

Government Land Standing Advisory Committee

Tranche 11 Report

40 Mount View Road, Boronia

18 April 2018

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List of Abbreviations

DDO	Design and Development Overlay
DPO	Development Plan Overlay
DTF	Department of Treasury and Finance
ESO	Environmental Significance Overlay
EVC	Ecological Vegetation Class
FTGLS	Fast Track Government Land Service
IHP	Inclusionary Housing Pilot
NRZ	Neighbourhood Residential Zone
SLO	Significant Landscape Overlay
VPP	Victoria Planning Provisions

About this report

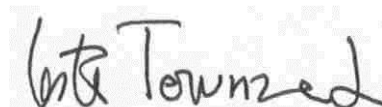
On 19 September 2017, the Minister for Planning referred the following sites to the Government Land Standing Advisory Committee as Tranche 11:

- 2-16 Nicholas Street, Broadmeadows
- 40 Mount View Road, Boronia
- 87-103 Manningham Street, Parkville.

This is the report under Section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for 40 Mount View Road, Boronia.

In his referral letter the Minister asked:

In assessing the future planning provisions for all sites for the purpose of the Inclusionary Housing Pilot, please consider the appropriateness of the planning controls to accommodate more intensive residential built form, for the purpose of the Inclusionary Housing Pilot, and whether I should act as Responsible Authority for each site.



Lester Townsend, Chair



Rachael O'Neill, Member

18 April 2018

1 Summary and recommendation

1.1 The site

The site is located at 40 Mount View Road, Boronia, within the City of Knox. It is located on the western side of Mount View Road and is an irregular lot with an area of 8.045 hectares. The site slopes from south to north.

Three vehicle crossovers provide access into the site via Mount View Road. Additional pedestrian access is provided via Moncoe Street.

The site is vacant, with all buildings associated with its previous use as Boronia Heights College demolished in 2015. The site contains vegetation, retaining walls and paths, a former school oval in the northern portion of the site, asphalt sports courts located in the southwest of the site and the vegetated 'sanctuary' in the northeast of the site.

The site contains remnant patches of vegetation (2.628 hectares of Valley Heathy Forest and Lowland Forest) across ten identified habitat zones, established indigenous and non-indigenous trees and shrubs. Seven trees were considered to be remnant. The remaining trees and shrubs were considered to be planted.

An established residential area of modest scale dwellings and aged accommodation surrounds the site. The Boronia Major Activity Centre is approximately 1.5 kilometres to the west and includes the Boronia Train Station and other retail and community facilities.

Figure 1: The site



1.2 Inclusionary housing

The Government's housing strategy *Homes for Victorians* commits to undertaking an Inclusionary Housing Pilot (IHP) to deliver up to 100 new social housing homes, to be facilitated by the Fast Track Government Land Service (FTGLS). Six sites across Victoria have been nominated for the IHP, including the subject site. The IHP seeks to deliver new social housing homes by securing planning certainty through the FTGLS and establishing partnerships with private sector developers. The Government may discount the price it receives for the land, in return for a commitment to deliver a proportion of social housing on site as part of the development. Proposals will be evaluated to make sure they deliver the best outcomes for social housing and value for money.

1.3 Issues raised in submissions

The Committee considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from an inspection of the site.

There was extensive opposition to the proposal with a petition signed by more than 2,000 people.

Council supported:

- the rezoning but was concerned with the proposed removal of the Design and Development Overlay, including the potential to achieve lot sizes smaller than 1,000 square metres
- a minimum social housing contribution of 5 per cent be provided
- the proposed Development Plan Overlay, subject to changes.

Key issues raised in submissions included:

- the loss of areas of biological significance and the need to maintain habitat corridors and connectivity – the site is of State significance and the lowland forest is rare in the Knox municipality
- the need to provide firebreaks
- the desirability to limit new development to parts of the site that previously accommodated built form
- concern that the site is not well located for inclusionary housing
- projected traffic movements and impact on surrounding street network.

Many submissions opposed the sale of the land advancing that it should remain in public ownership.

1.4 Committee conclusion

If the land is to be sold, the Committee concludes that the proposed planning scheme controls are appropriate subject to changes to be made to the proposed Development Plan Overlay (DPO) as provided in Appendix D.

The central issue for the proposed changes to planning controls is the retention of habitat zones on the site. This habitat is of high value.

In closing, the site owner revised its position in relation to the retention of habitat zones, and proposed to preserve more habitat (habitat zones 2, 4, 6, 7 and 8) than proposed at exhibition. The remaining area of the site that could be developed would include other habitat zones and scattered trees that would be subject to existing controls.

