featuring Councillor Eldridge	Conundrum Holdings
136	27 May 22	Letter – Response to Committee regarding lease issue	Crystal Creek Properties
137	27 May 22	Spreadsheet referenced by Mr McArdle during cross-examination of Mr Moore	YVW
138	30 May 22	Email - Received from ERR regarding tracked changes work plan - 27 May 2022	VPA
139	30 May 22	Letter – Response to Committee request for further information on lease issue, enclosing: a) Attachments 1 and 2	Conundrum Holdings
140	30 May 22	Email – Details of blasting video on Conundrum website	Conundrum Holdings
141	30 May 22	Shot Firer documentation mentioned by Mr Wren	Conundrum Holdings
142	31 May 22	Documents and images put to Mr Tardio	YVW
143	31 May 22	Letter – Regarding responses on lease issue	Council
144	2 Jun 22	VPA substantive submission, enclosing: a) Casey-Planning-Scheme-Amendment-C269case-Minta-Farm-Infrastructure-Contributions-Plan-Panel-Report-November-2020 b) Direction-Preparation-and-Content-and-Reporting-Requirements-for-Infrastructure-Contributions-Plans-Feb-2021 c) ICP-Guidelines-March-2021 d) Mitchell Shire Council MAC Tabled Document Outstanding Issues with VPA response e) Mitchell-and-Whittlesea-GC102-Panel-Report f) Panel-Report-Mitchell-Planning-Scheme-Amendment-C145mith-Beveridge-Central-ICP-December-2020 g) Part 3AB h) Shenstone-Park-C241-Final-Panel-Report-PPV-March-2021 i) Shenstone-Park-Precinct-Structure-Plan-August-2021-Approved-and-Gazetted	VPA

145	2 Jun 22	Department of Transport substantive submission (relating to permit)	Department of Transport
146	3 Jun 22	Letter - Response to Council's further submissions in respect of lease issue	Conundrum Holdings
147	3 Jun 22	V4 Timetable	PPV
148	4 Jun 22	Council substantive submission, enclosing: <ul style="list-style-type: none"> <li>a) Conundrum North Central Quarry Information Handout</li> <li>b) Gippsland Coastal Board v South Gippsland SC &amp; Ors (No 2) (includes Summary) (Red Dot) [2008] VCAT 1545</li> <li>c) Hoskin and Another v Greater Bendigo City Council and Others (2015) 48 VR 715</li> <li>d) Kantor v Murrindindi Shire Council</li> <li>e) Letter to Best Hooper - Conundrum Quarry</li> <li>f) Rozen v Macedon Ranges Shire Council and Ors [2010] VSC 583</li> <li>g) Tract Cover Letter to Permit Application dated 4 October 2019</li> <li>h) Ungar v City of Malvern [1979] VR 259</li> </ul>	Council
149	6 Jun 22	Proposed drafting changes to Incorporated Document	Council
150	6 Jun 22	Summary of other issues remaining from Council's February 2022 submission, and proposed drafting changes to the PSP and ICP	Council
151	6 Jun 22	Council Substantive submission table of contents	Council
152	6 Jun 22	C217melt-Mt-Atkinson-Tarneit-Plains-PSP-June-2017-Amended-Jan-2020-Approval-Gazetted	VPA
153	6 Jun 22	Whittlesea – Schedule 7 to cl 37.07 Urban Growth Zone	VPA
154	6 Jun 22	Conundrum Council Presentation 2021	Council
155	6 Jun 22	High View Pty Ltd v Melbourne City Council 20 AATR 163	Council
156	6 Jun 22	Pioneer Concrete (Qld) Pty Ltd v Brisbane City Council [1980] HCA 1 - B	Council
157	6 Jun 22	Victorian National Parks Association Inc v East Gippsland SC (1995) 14 AATR 250	Council
158	6 Jun 22	Part B submissions	YVW
159	6 Jun 22	YVW drafting changes to Incorporated Document	YVW
160	6 Jun 22	Submissions	Crystal Creek Properties

161	7 Jun 22	Victorian Government School Site Selection Criteria – Toolbox	YVW
162	7 Jun 22	Submissions	615 Hume Freeway
163	7 Jun 22	Letter – Committee ruling on lease issue	PPV
164	7 Jun 22	Submissions on behalf of Balcon Beveridge Project Management Pty Ltd, enclosing: a) Direction-Preparation-and-Content-and-Reporting-Requirements-for-Infrastructure-Contributions-Plans-Feb-2021 b) Mitchell Play Space Strategy c) Mitchell Shire Open Space Strategy 2013 - 2023	Balcon Beveridge Project Management
165	7 Jun 22	Submissions	Mary Gilbo
166	7 Jun 22	Incorporated document – Council base document with Gilbo additional edits	Mary Gilbo
167	8 Jun 22	Presentation slides	Dominie Dale
168	8 Jun 22	Submissions	Wallan Environment Group
169	8 Jun 22	Presentation slides	Mike Stankiewicz
170	8 Jun 22	Submissions	Friends of Merri Creek
171	8 Jun 22	Speaking notes	David James
172	8 Jun 22	Presentation slides	Bill Coustley
173	8 Jun 22	Submissions	Timothy Gilbo
174	8 Jun 22	Submissions	Merri Creek Management Committee
175	9 Jun 22	Speaking notes	Gayle Phillips
176	9 Jun 22	Presentation slides	Friends of Merri Creek
177	9 Jun 22	Submissions	Colin and Marie Hammond
178	9 Jun 22	Speaking notes	Carol Wright
179	9 Jun 22	Speaking notes	Skye Forster
180	9 Jun 22	Speaking notes	Eadaoin Wright
181	9 Jun 22	Presentation slides	Eadaoin Wright
182	9 Jun 22	Speaking notes	Garry Sturdy

183	9 Jun 22	Presentation slides	Garry Sturdy
184	9 Jun 22	Substantive submissions, and attachments: a) Tracked Change Extractive Industry Buffer Area Incorporated Document b) Draft Permit Conditions (Tracked) c) Draft Permit Conditions (Clean) d) Tracked change 37_07_3 e) Preparation-of-Work-Plans-and-Work-Plan-Variations-Guideline-for-Extractive-Industry-Projects f) Directions 37 and 41 – Conundrum changes sought to the Draft Amendments g) Hanson Construction Materials Pty Ltd v DJPR [2022] VCAT 251	Conundrum Holdings
185	10 Jun 22	Memorandum regarding BR-01 and ICP costings for CU-01, CU02 and CU-03	VPA
186	10 Jun 22	V181662 Beveridge North West Designs and Costings V15	VPA
187	10 Jun 22	Without prejudice draft permit conditions	Council
188	10 Jun 22	Table of changes sought to draft amendments	YVW
189	10 Jun 22	Table of changes sought to draft amendments	Crystal Creek Properties
190	13 Jun 22	Submissions in reply	Council
191	13 Jun 22	Copy of VPA memo dated 10 June 2022, with Council's annotation querying the costings for CU-03	Council
192	14 Jun 22	Submissions in reply	Mary Gilbo
193	14 Jun 22	Letter – Response to Committee regarding permit conditions	Mary Gilbo
194	14 Jun 22	Submissions in reply	YVW
195	14 Jun 22	Closing submissions, enclosing: a) Appendix A – VPA Memo to Mac – ICP Borrowing Costs b) Appendix B1 – B3 – schedules of proposed changes/responses c) Appendix C1– C3 – tracked changes PSP, ICP and ordinance d) Appendix C3 word – clean, word versions, of the updated ordinance (Appendix C3) with changes accepted e) Prime Land Development & Advisory Group Pty Ltd v Hume CC [2017] VCAT 674	VPA

196	14 June 22	Letter – Committee directions regarding submissions on burrung buluk	PPV
197	14 Jun 22	Email – Response to VPA memorandum regarding BR-01	615 Hume Freeway
198	14 Jun 22	Without prejudice planning permit conditions	VPA
199	14 Jun 22	Brooklyn Green Ombudsman report	Council
200	14 Jun 22	Council response to Crystal Creek table of changes sought	Council
201	14 Jun 22	Council response to Conundrum Holdings' table of changes sought	Council
202	14 Jun 22	Council response to YVW's table of changes sought	Council
203	15 Jun 22	Letter – Directions at Hearing close	PPV
204	16 Jun 22	Draft permit conditions for discussion (A3 table)	Conundrum Holdings
204A	16 Jun 22	Draft permit conditions for discussion (A3 table)	Mary Gilbo
205	21 Jun 22	Crystal Creek Properties Pty Ltd response to direction 41(b)	Crystal Creek
206	21 Jun 22	Draft permit conditions for discussion (A3 table)	YVW
207	23 Jun 22	Email, enclosing: a) Response to direction 41 - Conundrum changes sought to the Draft Amendments (updated 23 June 2022)	Conundrum Holdings
208	24 Jun 22	Email, enclosing: a) Incorporated document with Council's preferred drafting at clauses 2.7, 2.8, 5 and 6	Council
209	24 Jun 22	Draft permit conditions for discussion (A3 table) - Final	Council
210	25 Jun 22	Email – Update on post hearing matters, enclosing: a) VPA Memo 10622 – BR-01 and ICP costings (Council comment)	VPA
211	25 Jun 22	Draft permit conditions for discussion – VPA comments	VPA
212	27 Jun 22	Crystal Creek response to Friends of Merri Creek submissions	Crystal Creek
213	27 Jun 22	Chris Beardshaw response to FOMC	Crystal Creek
214	27 Jun 22	Peter Gell response to FOMC	Crystal Creek
215	27 Jun 22	Aaron Organ response to FOMC	Crystal Creek
216	27 Jun 22	Letter – Response to proposed burrung buluk concept plan controls	Crystal Creek
217	27 Jun 22	Correspondence from Sandra Rigo dated 2 June 2022	Crystal Creek
218	27 Jun 22	Burrung buluk concept plan drafting - CLEAN	Crystal Creek