On the basis of the evidence of Messrs Brennan and Kern, the Committee concludes that all habitat zones and scattered trees should be retained and that these areas should be excluded from ‘developable’ area. A plan showing all habitat zones and identifying all that habitat to be retained should be included in the DPO.

These areas should not count towards any public open space contribution and the DPO Schedule should make this clear.

The Committee does not make recommendations regarding the need to provide public open space on the site, but accepts Mr Kern’s evidence that firebreaks should be provided and that these provide an opportunity to include public open space. The Committee recommends that the DPO Schedule require these fire breaks be provided.

Given the nature of the surrounding area and the site constraints, the ability of the site to accommodate more intensive residential built form is limited.

The proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes, 25 May 2017*.

Table 1: Existing and proposed controls

Current planning scheme controls	Proposed planning scheme controls	Advisory Recommendation	Committee Recommendation
Public Use Zone – Education	Neighbourhood Residential Zone Schedule 1	Neighbourhood Residential Zone Schedule 1	
Environmental Significance Overlay Schedule 2	Retain	Retain	
Significant Landscape Overlay Schedule 2	Retain	Retain	
Design and Development Overlay Schedule 1	Delete	Delete	
	Development Plan Overlay	Development Plan Overlay with the Committee’s recommended changes	
Schedule to Clause 61.01		Make the Minister for Planning the responsible authority	

1.5 Recommendation

The Committee recommends that:

- 1. A planning scheme amendment be prepared and approved for 40 Mount View Road, Boronia to:**
 - a) Apply the Neighbourhood Residential Zone Schedule 1 to the land.**
 - b) Delete Design and Development Overlay Schedule 1.**
 - c) Apply a Development Plan Overlay Schedule 13 as shown in Appendix D.**
 - d) Include a map in the Development Plan Overlay Schedule to show the location of all scattered trees and mapped habitat zones for retention and preservation.**
 - e) Amend the Schedule to Clause 61.01 of the planning scheme to appoint the Minister for Planning as the responsible authority for the site.**

The Committee also recommends:

- 2. Council and the site owner establish a formal protocol regarding the development approval process for any planning permits issued for the site. This could consider the use of a section 173 agreement.**

2 Process issues for this site

2.1 Process summary

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

Table 2: Proposal summary

Proposal summary	
Tranche and site reference	Tranche 11: site reference FT125
Site address	40 Mount View Road, Boronia
Previous use	Former Boronia Heights College
Site owner	Department of Education and Training
Council	Knox City Council
Exhibition	13 November – 22 December 2017
Submissions	67

Table 3: Proposed planning scheme changes

Existing controls	Proposed changes
Public Use Zone – Education	Delete and replace with Neighbourhood Residential Zone Schedule 1
Environmental Significance Overlay Schedule 2	Retain
Significant Landscape Overlay Schedule 2	Retain
Design and Development Overlay Schedule 1	Delete
	Apply a Development Plan Overlay

Table 4: Committee process

Committee process	
Members	Lester Townsend and Rachael O’Neill
Information session	4 December 2017
Hearing	12, 13 and 14 February 2018
Post Hearing submissions	Comments were received on changes to the DPO after the Hearing, up until 5 March 2018
Site inspections	5 March 2018

Committee process

Appearances

Department of Treasury and Finance agents for the site owner, represented by Jane Kelly of Urbis and calling evidence from:

- Alan Brennan of Brett Lane and Associates in Ecology
- David Graham of GTA Consultants in Traffic

Knox City Council represented by Matthew Gilbertson of Glossop Town Planning and calling evidence from:

- Lincoln Kern of Practical Ecology in Ecology

Friends of the Glenfern Green Wedge Inc. represented by Johanna Selleck

Knox Environment Society represented by Richard Faragher

Johanna Selleck

Irene Kelly

Ian Morrish

Erica Peters

Carmel Feeney

Catherine Steggink

Natalie Lawrence

Peter Baird represented by Sharyn Baird

Trina McKeeverne

Graham Wright

Alasdair O'Brien

Knox Appropriate Development Alliance represented by Catherine Kruse

Date of this Report

18 April 2018

2.2 Process issues

Post Hearing changes to the DPO

Following the Hearing, and at the direction of the Committee, the site owner circulated its final proposed Schedule to the DPO. This document provided the basis for the Committee's preferred DPO provided in Appendix D. The Committee afforded all submitters who presented to the Committee a right of reply in relation to the final proposed DPO Schedule. The Committee has reviewed all submissions received following the Hearing.