219	27 Jun 22	37_07s3 – Crystal mark up	Crystal Creek
220	29 Jun 22	Letter – Final response to drafting	VPA
221	29 Jun 22	Burrung buluk concept plan drafting - FINAL - VPA	VPA
222	29 Jun 22	Direction 41c - combined table - Final VPA	VPA
223	29 Jun 22	Draft permit conditions for discussion - VPA	VPA
224	29 Jun 22	Part C.3 Mith C158 37_07s3 - June 2022 - Final VPA	VPA
225	29 Jun 22	SCO Incorporated Document – Final VPA	VPA
226	4 Jul 22	Email – Correction to final SCO Incorporated Document, enclosing: a) SCO Incorporated Document – Final VPA (Correct cl 4.8)	VPA
227	6 Jul 22	Letter – Direction regarding comments on burrung buluk concept plan drafting, enclosing: a) Email request from Merri Creek Management Committee	PPV
228	13 Jul 22	Comments on UGZ Schedule 3 burrung buluk concept plan	Friends of Merri Creek
229	13 Jul 22	Comments on PSP and UGZ Schedule 3 burrung buluk concept plan	Merri Creek Management Committee
230	18 Jul 22	UGB Schedule 3 burrung buluk concept plan FOMC - VPA response	VPA
231	18 Jul 22	MCMC proposed changes to the PSP and UGZ Schedule 3 - VPA response	VPA
232	9 Sep 22	Letter from the VPA regarding Wurundjeri-Woi-wurrung preferred Western Arterial Road alignment	VPA
233	14 Sep 22	Email – Request for extension to provide response on Western Arterial Road alignment	Yarra Valley Water
234	15 Sep 22	Letter – Updated Committee directions regarding responses to Western Arterial Road alignment	PPV
235	21 Sep 22	Letter – Response on Western Arterial Road alignment	Council
236	26 Sep 22	Letter – Response on Western Arterial Road alignment	DoT
237	26 Sep 22	Letter – Response on Western Arterial Road alignment	YVW
238	7 Oct 2022	VPA Reply on Western Arterial Road Alignment	VPA

## Appendix E Recommended version of Urban Growth Zone Schedule

COMMITTEE VERSION BASED ON DOCUMENT 224

### MITCHELL PLANNING SCHEME

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#### SCHEDULE 3 TO CLAUSE 37.07 URBAN GROWTH ZONE

Shown on the planning scheme map as UGZ3.

#### BEVERIDGE NORTH WEST PRECINCT STRUCTURE PLAN

#### 1.0

##### The Plan

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Plan 1 shows the future urban structure proposed in the incorporated *Beveridge North West Precinct Structure Plan*.

Plan 1 to Schedule 3 of Clause 37.07 (COMMITTEE: FUS to be updated to identify burrung buluk concept plan area)



#### 2.0

##### Use and development

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#### 2.1

##### The land

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The use and development provisions specified in this schedule apply to the land within the 'precinct boundary' on Plan 1 and shown as UGZ3 on the planning scheme maps. This schedule must be read in conjunction with the incorporated *Beveridge North West Precinct Structure Plan* (PSP).

Note:

If land shown on Plan 1 is not zoned UGZ, the provisions of this zone do not apply.

#### 2.2

##### Applied zone provisions

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Table 1 allocates the land use/development shown on Plan 1 of this schedule with a corresponding zone from this scheme.

Where the use/development in the left column is carried out or proposed generally in accordance with the incorporated *Beveridge North West Precinct Structure Plan*, the use, subdivision, construction of a building and construction and carrying out of works provisions of the corresponding zone in the right column apply.

COMMITTEE VERSION BASED ON DOCUMENT 224.

## MITCHELL PLANNING SCHEME

A reference to a planning scheme zone in an applied zone must be read as if it were a reference to an applied zone under this schedule.

*Note: e.g. The General Residential Zone specifies 'Place of worship' as a Section 1 Use with the condition, 'The site must adjoin, or have access to, a road in a Transport Zone.' In this instance the condition should be read as, 'The site must adjoin, or have access to, a road in a Transport Zone or an applied Transport Zone in the Urban Growth Zone schedule applying to the land'*

Table 1: Applied zone provisions

Local town centre Local convenience centre	Clause 34.01 – Commercial 1 Zone
Residential on a lot wholly within Sensitive Interface Height Control Area	Clause 32.09 – Neighbourhood Residential Zone
Landscape values and burning buluk concept plan area	Clause 35.06 – Rural Conservation Zone
Mixed use	Clause 32.04 – Mixed Use Zone
Freeway Arterial road	Clause 36.04 – Transport Zone
Residential on a lot wholly within a walkable catchment	Clause 32.07 – Residential Growth Zone
All other land	Clause 32.08 – General Residential Zone
Southern Town Centre Flexible Design Area	<p>Prior to approval of Southern Town Centre Plan required by Requirement R8, section 3.2 of the <i>Beveridge North West Precinct Structure Plan</i>, the following applies:</p> <ul style="list-style-type: none"> <li>Land shown on Plan 1 of this Schedule as local town centre: Clause 34.01 Commercial 1 Zone</li> <li>Land shown on Plan 1 of this Schedule as mixed use: Clause 32.04 – Mixed Use Zone</li> <li>Other land: Clause 32.08 – General Residential Zone</li> </ul> <p>From the date of approval of the Southern Town Centre Plan required by Requirement R8, section 3.2 of the <i>Beveridge North West Precinct Structure Plan</i>, the following applies:</p> <ul style="list-style-type: none"> <li>Land shown on Southern Town Centre Plan as local town centre or employment: Clause 34.01 Commercial 1 Zone</li> <li>Land shown on Southern Town Centre Plan as mixed use: Clause 32.04 – Mixed Use Zone</li> <li>Other land: Clause 32.08 – General Residential Zone</li> </ul>

COMMITTEE VERSION BASED ON DOCUMENT 224.

## MITCHELL PLANNING SCHEME

## 2.3 Specific provisions – Use of land

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Proposed  
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## Section 1 - Permit not required

Child care centre	The location of these uses must generally accord with the location of community facilities in the <i>Beveridge North West Precinct Structure Plan</i> and with the prior written consent of Mitchell Shire Council.
Hall	
Indoor recreation centre	
Library	
Medical Centre	
Restricted Recreation Facility	
Child care centre	The location of the use must generally accord with the location of community facilities in the <i>Beveridge North West Precinct Structure Plan</i> and with the prior written consent of Mitchell Shire Council.
Place of worship	The gross floor area of all buildings must not exceed 250 square metres. The site must adjoin, or have access to, a road in a Transport Zone.
Primary school	On land shown as Potential Non-Government School on Plan 3 of the <i>Beveridge North West Precinct Structure Plan</i> .
Secondary school	
Minor sports and recreation facility	The location of the use must generally accord with the location of Local Sports Reserve in the <i>Beveridge North West Precinct Structure Plan</i> and with the prior written consent of Mitchell Shire Council.
Shop - where the applied zone is Commercial 1 Zone or Mixed Use Zone	The combined leasable floor area of all shops in the relevant centre must not exceed: <ul style="list-style-type: none"> <li>7,000 sqm on land shown as the Southern Local Town Centre (LTC-1) in the <i>Beveridge North West Precinct Structure Plan</i>.</li> <li>3,300 sqm on land shown as the Eastern Local Town Centre (LTC-2) in the <i>Beveridge North West Precinct Structure Plan</i>.</li> <li>6,300 sqm on land shown as the Northern Local Town Centre (LTC-3) in the <i>Beveridge North West Precinct Structure Plan</i>.</li> <li>6,300 sqm on land shown as the Western Local Town Centre (LTC-4) in the <i>Beveridge North West Precinct Structure Plan</i>.</li> </ul>
Office (other than Medical Centre) where the applied zone is Mixed Use	
Research and development centre	On land where the applied zone is Mixed Use Zone. Must not be a purpose listed in the table to Clause 53.10
Emergency services facility	On land shown as Potential Emergency services facility on Plan 7 of the <i>Beveridge North West Precinct Structure Plan</i> .



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## MITCHELL PLANNING SCHEME

Any use listed in Clause 62.01

Must meet requirements of Clause 62.01.

## Section 2 - Permit required

Any other use not in Section 1 or 3 in the Table of uses in the applicable applied zone

## Section 3 – Prohibited

Any use listed in Section 3 in the Table of uses of the applicable applied zone

## Approval of Southern Town Centre Plan

Except with the consent of the responsible authority a permit must not be granted to use land in the Southern Town Centre Flexible Design Area until the Southern Town Centre Plan has been prepared and approved to the satisfaction of the responsible authority.

## Approval of Burrung Buluk Concept Plan

Except with the consent of the responsible authority, a permit must not be granted to use land in the burrung buluk Concept Plan Area shown on Figure 1 of the incorporated Beveridge North West Precinct Structure Plan and Plan 1 included in this schedule until the Burrung Buluk Concept Plan has been prepared and approved to the satisfaction of the Responsible Authority, and must include:

- The extent of the proposed burrung buluk landscape values area.
- The alignment of the Western Arterial Road, informed by an engineering concept plan prepared to the satisfaction of Department of Transport.
- The ecological areas of burrung buluk informed by analysis and investigations on ecology and hydrology
- Any Integrated Water Management infrastructure proposed.
- Any buildings and furniture proposed.
- Any footpaths, car parks, cycle paths or shared paths proposed.
- Roads or other infrastructure items (including pedestrian crossings and culverts) identified in the Beveridge North West Infrastructure Contributions Plan.
- Any areas identified for Aboriginal cultural significance.

The concept plan should be informed by:

- Expert analysis and investigations on landscape, ecology and hydrology.
- Any known land tenure and ongoing management, including consideration of any regional park.
- The views of any other relevant agency or public organisation and relevant community organisations, including, but not limited to, the Friends of Merri Creek and Merri Creek Management Committee.

## 2.4

## Specific provisions - Subdivision

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## Approval of Southern Town Centre Plan

Except with the consent of the responsible authority a permit must not be granted to subdivide land in the Southern Town Centre Flexible Design Area until the Southern Town Centre Plan has been prepared and approved to the satisfaction of the responsible authority.

## Approval of Burrung Buluk Concept Plan

COMMITTEE VERSION BASED ON DOCUMENT 224.

## MITCHELL PLANNING SCHEME

Except with the consent of the responsible authority, a permit must not be granted to subdivide land in the burrung buluk Concept Plan Area shown on Figure 1 of the incorporated Beveridge North West Precinct Structure Plan and Plan 1 included in this schedule until the Burrung Buluk Concept Plan has been prepared and approved to the satisfaction of the Responsible Authority, and must include:

- The extent of the proposed burrung buluk landscape values area.
- The alignment of the Western Arterial Road, informed by an engineering concept plan prepared to the satisfaction of Department of Transport,
- The ecological areas of burrung buluk informed by analysis and investigations on ecology and hydrology
- Any Integrated Water Management infrastructure proposed.
- Any buildings and furniture proposed.
- Any footpaths, car parks, cycle paths or shared paths proposed.
- Roads or other infrastructure items (including pedestrian crossings and culverts) identified in the Beveridge North West Infrastructure Contributions Plan.
- Any areas identified for Aboriginal cultural significance.