Public open space

Various individual submitters put to the Committee that the land should remain in its entirety in government ownership and set aside for passive and active recreation purposes. Many submitters identified a shortage of, and a need for, additional active public open space within the municipality and were disappointed that Council does not have plans to purchase part of the land to provide an oval. Submitters were also of the view that the land, either in its entirety or on the parts containing the habitat zones and oval, should be zoned either

Public Park and Recreation Zone or Public Conservation and Resource Zone. Council in its right of reply also supported this position.

Council considered that the existing oval should be retained, but did not wish to purchase the site.

Under its Terms of Reference the Committee cannot recommend that the land be zoned for public open space.

Lack of consultation and information and timeframes

Several submitters were critical of the process including lack of consultation and information and tight timeframes. The Committee notes the timing is set by its Terms of Reference.

Submitters were also critical of the proposal to sell the land and that the proposed DPO did not include an already prepared Development Plan. The Committee notes it is not unusual for a DPO to be applied prior to the preparation of the Development Plan. A DPO provides guidance as to what should be included in any Development Plan.

3 Site constraints and opportunities

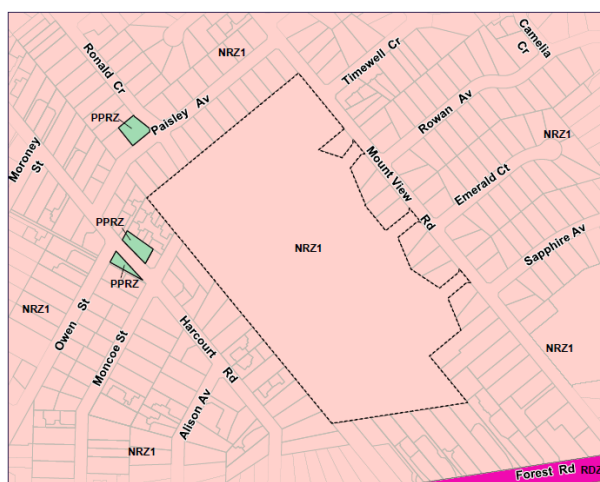
3.1 Zoning context

Figures 2 and 3 show the current and proposed zonings.

Figure 2: Current zoning



Figure 3: Proposed zoning



3.2 Site history and context

Site history

From 1972 the site was used for the 'Boronia Technical School' and following that the 'Boronia Heights College'. The school closed in 2015 after the 'Boronia Heights College' merged with 'Boronia Primary School' to form 'Boronia K-12 College'.

The site

The site is a large landholding with an area of 8.045 hectares. With the exception of the area known as the sanctuary, it has modest frontages to Mount View Road, with limited visibility from the immediate context in surrounding streets. The site has a fall from south to north, consistent with its location in the foothills. Following the closure of the school, all buildings were demolished. The land is now vacant, containing vegetation, retaining walls and paths, an oval and former asphalt sport courts. The oval is elevated above properties fronting Paisley Avenue.

Three single width vehicle crossovers provide connection between the site and Mount View Road. Pedestrian access is provided from Monroce Street, which adjoins the site's western boundary.

Site context

The site is surrounded by the Neighbourhood Residential Zone. Surrounding lot sizes vary and typically comprise modest, single storey dwellings. Architectural styles and form also vary, as does the extent of vegetation.

3.3 Physical constraints

(i) Vegetation

The significance and extent of vegetation in remnant patches and scattered trees across the site is the key constraint to development potential. There are ten habitat zones totalling 2.628 hectares on the site and seven scattered trees. The remnant native vegetation is in the form of Valley Heathy Forest (Ecological Vegetation Class (EVC) 127) and Lowland Forest (EVC 16). Habitat Zone 7 (the sanctuary) is the most intact and contains the highest quality vegetation within the site. The habitat zone supports many plants that are rare or unique in Knox and metropolitan Melbourne.

Figure 4: Habitat areas from Brett Lane evidence



(ii) Topography and abuttal with residential properties

The topography of the site and its interface with adjacent rear gardens is a constraint in terms of siting, with potential for visual bulk impacts and overlooking.

(iii) Vehicle access points

With the exception of the vehicle and access points and the sanctuary, the site is surrounded on all sides by residential properties. This means that vehicle access points are fixed and all access and egress will be adjacent to the side boundaries of a handful of properties on Mount View Road.

3.4 Development opportunities

The opportunities of the site include:

- it is a large landholding in an urban area
- its natural features provide an attractive setting
- the fall across the land provides the opportunity to graduate built form
- its limited visibility and interface with immediately abutting streets and streetscapes.