The concept plan should be informed by:

- Expert analysis and investigations on landscape, ecology and hydrology.
- Any known land tenure and ongoing management, including consideration of any regional park.
- The views of any other relevant agency or public organisation and relevant community organisations, including, but not limited to, the Friends of Merri Creek and Merri Creek Management Committee.

## 2.5

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## Specific provisions - Buildings and works

## Approval of Southern Town Centre Plan

Except with the consent of the responsible authority a permit must not be granted to construct a building or carry out works on land in the Southern Town Centre Flexible Design Area until the Southern Town Centre Plan required by Requirement R8, section 3.2 of the *Beveridge North West Precinct Structure Plan* has been prepared and approved to the satisfaction of the responsible authority.

## Approval of Burrung Buluk Concept Plan

Except with the consent of the responsible authority, a permit must not be granted to construct a building or carry out works in the burrung buluk Concept Plan Area shown on Figure 1 of the incorporated Beveridge North West Precinct Structure Plan and Plan 1 included in this schedule until the Burrung Buluk Concept Plan has been prepared and approved to the satisfaction of the Responsible Authority, and must include:

- The extent of the proposed burrung buluk landscape values area.
- The alignment of the Western Arterial Road, informed by an engineering concept plan prepared to the satisfaction of Department of Transport,
- The ecological areas of burrung buluk informed by analysis and investigations on ecology and hydrology
- Any Integrated Water Management infrastructure proposed.
- Any buildings and furniture proposed.
- Any footpaths, car parks, cycle paths or shared paths proposed.

COMMITTEE VERSION BASED ON DOCUMENT 224.

#### MITCHELL PLANNING SCHEME

- Roads or other infrastructure items (including pedestrian crossings and culverts) identified in the Beveridge North West Infrastructure Contributions Plan.
- Any areas identified for Aboriginal cultural significance.

The concept plan should be informed by:

- Expert analysis and investigations on landscape, ecology and hydrology.
- Any known land tenure and ongoing management, including consideration of any regional park.
- The views of any other relevant agency or public organisation and relevant community organisations, including, but not limited to, the Friends of Merri Creek and Merri Creek Management Committee.

#### Buildings and works for future local parks and community facilities

A permit is not required to construct a building or construct or carry out works for a local park, sport reserve or community facility provided the use or development is carried out generally in accordance with the incorporated *Beveridge North West Precinct Structure Plan* and with the prior written consent of Mitchell Shire Council.

#### Dwellings on a lot less than 300 square metres

A permit is not required to construct or extend one dwelling on a lot with an area less than 300 square metres where a site is identified as a lot to be assessed against the *Small Lot Housing Code* (Victorian Planning Authority, November 2019) via a restriction on title, and it complies with the *Small Lot Housing Code* (Victorian Planning Authority, November 2019), incorporated into the Mitchell Planning Scheme.

#### Buildings and works for a school

A permit is required to construct a building or construct or carry out works associated with a Primary school or Secondary school on land shown as a Potential Non-Government School unless exempt under Clauses 62.02-1 and 62.02-2.

#### Bulk Earthworks

A permit is required for bulk earthworks, unless a report has been prepared to the satisfaction of the responsible authority demonstrating that sodic and/or dispersive soils are not present in the works area.

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#### Application requirements

The following application requirements apply to an application for a permit under Clause 37.07, in addition to those specified in Clause 37.07 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority.

If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement.

#### Southern Town Centre Flexible Design Area

An application for a permit to use land, to construct a building or carry out works or to subdivide land in the Southern Town Centre Flexible Design Area must be accompanied by written assessment demonstrating how the proposed use, development or subdivision is in accordance with the approved Southern Town Centre Plan.



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## MITCHELL PLANNING SCHEME

**Slope management**

An application to subdivide land or to construct a building or construct or carry out works for land shown on Plan 6 of the incorporated *Beveridge North West Precinct Structure Plan* as having a pre-development slope of greater than 10%, must include a Slope Management Plan that responds to Section 3.1.3 - Topography – of the *Beveridge North West Precinct Structure Plan*.

A Slope Management Plan submitted with an application for subdivision must also include a building envelope plan demonstrating that the outcomes sought by Section 3.1.3 - Topography – of the incorporated *Beveridge North West Precinct Structure Plan* have been achieved.

**Subdivision – Residential development**

In addition to the requirements of Clause 56.01-2, a subdivision design response for a residential subdivision of 10 lots or more must be accompanied by the information listed below. An application for the construction of 10 or more dwellings on a lot must be accompanied by the same information:

- A written statement that sets out how the application implements the incorporated *Beveridge North West Precinct Structure Plan*.
- A land use budget setting out the amount of land allocated to the proposed uses and expected population, dwelling and employment yields.
- A Traffic Impact Assessment Report to the satisfaction of the relevant road management authorities.
- A plan showing access arrangements for properties adjacent to all existing and future arterial roads.
- A hydrogeological assessment of the groundwater conditions on the site and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater on the development and the impact of the development on groundwater.
- A drainage and integrated water management plan.
- A Stormwater Management Strategy that assesses the existing surface and subsurface drainage conditions on the site, addresses the provision, staging and timing of stormwater drainage works, including temporary outfall provisions, to the satisfaction of Mitchell Shire Council and Melbourne Water.
- A landscape master plan that:
  - Shows natural features including trees and other significant vegetation, habitat for protected species, drainage lines, water courses, wetlands, ridgelines, hill tops and features of geomorphic significance;
  - Recognises and responds to sodic or dispersive soils;
  - Shows recreation facilities to be provided within public open space;
  - Shows storm water facilities that are compliant with the relevant approved drainage strategy; and
  - Identifies vegetation to be retained and removed and any re-vegetation.
- A written statement outlining how the proposal will contribute to the delivery of affordable housing in the precinct, including proposed delivery mechanisms.

**Kangaroo management**

An application for subdivision must be accompanied by a Kangaroo Management Plan which includes:

- Strategies that will be implemented to avoid land locking kangaroos, including staging of subdivision;



COMMITTEE VERSION BASED ON DOCUMENT 224.

#### MITCHELL PLANNING SCHEME

- Strategies, management actions and contingency planning that will be implemented to minimise animal welfare and human safety risks;
- How implementation of the Kangaroo Management Plan will be monitored.

Where a Kangaroo Management Plan has been approved in respect to the land to which the application applies, the application must be accompanied by:

- a copy of the approved Kangaroo Management Plan;
- a 'design and management response' statement outlining how the application is consistent with and gives effect to any requirements of the approved Kangaroo Management Plan.

#### Public infrastructure plan

An application for subdivision and/or use and development of land must be accompanied by a public infrastructure plan which addresses the following:

- What land may be affected or required for the provision of infrastructure works;
- The provision, staging and timing of road works internal and external to the land consistent with any relevant traffic report or assessment;
- What, if any, infrastructure set out in the infrastructure contributions plan applying to the land is sought to be provided as "works in kind" subject to the consent of the collecting agency;
- The provision of public open space and land for any community facilities; and
- Any other matter relevant to the provision of public infrastructure required by the responsible authority.

#### Traffic impact assessment

An application that proposes to create or change access to a primary or secondary arterial road must be accompanied by a Traffic Impact Assessment Report (TIAR). The TIAR, including functional layout plans and a feasibility and/or concept road safety audit, must be to the satisfaction of Head, Transport for Victoria or Mitchell Shire Council, as required.

#### Retail impact assessment

An application to use land for a Shop in a local town centre or local convenience centre where the combined leasable floor area of all shops exceeds the figure shown in the land use table at 2.3 of this schedule must be accompanied by a retail economic impact assessment prepared by a suitably qualified professional.

#### Acoustic assessment report

An application for subdivision, use or development adjacent to the 'Interface - Hume Freeway' on Plan 5 Image, Character and Housing of the incorporated *Beveridge North West Precinct Structure Plan* must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of and at no cost to the responsible authority and the Head, Transport for Victoria, which demonstrates how the proposal will comply with the VicRoads Traffic Noise Reduction Policy 2005.

#### Sodic and dispersive soils management plan

An application to subdivide land or undertake bulk earthworks must be accompanied by a sodic and dispersive soils management plan, prepared by a suitably qualified professional, that includes:

- The existing site conditions, including:
  - extent of sodic and dispersive soils based on topsoil and subsoil samples in the works area.
  - land gradient.

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#### MITCHELL PLANNING SCHEME

- erosion risk mapping;
- the extent of any existing erosion, landslip or other land degradation.
- Soils investigation, undertaken by a soil scientist;
- The extent of any proposed earthworks;
- Recommendations for soil management practices (including fill) with consideration of anticipated sodic and dispersive soil exposure;
- The management of drainage during all stages of development (including run-off);
- The staging of development;
- Any training and supervisions processes proposed for construction contractors to ensure compliance with the sodic and dispersive soils management plan;
- Proposed document monitoring and reporting processes that ensure works are undertaken in accordance with the sodic and dispersive soils management plan;
- Any treatment of soil proposed to be removed from the site;
- Any post-construction monitoring and/or management requirements; and
- Recommendations that inform a site management plan including:
  - The management, volume and location of any stockpiles;
  - Vehicle access and movement within the site area;
  - Any treatment to manage the soil while works are undertaken;
  - Treatments to rehabilitate areas that are disturbed during site works;
  - Any soil treatment to manage the soil to reduce risk to existing or current infrastructure and dwellings.

#### Bushfire Management Plan

An application to subdivide land adjacent bushfire hazard area shown on Plan 8 Bushfire Hazard Areas of the *Beveridge North West Precinct Structure Plan* must be accompanied by a Bushfire Management Plan that demonstrates how the application will address bushfire risk at the site. The plan must be prepared in accordance with Section 3.4.2 - Bushfire Management, of the PSP, unless otherwise agreed in writing by the Responsible Authority and CFA. The plan must include:

- The design and layout of the subdivision, including lot layout, road design and access points, both vehicular and pedestrian;
- The location of any bushfire hazard areas;
- The details of any bushfire protection measures required for individual lots;
- The identification of any areas to form the setback between a bushfire hazard and built form;
- The details of any vegetation management in any area of defensible space including, information on how vegetation will be managed and when the vegetation management will occur i.e. annually, quarterly, during the fire danger period.
- Notations that indicate what authority is responsible for managing vegetation within open space areas;
- Notations that ensure that the areas of classified vegetation in the nominated bushfire hazard areas must be managed to a level that will ensure the vegetation classification under AS3959-2019 will not be altered.

The responsible authority and fire authority may waive this requirement if a plan has been previously approved for the land.



COMMITTEE VERSION BASED ON DOCUMENT 224.

4.0	MITCHELL PLANNING SCHEME Conditions and requirements for permits
-1-26- Proposed C19Smith	<p data-bbox="438 347 1204 403"><b>Conditions – Subdivision permits that allow for the creation of a lot of less than 300 square metres</b></p> <p data-bbox="438 414 1204 470">Any permit for subdivision that allows the creation of a lot less than 300 square metres must contain the following conditions:</p> <ul data-bbox="438 481 1236 694" style="list-style-type: none"> <li>▪ Prior to the certification of the plan of subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the Responsible Authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the <i>Small Lot Housing Code</i> (Victorian Planning Authority, November 2019) incorporated pursuant to Clause 72.04 of the Mitchell Planning Scheme; and</li> <li>▪ The plan of subdivision submitted for certification must identify whether type A or type B of the <i>Small Lot Housing Code</i> (Victorian Planning Authority, November 2019) applies to each lot to the satisfaction of the Responsible Authority.</li> </ul> <p data-bbox="438 728 853 761"><b>Condition – Kangaroo management plan</b></p> <p data-bbox="438 772 1045 795">A permit for subdivision of land must include the following condition:</p> <ul data-bbox="438 806 1236 940" style="list-style-type: none"> <li>▪ Before the certification of the first plan of subdivision, a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment, Land, Water and Planning (DELWP). The approved plan will form part of the permit.</li> </ul> <p data-bbox="470 884 1220 940">The approved Kangaroo Management Plan must be implemented to the satisfaction of the responsible authority.</p> <p data-bbox="438 963 734 996"><b>Condition – Public transport</b></p> <p data-bbox="438 1019 1220 1086">Unless otherwise agreed by Head, Transport for Victoria, prior to the issue of a statement of compliance for any subdivision stage, bus stop hard stands with direct and safe pedestrian access to a pedestrian path must be constructed:</p> <ul data-bbox="438 1097 1204 1232" style="list-style-type: none"> <li>▪ In accordance with the Public Transport Guidelines for Land Use and Development; and compliant with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002.</li> <li>▪ At locations approved by Public Transport Victoria, at no cost to Public Transport Victoria, and to the satisfaction of Head, Transport for Victoria.</li> </ul> <p data-bbox="438 1265 1173 1310"><b>Conditions – Subdivision or buildings and works permits where land is required for community facilities, public open space or road widening</b></p> <p data-bbox="438 1332 1204 1388">A permit for subdivision or buildings and works, where land is required for community facilities, public open space or road widening must include the following conditions:</p> <ul data-bbox="438 1411 1220 1579" style="list-style-type: none"> <li>▪ The costs associated with effecting the transfer or vesting of land required for community facilities, public open space or road widening must be borne by the permit holder.</li> <li>▪ Land required for community facilities, public open space or road widening must be transferred to or vested in the relevant public agency with any designation (e.g. road, reserve or lot) nominated by the relevant agency.</li> </ul> <p data-bbox="438 1601 845 1635"><b>Condition – Bushfire management plan</b></p> <p data-bbox="438 1646 1236 1691">A permit to subdivide land adjacent to a bushfire hazard area shown on Plan 8 Bushfire Hazard Areas, must include the following condition:</p> <ul data-bbox="438 1702 1220 1769" style="list-style-type: none"> <li>▪ Unless otherwise agreed by the Responsible Authority and the Country Fire Authority, before certification of the plan of subdivision the Bushfire Management Plan must be endorsed by the Responsible Authority.</li> </ul>

COMMITTEE VERSION BASED ON DOCUMENT 224.

## MITCHELL PLANNING SCHEME

**Requirements – Sodic and dispersive soil site management plan**

A permit to subdivide land or to undertake earthworks must include a condition that requires a site management plan be prepared that implements the recommendations identified in the sodic and dispersive soil management plan, to the satisfaction of the Responsible Authority.

**5.0 Exemption from notice and review**

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None Specified.

**6.0 Decision guidelines**

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**Retail impact**

Before deciding on an application to create floorspace in excess of any cap in a town centre or local convenience centre, in addition to the decision guidelines at Clause 37.07-14 and Clause 65, the responsible authority must consider, as appropriate:

- The local catchment and *Beveridge North West Precinct Structure Plan* catchment demand for the additional floor area; and
- The effect on existing and future town centres within the Shire of Mitchell.

**Affordable Housing**

Before deciding on an application to develop or subdivide land for dwellings, the responsible authority must consider, as appropriate:

- Whether the proposed subdivision application contributes towards the provision of affordable housing;
- The Ministerial Notice under 3AA(2) of the Act, as amended from time to time.

**7.0 Signs**

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Proposed  
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None specified.

## Appendix F Recommended changes to PSP for burrung buluk



### BEVERIDGE NORTH WEST PSP – BURRUNG BULUK CONCEPT PLAN

UPDATE TO PSP



Figure 1

#### PROPOSED VPA REQUIREMENT

##### Requirement 13

A Concept Plan must be approved by the Responsible Authority for the burrung buluk concept plan area and its interface with the surrounding landscape values and abutting residential development areas. The plan must be designed in accordance with Table X.

Table X

Elements	Performance Requirements	Performance Guidelines
Land Area	The land area of the concept plan must be identified and planned for generally in accordance with the Future Urban Structure.	<p>The land should connect with the landscape values of the hilltops to create a natural corridor.</p> <p>Should the alignment of the Western Arterial Road create residual land to the west, this land should be considered for</p>



		residential uses.
Aboriginal Cultural Heritage Values	The plan must consider the views of Wurundjeri Woi Wurrung to identify cultural heritage values.	The plan should implement Wurundjeri Woi-wurrung views about conservation and interpretation of Aboriginal cultural heritage values, following further review and investigation.
Ecological values	The plan must identify ecological values to be retained and / or rehabilitated along with appropriate hydrological responses.	The plan should detail the areas to be <u>reinstated and</u> protected and how they connect to and enhance the retained ecological values.
Landscape and urban design	Any urban design or landscape study prepared for the plan must consider the surrounding landform and ensure appropriate integration with the hills and any proposed regional park.	Urban design and landscaping principles should include consideration of: <ul style="list-style-type: none"> <li>○ open space embellishments (such as seating, tables, shelters and other public amenities)</li> <li>○ movement and circulation</li> <li>○ new planting, whilst having regard to bushfire risks</li> <li>○ interfaces to and integration with (where appropriate) surrounding land uses.</li> </ul>
Infrastructure	<p>The revision of the Western Arterial Road design must:</p> <ul style="list-style-type: none"> <li>• give effect to the elements in this table</li> <li>• utilise standards identified by the Department of Transport</li> <li>• be to the satisfaction of the Department of Transport<sup>1</sup>.</li> </ul> <p>The concept plan must accommodate Precinct Structure Plan infrastructure such as pedestrian crossings, bridges, and culverts, etc.</p>	<p>The concept plan should:</p> <ul style="list-style-type: none"> <li>• integrate pedestrian and cycling linkages with any proposed regional park.</li> <li>• facilitate delivery of an efficient road network.</li> </ul>

1. The alignment of the Western Arterial Road will be considered to the south of the burring buluk concept plan area.



## Appendix G Recommended version of Incorporated Document

COMMITTEE PREFERRED VERSION  
Extractive Industry & Buffer Area

BEVERIDGE NORTH WEST AND WALLAN SOUTH

### Extractive Industry & Buffer Area BEVERIDGE NORTH WEST AND WALLAN SOUTH NORTHERN HIGHWAY BEVERIDGE 3753

Incorporated Document  
October 2022

COMMITTEE PREFERRED VERSION  
Extractive Industry & Buffer Area

BEVERIDGE NORTH WEST AND WALLAN SOUTH

**1. INTRODUCTION**

- 1.1 This document is an incorporated document in the schedule to Clause 45.12 and Clause 72.04 of the Mitchell Planning Scheme (the **Planning Scheme**) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

**2. PURPOSE & INTERPRETATION**

- 2.1 To allow the grant of a planning permit for Extractive Industry for a fixed duration in accordance with Clause 4.8(d) and 6.0 of this document.
- 2.2 To coordinate any extractive industry with the implementation of the Beveridge North West Precinct Structure Plan 2021 (**Beveridge North West PSP**) and the Wallan South Precinct Structure Plan (Wallan South PSP) in a manner that will not unduly prejudice the operation of the Extractive Industry for the designated extent and duration of the permitted activity, including through ensuring appropriate notice and referral of permit applications for land within the Extractive Industry Buffer Areas on Map 1.
- 2.3 To identify and protect as necessary the buffer areas of any approved Extractive Industry for the duration of the approved Extractive Industry use.
- 2.4 To allow for urban uses to establish within buffer areas after the establishment of the Extractive Industry, as the phasing progresses and buffers retract over time.
- 2.5 To secure the rehabilitation of land to enable the land to be developed in accordance with the Beveridge North West PSP once any Extractive Industry use ceases.
- 2.6 To facilitate the use of land and associated works for Agriculture and Renewable energy facility within the buffer areas for the duration of the quarry operation.
- 2.7 To minimise the impact of the Extractive Industry on the land within the buffer areas identified in the Beveridge North West PSP and Wallan South PSP areas.
- 2.8 Despite any provision to the contrary in the planning scheme, the Extractive Industry Site may be used and developed in accordance with the specific controls at Clause 4.0 of this document.
- The Extractive Industry Inner Buffer Area and Extractive Industry Outer Buffer Area must be used and developed in accordance with the provisions of the Mitchell Planning Scheme including this incorporated document at Clauses 5.0 and 6.0, except that where there is any inconsistency with the balance of the planning scheme, the specific controls at Clauses 5.0 and 6.0 prevail.
- 2.9 All provisions of the Planning Scheme apply to the land specified in Clause 3 except as specified at Clause 4.2 of this document.
- 2.10 In the event of any inconsistency between this document and another provision of the Planning Scheme, the provisions of this document will prevail to the extent of the inconsistency.

**3. THE LAND TO WHICH THIS INCORPORATED DOCUMENT APPLIES**

- 3.1 This incorporated document applies to part of the land shown as SCO1 in the Planning Scheme maps and as described below:
- a) That part of Lot 2 on Lodged Plan 6746, Title Plan 817291T shown as 'extractive industry site' on Map 1 of this incorporated document (the **Extractive Industry Site**).
  - b) That part of Lot 9 Lodged Plan 6746, Lot 2 Title Plan 841310, Allot. 33A, 34 of Wallan Wallan, Title Plan 817291T shown as 'extractive industry inner buffer area' on Map 1



of this incorporated document (the Extractive Industry Inner Buffer Area ).

- c) That part of Lot 9 Lodged Plan 6746, Lot 2 Title Plan 841310, Allot. 31, 32, 33A, 34 of Wallan Wallan shown as 'extractive industry outer buffer area' on Map 1 of this incorporated document (the Extractive Industry Outer Buffer Area).

#### 4 SPECIFIC CONTROLS – EXTRACTIVE INDUSTRY SITE

The following controls apply to the Extractive Industry Site.

##### 4.1 Exemptions from Planning Scheme Permit Requirements

- a) Any provision in the Planning Scheme that would prohibit the issue of a planning permit for use and development for Extractive Industry does not apply to the Extractive Industry Site.
- b) A permit is not required to undertake bulk earthworks in accordance with Clause 2.5 of Schedule 3 to Clause 37.07 Urban Growth Zone.

##### 4.1 Permit Requirements

- a) A permit is required to use the Extractive Industry Site show on Map 1 for Extractive Industry.
- b) A permit is required to construct a building or to construct or carry out works for Extractive Industry on the Extractive Industry Site.

##### 4.2 Application Requirements

If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement or condition the requirement on a planning permit.

- a) An application for a planning permit to use land or construct a building or to construct or carry out works associated with an Extractive Industry must include the following information, to the satisfaction of the responsible authority:
  - i. A written process statement with supporting technical reports including:
    - a. Staging;
    - b. Processing;
    - c. Blasting;
    - d. Location of plant and equipment; and
    - e. Mitigation measures
  - ii. Phase Extraction Boundaries and Buffer Plan(s) that shows:
    - a. the extent of each phase including area and setbacks from title boundaries
    - b. the number of each phase and order in which they are to be extracted
    - c. extent of buffers in each phase, drawn to 250 metres and 500 metres from the activity boundary (the 'retractable buffer')
    - d. location of plant and equipment being used at each phase
    - e. traffic movements associated with each phase
    - f. the timeframe for resource extraction in each phase
  - iii. A phasing plan that demonstrates all blasting activities will have ceased within 200 metres of the Eastern Arterial (RD-04) in the Beveridge North West Precinct Structure Plan by 31 December 2032, unless otherwise agreed to by the Head, Transport for Victoria
  - iv. Staged rehabilitation plan that includes (but is not limited to):

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- a. Stages of rehabilitation;
  - b. Rehabilitation of land to enable the end use identified in the Beveridge North West PSP including demonstrating the feasibility of such rehabilitation in relation to;
    - a. infrastructure servicing;
    - b. filling (if proposed) and geotechnical stability; and
    - c. access.
  - c. Proposed end contours of the rehabilitated site; and
  - d. Any reductions in the buffers over the duration of the use.
- v. A plan showing all structures and access roads.
- b) An application for Extractive Industry must be accompanied by a Traffic Impact Assessment which assesses the impacts of quarry traffic on the Northern Highway and the surrounding road network, and outlines the mitigation measures (operations hours, management of debris) proposed. The Traffic Impact Assessment should include an assessment of the traffic impact from rehabilitation
- c) An application must be accompanied by a sodic and dispersive soils management plan, prepared by a suitably qualified professional, that includes:
  - i) The existing site conditions, including:
    - a. Extent of sodic and dispersive soils based on topsoil and subsoil samples in the works area.
    - b. Land gradient.
    - c. Erosion risk mapping.
    - d. The extent of any existing erosion, landslip or other land degradation.
  - ii) Soils investigation, undertaken by a soil scientist;
  - iii) The extent of proposed earthworks;
  - iv) Recommendations for soil management practices (including fill) with consideration of anticipated sodic and dispersive soil exposure;
  - v) The management of drainage during all stages of development (including run-off);
  - vi) The staging of development;
  - vii) Any training and supervisions processes proposed for construction contractors to ensure compliance with the sodic and dispersive soils management plan;
  - viii) Proposed document monitoring and reporting processes that ensure works are undertaken in accordance with the sodic and dispersive soils management plan;
  - ix) Any treatment of soil proposed to stored on site or removed from the site;
  - x) Any post-construction monitoring and/or management requirements; and
  - xi) Recommendations that inform a site management plan including:
    - a. The management, volume and location of any stockpiles.
    - b. Vehicle access and movement within the site area.
    - c. Any treatment to manage the soil while works are undertaken.
    - d. Treatments to rehabilitate areas that are disturbed during site works.
    - e. Any soil treatment to manage the soil to reduce risk to existing or current infrastructure and dwellings.

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- d) An application for Extractive Industry must be accompanied by a Kangaroo Management Plan to the satisfaction of the responsible authority which includes:
  - i) Strategies that will be implemented to avoid land locking kangaroos, including staging of development;
  - ii) Strategies, management actions and contingency planning that will be implemented to minimise animal welfare impacts and human safety risks;
  - iii) How implementation of the Kangaroo Management Plan will be monitored.

Where a Kangaroo Management Plan has been approved in respect to the land to which the application applies, the application must be accompanied by:

- i) a copy of the approved Kangaroo Management Plan;
- ii) a 'design and management response' statement outlining how the application is consistent with and gives effect to any requirements of the approved Kangaroo Management Plan.

4.3 Decision Guidelines

- 4.4 Before deciding on an application under this incorporated document, in addition to the decision guidelines of Clause 65 and any other relevant provisions of the Planning Scheme, the responsible authority must consider, as appropriate:

- a) The timeframe and staging for Extractive Industry including, the time allowed for any blasting, processing and rehabilitation.
- b) The degree to which the proposed rehabilitation will enable end uses in accordance with the Beveridge North West PSP and allow future development on the site to integrate with the future urban structure of surrounding land provided for in the Beveridge North West PSP.
- c) Whether the extractive industry is staged to progressively allow development on surrounding land.
- d) Whether the rehabilitation proposes ground level contours that facilitate residential subdivision that can reasonably transition into the surrounding area.
- e) Whether the phasing plan demonstrates blasting will not occur within 200 metres of the Eastern Arterial (RD-04) in the Beveridge North West Precinct Structure Plan after 31 December 2032.
- f) Whether the phasing plan will allow for the construction of the Eastern Arterial (RD-04) in the Beveridge North West Precinct Structure Plan to commence by 31 December 2032.
- g) Whether the amenity of sensitive uses proposed within the Beveridge North West PSP and Wallan South PSP will be adequately protected throughout the life of the quarry and rehabilitation of the quarry.

4.5 Requirements and conditions for permits

- 4.6 A permit issued under this incorporated document must implement the following requirements. Where the Responsible Authority has waived application requirements, a permit condition may be imposed requiring the satisfaction of those matters to the satisfaction of the Responsible Authority:

4.7 Planning Practice Note 89 Conditions – February 2020

- a) The use and development must at all times be in accordance with any approved work plan approved under the *Mineral Resources (Sustainable Development) Act 1990*.
- b) The use and development must not commence until a work authority is granted under the *Mineral Resources (Sustainable Development) Act 1990*.

## 4.8 Notice of commencement

The operator of the Extractive Resource use is required to provide notice as follows:

- c) The date upon the commencement of blasting on the site WA1473 – to the Responsible Authority and to the Secretary to the Department administering the Mineral (Sustainable Development) Act 1990; and
- d) Every 5 years from the commencement of blasting; or as reasonably required by the Responsible Authority – periodical advice regarding the phasing and area of development including advice on the area no longer required to be delayed from use and development due to separation buffer requirements.

## 4.9 Rehabilitation

- e) A rehabilitation plan must be prepared to the satisfaction of the responsible authority and endorsed to form part of this planning permit. The rehabilitation must specify:
  - i) A timeline for rehabilitation which enables the land to be completely rehabilitated by 31 December 2052.
  - ii) That the rehabilitation will be to a standard that facilitates the end use identified in the Beveridge North West PSP including having regard to infrastructure servicing and site access.
  - iii) The staging of any rehabilitation.
- f) The rehabilitation plan must:
  - i) Include final grades and finishes.
  - ii) Specifying compaction of fill materials to a suitable standard.
  - iii) Demonstrate how the rehabilitated site could connect to and integrate with surrounding development including recognising the landscape values area linking Spring Hill to open space and burring buluk
  - iv) Provide an assessment of likely impacts from rehabilitation (noise, dust etc) to assist in the assessment of sensitive use applications on nearby land.
- g) The rehabilitation of land must occur in accordance with the endorsed Rehabilitation Plan, to the satisfaction of the responsible authority.
- h) The land must be rehabilitated by 31 December 2052.

## 4.10 Cessation of blasting for production

- i) Blasting, other than blasting directly associated with rehabilitation, must cease in adequate time to allow for rehabilitation of the site by 31 December 2052.

## 4.11 Amenity

- j) Hours of operation
- k) Traffic management including access to and from the site, as well as any conditions limiting truck movements
- l) The mitigation of noise, dust, vibration and other offsite amenity impacts

## 4.12 Phasing

- m) Quarry operations, including blasting, must be managed to avoid adverse impacts on the Eastern Arterial Road to the satisfaction of the relevant road authority and (if the relevant road authority is not the Department of Transport) the Head, Transport for Victoria.

Any required road closures must occur during times of off-peak traffic volumes, and at a time agree by the relevant road authority and (if the relevant road authority is not the Department of Transport) the Head, Transport for Victoria.

- n) Quarry operations, including blasting, must be managed to provide for the progressive retraction of working buffers from surrounding land.

## 4.13 Expiry:

- o) The permit will expire:

- i) On 31 December 2052; or

- ii) If:

1. a Work Authority for the use issued under the provisions of the *Mineral Resources (Sustainable Development) Act 1990* is not issued within five (5) years from the Grant of a Permit; or
2. the use and/or development is not commenced within five (5) years of the date of approval of a Work Authority under s77G of the *Mineral Resources (Sustainable Development) Act 1990*; or
3. the Work Authority for the use issued under the provisions of the *Mineral Resources (Sustainable Development) Act 1990* is cancelled in accordance with section 77O of that Act.

whichever occurs first.

## 4.14 Traffic Management

- p) Any public road closures must be undertaken by, or on behalf of, the permit holder and costs associated with the closure of the road must be borne by the permit holder.

The road closure must be approved by the relevant road authorities.

## 4.15 Kangaroo management plan

- q) A permit to undertake works associated with Extractive Industry must include the following conditions:

- i) Before the commencement of development, a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment, Land, Water and Planning (DELWP).

The approved plan will form part of the permit. The approved Kangaroo Management Plan must be implemented to the satisfaction of the responsible authority.

## 4.16 Sodic Soils

- r) A permit for Extractive Industry must include a condition that requires a site management plan be prepared that implements the recommendations identified in the sodic and dispersive soil management plan, to the satisfaction of the Responsible Authority, if sodic soils are found to be present on site.

**5. SPECIFIC CONTROLS – WITHIN EXTRACTIVE INDUSTRY INNER BUFFER AREA**

5.1 The following controls apply to land within the Extractive Industry Inner Buffer Area;

**5.2 Permit Requirements**

- a) A permit is required to subdivide land, use land, or construct a building or construct or carry out works, including to construct a publicly accessible road, a building, a building associated with Agriculture, a building associated with a minor utility installation, a building associated with an extractive industry, a renewable energy facility or telecommunications facility, a structure.

**5.3 Prohibition of all other buildings**

The construction of a building (not including a building associated with Agriculture, a building associated with a minor utility installation, a building associated with an extractive industry, Informal outdoor recreation, a renewable energy facility or telecommunications facility,) is prohibited.

**6. SPECIFIC CONTROLS – WITHIN EXTRACTIVE INDUSTRY OUTER AND INNER BUFFER AREAS**

The following controls apply to land within the Extractive Industry Outer Buffer and land within the Extractive Industry Inner Buffer Area.

**6.1 Permit exemptions**

- a) The following uses are exempt from a planning permit prior to 31 December 2027, provided they are not a Use listed at Clause 53.10:
- i) Agriculture – not including intensive animal husbandry
  - ii) Minor utility installation

**6.2 Prohibition of uses**

- b) The following uses are prohibited prior to 31 December 2027:

- i) Accommodation;
- ii) Adult Sex Product Shop;
- iii) Animal Husbandry;
- iv) Art and Craft Centre;
- v) Caretakers House unless associated with the Extractive Industry;
- vi) Cemetery;
- vii) Child Care Centre;
- viii) Car Wash;
- ix) Panel Beating;
- x) Convenience Shop unless beyond 200m;
- xi) Education Centre;
- xii) Fuel Depot;
- xiii) Leisure and Recreation;
- xiv) Milk Depot;
- xv) Office (excludes office ancillary to other uses);
- xvi) Place of Assembly;
- xvii) Restricted Retail Premises;
- xviii) Retail Premises;
- xix) Rural Industry; and,
- xx) Take Away Food Premises

**6.3 Permit Requirements**



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#### Use of land

- a) From 1 January 2028, a permit is required to use land for:
- i) Accommodation.
  - ii) Education centre.
  - iii) Hospital.
  - iv) Office.
  - v) Place of assembly.
  - vi) Retail premises.
  - vii) Agriculture
  - viii) Renewable energy facility

#### Subdivision

- b) A permit is required to subdivide land.

#### 6.4 Notice and review

- a) An application to use land for Extractive Industry or a Renewable Energy facility is subject to the notice requirements at section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

#### 6.5 Referral

- a) An application under Clause 5 or 6 must be referred to the Secretary to the Department administering the *Mineral Resources (Sustainable Development) Act 1990* as a determining referral authority.

#### 6.6 Application Requirements

- a) A permit application under Clause 6.2 of this incorporated document must be accompanied by the following information, to the satisfaction of the responsible authority:
- i) An assessment of potential odour, dust and grit amenity impacts from any extractive industry on the Extractive Industry Site, prepared by a suitably qualified professional. The assessment should provide recommendations on suitable design responses to ensure the future use will experience an appropriate level of amenity and not cause reverse amenity impacts to the Extractive Industry. The assessment must consider:
    - a. The staging of the proposed development;
    - b. The sensitivity of the use proposed;
    - c. The local meteorological conditions; and
    - d. The structure or built form.

All to the satisfaction of the responsible authority

- ii) Where any sensitive use, as defined by the Environmental Protection Regulations, is proposed within the outer buffer area, an acoustic assessment must be prepared by a suitably qualified acoustic consultant on behalf of the sensitive use developer to verify that compliance with the Noise Protocol would be achieved for the remainder of the life of the quarry (including rehabilitation) prior to approval of a sensitive use.

The assessment shall include, but not be limited to:

- a. Measurement and quantification of noise impacts from the quarry on the application land for sensitive use at the time of application;

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- b. Measurements to be carried out in consultation with the quarry operator to ensure representative noise emissions are captured, and in comparison to any monitoring carried out by the quarry operator as a condition of their permit;
- c. Consideration of future work phases of the quarry (including rehabilitation works where relevant) as informed by any relevant acoustic report(s) prepared and endorsed under the quarry permit. This may include validation or calibration against modelling of future work phases detailed in any revised acoustic report(s) for each phase carried out by the quarry operator as a condition of their permit; and
- d. Demonstration that measured and predicted noise levels for all quarry work phases will comply with the Noise Protocol noise limits external to proposed sensitive use buildings (as defined in the Environmental Protection Regulations) for all trading hours that the quarry operates and as assessed in accordance with the Noise Protocol.

#### 6.7 Decision Guidelines

- a) Before deciding on an application under this incorporated document, in addition to the decision guidelines of Clause 65 and any other relevant provisions of the Planning Scheme, the responsible authority must consider, as appropriate:
  - i) The compatibility of the proposed use or development with any approved Extractive Industry.
  - ii) For applications within the Extractive Industry Outer Buffer Area, the effect that emissions of noise, vibration, overpressure odour, dust and grit from any approved Extractive Industry may have on the proposed use or development.
  - iii) For applications within the Extractive Industry Blast Buffer, the effect that emissions of flyrock from any approved Extractive Industry may have on the proposed use or development.
  - iv) The potential for the proposed use or development within the Extractive Industry Outer Buffer Area to impact on the ability of any Extractive Industry operator to obtain approvals for extraction (if approvals have not yet been obtained) at the Extractive Industry Site.
  - v) Whether the proposed use or development will adversely affect the current or future operations of an approved Extractive Industry, having regard to any requirements of any approvals for the quarry, including any approved extraction boundary, at the Extractive Industry Site.
  - vi) The phasing of extraction and rehabilitation and how such phasing influences the assessment of amenity, health and safety risk to the proposed use or development, for example, whether the application is within the 'retractable buffer' of the quarry at the time the application is assessed or whether stone resources close to residential areas have been extracted and works are no longer proposed in proximity to residential areas.
  - vii) The views of the Secretary to the Department administering the *Mineral Resources (Sustainable Development) Act 1990*.
  - viii) Whether the subdivision increases the number of lots within the Extractive Industry Inner Buffer Area and/or Extractive Industry Outer Buffer Area.
  - ix) Whether the proposed use may be affected by potential odour, dust, and grit impacts from the extractive industry site referred to at Clause 3 of this document.



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- x) Whether the proposal provides suitable design responses to ensure the future use within the proposed building will experience an appropriate level of amenity.
- xi) Whether the impact of the potential noise sources have been mitigated through design, layout, and location; and whether this reduces the need for acoustic treatment of buildings or compromises the useability of the building by its occupant.

6.8 Permit requirements

- a. Any permit issued in accordance with this incorporated document must implement the following outcomes via conditions:
  - i) Prior to the occupancy of buildings for Accommodation, Education Centre, Place of Assembly or Hospital, verification that the building has been constructed in accordance with the recommendations of any acoustic assessment.
  - ii) The implementation of any building or use requirements necessary to make the use or building acceptable within the Outer Buffer Area.

7. EXPIRY OF THIS DOCUMENT

7.1 This incorporated document will expire:

- a) If:
  - i) No permit is issued for the Extractive Industry Site by 31 December 2027; or
  - ii) The permit issued for the Extractive Industry Site in accordance with Clause 4.0 of this control expires,

OR

- b) On 31 December 2052,

whichever occurs first.

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**MAP 1**

(new map to outline the Extractive Industry Site, the Inner Buffer Area and the Outer Buffer Area)

**Committee Note:** Plan to be updated to reduce buffer from extraction boundary (ie 20 metres within the site boundary). Therefore inner buffer is 230 metres from WA area and outer buffer is 480 metres from WA area.

## Appendix H Recommended version of draft planning permit PLP268/19

Planning and Environment Regulations 2015 - Form 11. Section 97F

### PLANNING PERMIT

GRANTED UNDER SECTION 97F OF THE  
PLANNING AND ENVIRONMENT ACT 1987

Permit No.: PLP268/19

Planning scheme: Mitchell Planning  
Scheme

Responsible authority: Minister for  
Planning

**ADDRESS OF THE LAND: 175 NORTHERN HIGHWAY, WALLAN**

**THE PERMIT ALLOWS: USE AND DEVELOPMENT OF THE LAND FOR  
EXTRACTIVE INDUSTRY, AND THE CREATION OF ACCESS TO A ROAD  
IN A TRANSPORT ZONE 2.**

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

#### SECTION 1 – APPROVED PLANS

- 1 The following plans are endorsed and form part of the permit:
  - a) Proposed Floor Plan prepared by Mont Eltham Drafting (drawing S.D.05, 21 October 2015); and,
  - b) Proposed Floor Plans and Elevations prepared by Mont Eltham Drafting (drawing S.D.01, 22 October 2015).

#### SECTION 2 – BEFORE COMMENCEMENT OF WORKS

- 2 Phase Extraction Boundaries and Buffer Plan (s) – prior to the commencement of works; amended phase extraction boundaries and buffer plan(s) must be submitted to the Responsible Authority generally in accordance with *Phase Extraction Boundaries and Buffers* plan (Figure 10 Draft Figures WA1473) prepared by BCA Consulting Earth Resources (drawing NS-1879, Rev 0) but amended to show the 250m and 500m buffers from processing plant activity generally in accordance with Peter J Ramsay & Associates Figure F6 (Project 1041.1 Rev00 dated 28 April 2022) appended to Peter Ramsay's evidence report to the Ministerial Advisory Committee; and the relocation of the processing plant as far to the east as practicable in Phase 1. The plans must be to the satisfaction of the Responsible Authority and endorsed by the Responsible Authority to form part of this planning permit.
- 3 Rehabilitation Plan - prior to the commencement of works; an amended rehabilitation plan must be submitted to the Responsible Authority generally in accordance with the Rehabilitation Plan and Rehabilitation Cross Sections prepared by BCA Consulting Earth Resources (Figures 8.1 and 8.2 of the tracked changes Draft Work Plan dated 6 September 2019) (Conundrum Holdings Pty Ltd) but amended to specify:

- a) A timeline for rehabilitation which enables the land to be rehabilitated to the requirements of the approved Work Plan within 5 years following the cessation of blasting;
- b) That the rehabilitation will be to a standard that facilitates the future urban development of the land;
- c) The staging of any rehabilitation;
- d) Final grades and finishes;
- e) Water balance and retardation to standard commensurate with proposed future urban land use; and,
- f) Specifying compaction of fill materials to a suitable standard to facilitate future urban land use.

The rehabilitation plan must be to the satisfaction of the Responsible Authority and be endorsed by the Responsible Authority to form part of this planning permit.

- 4 Landscape plans – prior to the commencement of works, landscape plans are to be prepared by a suitably qualified landscape designer and submitted to the Responsible Authority for approval. Landscape plans must include staged landscape works relevant to the proposed stages of the quarry and include the following:
  - (a) Plant schedule including Wurundjeri Woi Wurrung plant species name, container size, mature height and width and quantities/density;
  - (b) Planting details including maintenance and replacement schedules;
  - (c) Nominate all surfaces, finishes and edge treatments;
  - (d) Be accurately scaled to show appropriate detail;
  - (e) Nominate a scale bar and widths of key features to assist in digital assessment of the plans;
  - (f) To ensure canopy closure and suppress weeds, garden bed species should be spaced at 75% of the mature width of the plant; and,
  - (g) The locations of any trees to be retained on site, including details of the species, tree protection zones, tree protection measures and tree sizes, where required.

The Landscape Plans must be to the satisfaction of the Responsible Authority and be endorsed by the Responsible Authority to form part of this planning permit.

- 5 Work Authority – the use and development of the land must not commence until a work authority is granted under the *Mineral Resources (Sustainable Development) Act 1990*.
- 6 Kangaroo Management Plan – prior to commencement of works; a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment, Land, Water and Planning (DELWP).



The approved plan will form part of the permit. The approved Kangaroo Management Plan must be implemented to the satisfaction of the Responsible Authority.

- 7 Sodic and dispersive soils assessment – prior to the commencement of works; a sodic and dispersive soils investigation must be undertaken to the satisfaction of the Responsible Authority at intervals of 200m, to determine if there are sodic and dispersive soils requiring management.
- 8 Sodic and dispersive soils management plan – if the sodic and dispersive soils assessment (Condition 7) determines that there are sodic and dispersive soils, prior to the commencement of works; a Sodic and Dispersive Soils Management Plan must be prepared by a suitably qualified professional to the satisfaction of the Responsible Authority. The approved Sodic and Dispersive Soils Management Plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The Management plan must include:
  - (a) The existing site conditions, including:
    - (i) Extent of sodic and dispersive soils based on topsoil and subsoil samples in the works area.
    - (ii) Land gradient.
    - (iii) Erosion risk mapping.
    - (iv) The extent of any existing erosion, landslip or other land degradation.
  - (b) Soils investigation, undertaken by a soil scientist;
  - (c) The extent of proposed earthworks;
  - (d) Recommendations for soil management practices (including fill) with consideration of anticipated sodic and dispersive soil exposure;
  - (e) The management of drainage during all stages of development (including run-off);
  - (f) The staging of development;
  - (g) Any training and supervisions processes proposed for construction contractors to ensure compliance with the sodic and dispersive soils management plan;
  - (h) Proposed document monitoring and reporting processes that ensure works are undertaken in accordance with the sodic and dispersive soils management plan;
  - (i) Any treatment of soil proposed to stored on site or removed from the site;
  - (j) Any post-construction monitoring and/or management requirements; and
  - (k) Recommendations that inform a site management plan including:
    - (i) The management, volume and location of any stockpiles comprising sodic soils.
    - (ii) Vehicle access and movement within the site area.

- (iii) Any treatment to manage the soil while works are undertaken.
  - (iv) Treatments to rehabilitate areas that are disturbed during site works.
  - (v) Any soil treatment to manage the soil to reduce risk to existing or current infrastructure and dwellings.
- 9 Acoustic report – Prior to the commencement of works for each stage of the development, an acoustic report, including a revised assessment prior to endorsement, prepared by an appropriately qualified acoustic consultant must be submitted to the satisfaction of the Responsible Authority outlining acoustic modelling for all future work phases at the time of writing and mitigation measures necessary to comply with the maximum permissible noise limits determined in accordance with condition 25 of this permit. The report and acoustic modelling prior to each phase shall include:
- (a) Revised modelling for all future phases, including rehabilitation phases, based on the latest site information and quarry operations at the time;
  - (b) Consideration of source locations being representative of worst-case noise emissions for each work Phase proposed;
  - (c) Detail of any adjustments in accordance with the Noise Protocol (e.g., duration, character);
  - (d) Predicted source contributions to inform ongoing mitigation consideration; and
  - (e) Revised application of noise limits and representative sensitive receptors at the time of assessment.
- 10 Dust management plan – prior to the commencement of works, a Dust Management Plan (DMP) must be submitted to the Responsible Authority.
- The DMP must be to the satisfaction of the Responsible Authority and endorsed by the Responsible Authority to form part of this planning permit.
- The DMP must incorporate best practice dust control measures to ensure that all dust resulting from the use and development and materials transport does not cause unreasonable detrimental impacts to surrounding areas and must:
- (a) Identify any requirements to ensure compliance with the Environment Reference Standard and EPA Publication 1691 (or subsequent reference if applicable from time to time);
  - (b) Predicted source contributions to inform ongoing mitigation including containment, suppression and/or collection;
  - (c) Procedures for identifying and determining when quarrying activities will cease on site due to weather conditions that will result in visible dust being discharged beyond the boundaries of the premises.
- 11 Dust monitoring – prior to the commencement of works, and subject to the availability of monitoring station locations on adjoining land, real time monitoring must be installed at two locations at 500m from the relevant phase extraction area;



measuring PM2.5 and PM10. The locations must be selected considering pathways to sensitive receptors and prevailing wind conditions. Monitoring results must be provided to the Responsible Authority quarterly and otherwise upon reasonable request.

### SECTION 3 – COMMENCEMENT OF USE

#### Commencement of blasting – notice

- 12 The operator of the Extractive Resource use is required to provide notice as follows:
  - (a) The date when blasting will commence on the site WA1473 – to the Responsible Authority and to the Secretary to the Department administering the Mineral Resources (Sustainable Development) Act 1990.

### SECTION 4 – DURING USE AND DEVELOPMENT

#### General

- 13 At all times during the operation of the site, there must be a person over the age of 18 years that is present on the premises and who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the locality to the satisfaction of the Responsible Authority.
- 14 Every 5 years from the commencement of blasting, or other time period as reasonably required by the Responsible Authority, advice must be provided to the Responsible Authority and to the Secretary to the Department administering the Mineral Resources (Sustainable Development) Act 1990 regarding the phasing and area of development, including the area no longer required to meet EPA recommended separation distances. The advice must include copies of the following material (or material subsequently endorsed from time to time):
  - (a) Rehabilitation Plan (Condition 3) together with a statement of progressive rehabilitation as at the relevant date;
  - (b) Acoustic report (Condition 9) and Acoustic Assessment (Condition 25);
  - (c) Dust monitoring results (Condition 11);
  - (d) Dust Management Plan (Condition 10 and 24);
  - (e) Endorsed plans (Condition 15); and,
  - (f) Register of complaints (Condition 27).
- 15 The use and development must at all times be in accordance with any approved work plan approved under the *Mineral Resources (Sustainable Development) Act 1990*.
- 16 The use and development of the land must proceed in the order of phases as shown on the endorsed Phase Extraction Boundaries and Buffer Plan (Condition 2).

- 17 The layout of the use(s) and the development as shown on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.
- 18 The use and development must be managed so that the amenity of the area is not unreasonably affected though the:
- (a) Transport of materials, goods or commodities to or from the land;
  - (b) Appearance of any buildings, works or materials; and
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, reflection or glare, steam, soot, ash, dust, waste water, waste products, grit or oil,
- to the satisfaction of the Responsible Authority.
- 19 In April and May of each year, staged landscape works associated with the relevant Phase of the quarry at that time; must be performed in accordance with the endorsed landscape plans (Condition 4). When the landscaping works have been completed, a record must be retained by the operator and be provided to the Responsible Authority upon reasonable request.
- 20 The development must implement the requirements of any approved sodic soils management plan (Condition 8) to the satisfaction of the Responsible Authority.
- 21 The use (including the arrival and departure of heavy vehicles) must operate only between the following hours, unless otherwise agreed in writing by the Responsible Authority:

Activity	Monday to Friday	Saturday
Site establishment/Construction	7am - 6pm	8am - 12pm
Sales and general site operations	6am – 5pm	7am – 12noon
Extraction:		
Blasting	12noon – 5pm	
Extraction including, winning, hauling and drilling	7am – 6pm	7am – 12noon
Processing:	7am – 4pm	7am – 11am

- 22 Unless with the prior consent in writing of the Responsible Authority, no work other than for administration and maintenance is to occur on Sundays or public holidays or outside of the hours prescribed in the preceding condition.

### **Traffic Management**

- 23 A Traffic Management Plan must be prepared to the satisfaction of the Responsible Authority. The Traffic Management Plan must in addition to any other matters advised by the Responsible Authority, include the following:
- (a) Proposed haulage routes to and from the land;



- (b) Expected frequency of vehicle movements to and from the land;
- (c) Access arrangements for construction vehicles and emergency vehicles; and
- (d) A signage plan including working hours signage and after-hours signage to control both vehicle and pedestrian movements as required.

The Traffic Management Plan is to be endorsed and form part of the planning permit.

### **Dust Management**

- 24 Within three months from commencement of operation, the Dust Management Plan (Condition 10) must be reviewed by a qualified air quality consultant to verify the suitability of all dust control measures and recommend and confirm the implementation of any additional measures considered necessary. A copy of the air quality consultants report is to be forwarded to the Responsible Authority. If the specialist report requires an amendment to the endorsed Dust Management Plan, an amended version incorporating the recommended changes must be provided to the Responsible Authority and subject to the satisfaction of the Responsible Authority, will be endorsed and form part of the permit.

### **Noise Management**

- 25 The use and development must comply at all times with the noise requirements of the Environment Protection Regulations 2021 under the Environment Protection Act 2017 or other applicable noise standard that may apply from time to time measured at the 500m buffer shown in the endorsed Phase Extraction Boundaries and Buffer Plan.
- 26 Within three (3) months of each stage of the development commencing an Acoustic Impact Assessment report prepared by an acoustic consultant must be submitted to the Responsible Authority. The report must detail whether the noise levels associated with the use are in accordance with condition 9 of this permit. If noise levels exceed those required by condition 9, immediate action must be taken to bring the use into compliance and the report must outline a program or measures to ameliorate or attenuate noise to ensure that the levels are met to the satisfaction of the Responsible Authority. The use must at all times accord with the recommendations of the Acoustic Impact Assessment report to the satisfaction of the Responsible Authority.
- 27 A register of any complaints by the public concerning the operations must be maintained and the register must be made available to the Responsible Authority on reasonable request.

### **Fire Risk Management**

- 28 Prior to the commencement of works a Fire Response and Readiness Plan must be prepared by an independent and appropriately qualified fire safety consultant must be submitted to and be to the satisfaction of the Responsible Authority and Country Fire Authority outlining mitigation measures necessary to prevent the ignition and spread of fire.

### **Kangaroo Management Plan**

- 29 The Kangaroo Management Plan endorsed under this permit must be implemented and maintained during the life of the Permit in accordance with the approved Kangaroo Management Plan (Condition 6).

### **Utilities**

- 30 Waste water must be treated and retained on-site in accordance with Environment Protection Regulations 2021 under the Environment Protection Act 2017.
- 31 All sewerage and sullage waters must be treated in accordance with the requirements of the Environment Protection Authority. All Effluent must be disposed of and contained within the boundaries of the subject land and must not be discharged directly or indirectly to any adjoining land, road or any watercourse or drain. A sufficient area of the subject land must be set aside and kept available for the purposes of effluent disposal generally in accordance with the report: Land Capability Assessment Report No. PER-1174 – GeoCore Pty Ltd dated 14 September 2015.
- 32 The development must be connected to a reticulated potable water supply or have alternative potable water supply with adequate storage for the use as well as for firefighting purposes.
- 33 The development must be connected to a reticulated electricity supply or have an alternative energy source.

### **Drainage**

- 34 The whole of the subject land must be drained so as to prevent the discharge of storm water causing damage/nuisance from the subject land across any road or footpath or onto adjoining land. All stormwater proposed to be discharged from the site, must be to the legal point of discharge or to the existing point of discharge across property boundary.
- 35 The volume and rate of flow or discharge across property boundary must not be increased as a result of the development.
- 36 No polluted and /or sediment laden runoff is to be discharged directly or indirectly into drains or watercourses.

### **SECTION 5 – CESSATION AND END USE**

- 37 Blasting, other than blasting directly associated with rehabilitation, must cease to allow adequate time for rehabilitation of the site by 31 December 2052.
- 38 The staged rehabilitation of land must occur in accordance with the endorsed Rehabilitation Plan (Condition 3), to the satisfaction of the responsible authority.
- 39 The land must be rehabilitated within 5 years following the cessation of blasting (other than blasting required as part of rehabilitation) or by no later than 31 December 2052, whichever is the earlier, in accordance with endorsed Rehabilitation Plan (Condition 3).



- 40 No putrescible waste, household waste, garbage, hazardous waste (including waste which is subject to the provisions of the Environmental Protection Regulations 2021) or liquid waste, may be deposited on the land. Where such wastes are detected, the operator must direct the carrier to the appropriate facility. All such material must be removed within twenty-four (24) hours of detection.
- 41 Five (5) years prior to cessation of extraction (or earlier by agreement), a development concept plan must be prepared to the satisfaction of the Responsible Authority which addresses integration of the land with the surrounding area in respect of:
- (a) Hydrology and water balance;
  - (b) Finished levels and finishes (e.g. sown to grass);
  - (c) Fill quality and compaction;
  - (d) Service capability; and,
  - (e) Access to the surrounding area.

## SECTION 6 – EXPIRY

- 42 This permit will expire:
- (a) if a Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is not issued within five (5) years from the Grant of Permit; or,
  - (b) the use and/or development is not commenced within five (5) years of the date of approval of a Work Authority under s77G of the Mineral Resources (Sustainable Development) Act 1990; or,
  - (c) the Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is cancelled in accordance with section 77O of that Act; or
  - (d) on 31 December 2052.
- whichever occurs first.

## SECTION 7 – REFERRAL AUTHORITY REQUIREMENTS

### Head, Transport for Victoria

- 43 Before any development approved by this permit commences within the subject land, the following must be completed to the satisfaction of and at no cost to the relevant road authority and (if the relevant road authority is not Department of Transport) the Head, Transport for Victoria:
- (a) An amended functional layout plan (FLP) must be submitted to and approved by the relevant road authority and (if the relevant road authority is not Department of Transport) the Head, Transport for Victoria. When

- 44 Before the use approved by this permit commences, the following works must be provided at no cost to and to the written satisfaction of the relevant road authority and (if the relevant road authority is not Department of Transport) the Head, Transport for Victoria:
- (a) Provision of traffic signals generally located at the 43 km post on the Northern Highway approximately 132 metres north of Lot 2/LP6746;
  - (b) Telemetrically linked electronic warning sign located on the Northern Highway;
  - (c) Street lighting;
  - (d) All disused or redundant access gates and vehicle crossings must be removed, and the area reinstated to the surrounding conditions; and
  - (e) Any mitigating works arising out of the Road Safety Audit.
- 45 Quarry operations, including blasting, must be managed to avoid adverse impacts on the Eastern Arterial Road to the satisfaction of the relevant road authority and (if the relevant road authority is not the Department of Transport) the Head, Transport for Victoria, including:
- (a) Blasting must not occur within 200 metres of the road reserve to be provided for the Eastern Arterial (RD-04) as identified within the Beveridge North West Infrastructure Contribution Plan (Date and version to be included) after 31 December 2032 unless otherwise agreed by the Head, Transport for Victoria
  - (b) Prior to the commencement of works, a phasing plan that demonstrates that all blasting activities will have ceased within 200 metres of the Eastern Arterial (RD-04) in the Beveridge North West Precinct Structure Plan by 31 December 2032 must be prepared and submitted in writing and approved to the satisfaction of the Head, Transport for Victoria.
- 46 Any required road closures must occur during times of off-peak traffic volumes, and at a time agree by the relevant road authority and (if the relevant road authority is not the Department of Transport) the Head, Transport for Victoria.
- 47 Prior to the commencement of works, unless otherwise agreed by the Head, Transport for Victoria, the owner(s) of the land must enter into an agreement with the Responsible Authority and the Head, Transport for Victoria under section 173 of the Planning and Environment Act 1987 and make an application to the Registrar of Titles to have the agreement registered on the title of the land under section 181 of the Planning and Environment Act 1987. The agreement must provide that:
- (a) When access to a signalised intersection of Hadfield Road/Northern Highway becomes available, the interim access to the Northern Highway must be closed and removed. Access must be taken from Hadfield Road, and the interim intersection to the Northern Highway removed, within 3 months of the signalised Hadfield Road intersection becoming available.



- (b) If the signalised intersection of Hadfield Road/Northern Highway has not already occurred, the interim access to the Northern Highway will be removed as part of the Northern Highway upgrade and a revised connection will be established via the Hadfield Road intersection within 3 months of the alternative access becoming available.
- (c) A mechanism for determining the:
  - (i) Scope of works in relation to Hadfield Road or the Northern Highway upgrades whichever comes first, cost and potential timing of works;
  - (ii) Modifications to internal access arrangements to connect the site to the Hadfield Road intersection.
- (d) The works to be completed to the satisfaction of the Responsible Authority where impacting on a Council Road and to the satisfaction of the Head, Transport for Victoria where impacting on land within a Transport Zone 2.
- (e) The works are to be undertaken in accordance with a staging plan, to be prepared to the satisfaction of the Head, Transport for Victoria.
- (f) The landowner must pay for the costs of the preparation, execution and registration of the Section 173 agreement.

#### **Melbourne Water**

- 48 No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses. Prior to the commencement of any phase, a Water Quality Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water.

#### **Yarra Valley Water**

##### Water

- 49 The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water services.

##### Recycled Water

- 50 The owner of the land must enter into an agreement with Yarra Valley Water for the provision of recycled water services.

##### Sewerage

- 51 The owner of the land must enter into an agreement with Yarra Valley Water for the provision of sewerage services.

#### **DELWP**

- 52 Habitat compensation obligations under the Melbourne Strategic Assessment program must be met prior to the commencement of works.
- 53 If, at any time, historical archaeological remains are uncovered all works must cease and the Department of Environment, Land, Water and Planning ('DELWP') must be contacted immediately. Works may not recommence until permission is given by DELWP.

Date Issued:

Signature of the Minister for Planning

**NOTES****Head of Transport**

- Any proposal for Major Traffic Control Items (e.g. Traffic Signals etc) to be used on the proposed site will require a Memorandum of Authorisation from the relevant road authority and (if the relevant road authority is not Department of Transport) the Head, Transport for Victoria prior to their installation and/or activation.
- Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act. For the purposes of this application the works will include provision of:
  - o Traffic Signals on the Northern Highway;
  - o Warning signs and lights on the Northern Highway;
  - o Street lighting;
  - o Removal of all redundant accesses and associated crossover infrastructure; and
  - o Any other works in the arterial road reserve.
- The discharge of any concentrated drainage onto Northern Highway road reserve is not permitted unless approved in writing by relevant road authority and (if the relevant road authority is not Department of Transport) the Head, Transport for Victoria.
- The proposed development may require the removal of a number of street trees. Tree removal constitutes works within the Northern Highway road reserve and separate approval under the Road Management Act for this activity is required from the relevant road authority and (if the relevant road authority is not Department of Transport) the Head, Transport for Victoria. Please note a separate planning permit may be required for some vegetation removal.

**EPA Notes**

- This permit is not an EPA works approval or licence. Before the use or development authorised under this permit starts, the permit holder must ensure that any obligations or duties that arise under the *Environment Protection Act 1970* are met. This may include obtaining a works approval or licence.

## IMPORTANT INFORMATION ABOUT THIS PERMIT

### WHAT HAS BEEN DECIDED?

The Minister has granted and issued a permit under Division 6 of Part 4 of the *Planning and Environment Act 1987*.

### WHEN DOES THE PERMIT BEGIN?

A permit operates

- from the date specified in the permit; or
- If no date is specified, from the date on which it was issued.

### WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
  - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if—
  - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
  - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
  - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
  - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision—
  - the use or development of any stage is to be taken to have started when the plan is certified; and
  - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.
6. In accordance with section 97H of the *Planning and Environment Act*, the responsible authority specified in the planning scheme is the responsible authority for the administration and enforcement of the *Planning and Environment Act 1987* and the relevant planning scheme in respect of this permit (whether or not the permit is amended) except that the Minister remains the responsible authority in respect of—
  - Any matters which the permit specifies to be done by, approved by or done to the satisfaction of the Responsible Authority, and
  - Any extension of time under section 69 in relation to the permit; and
  - The correction of the permit under section 71(1); and
  - The amendment of the permit under section 97I.

### WHAT ABOUT REVIEWS?

- In accordance with section 97M of the *Planning and Environment Act 1987*, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.