With the retention and management of the habitat zones and scattered trees there is the potential for the redevelopment of the site with a form that is appropriately sited and scaled.

4 Issues with the proposed changes

What zone is suitable

(i) Evidence and submissions

The site owner submitted that the Neighbourhood Residential Zone Schedule 1 (NRZ1) was the most appropriate zone, as it would provide an appropriate revitalisation of the area at a density appropriate to the surrounding character.

Council was supportive of the proposed zoning and noted that Clauses 21.06 and 21.10 of the Knox Planning Scheme support the application of the zone.

Many individual submitters were opposed to the proposed rezoning on the basis that the site should remain as public open space and the oval should be retained. A number suggested that a new Schedule needed to be prepared to limit development of the site.

(ii) Discussion and conclusion

The NRZ1 currently applies to all surrounding land. The Committee considers the NRZ1 is appropriate for the site. The Committee does not agree that a new Schedule needs to be prepared to limit development of the site and provides further commentary in relation to these matters in the discussion regarding the DPO.

The Committee notes that the existing NRZ1 contains a mandatory height limit of eight metres. The NRZ provides for a mandatory two storey height limit. The NRZ1 also includes variations to private open space areas set by Standards A17 and B28 of Clauses 54 and 55 to require more private open space than the default.

(iii) Recommendation

The Committee recommends a planning scheme amendment be prepared and approved for 40 Mount View Road, Boronia to:

Apply the Neighbourhood Residential Zone Schedule 1 to the land.

4.2 What overlays are suitable

Three overlays currently apply to the site:

- Significant Landscape Overlay Schedule 2 (SLO2)
- Environmental Significance Overlay Schedule 2 (ESO2)
- Design and Development Overlay Schedule 1 (DDO1).

The site owner proposes to retain the SLO and ESO and to delete the DDO. Council supports the retention of all overlays.

(i) Evidence and submissions

Deletion of DDO

The site owner proposes to remove the DDO; Council is opposed to its removal. In Council's submission, the SLO works 'hand-in-glove' with DDO1, which sets mandatory site coverage requirements for buildings and works and a minimum subdivision area of 1,000 square metres. Council's concern with the removal of the DDO was largely based on the failure of the NRZ1 or DPO to regulate lot sizes, and this in turn, would undermine the strategic objectives for the foothills and differentiate the site from the balance of land subject to the foothills' controls. Its concern was based on issues of neighbourhood character.

The site owner submitted that the unique conditions of the site justified a different approach to that of DDO1. In support of removing the DDO1, the site owner submitted that the intensity of development would be assessed by state and local policies, noting that the local policies identify limited opportunities for increased growth and housing diversity.

Various individual submitters also supported the retention of the DDO and were concerned that its removal would facilitate a scale and form of development that was at odds with the foothills policy and surrounding area.

Proposed Development Plan Overlay

In order to provide for the coordinated development of the land, a DPO was proposed by the site owner.

Council supported the application of a DPO but criticised the lack of emphasis given to the protection of vegetation of biological significance in the exhibited DPO. In its right of reply Council advised that it supports the revised vegetation protection and conservation areas provided in the written statement by Urbis and included in the map for the DPO Schedule.¹

Individual submitters were concerned with the proposal to apply a DPO. Their concerns were twofold: firstly that there was no plan exhibited with the proposed DPO Schedule; and secondly because the provisions of the DPO do not allow for formal exhibition at the Development Plan approval stage. These concerns were particularly articulated by the Glenfern Green Wedge Inc. and in Ms Selleck's individual submission.

The Glenfern Green Wedge Inc. submitted that the removal of the DDO and replacement with a DPO was:

... the most disturbing component of the proposal because ... the DPO, provides an exemption from notice and review.

In referencing advice it had sought from Wakefield Planning, it submitted:

A Design and Development Overlay is considered preferable to a DPO as it would retain the rights of the community to be consulted, which is considered essential given the amount of directly adjoining residential development, as well as protecting review rights in the Tribunal.

¹ The map showed retention of habitat zones 2, 4, 6, 7 and 8.

(ii) Discussion

In the Committee's view the deletion of DDO1 and replacement with a DPO is appropriate. The combination of the DPO schedule as recommended by the Committee, NRZ1, existing overlay controls and application of relevant policies, including Clause 22.07 (Development in Residential Areas and Neighbourhood Character Policy), will facilitate a form and scale of development that is appropriate to the site and its context.

Clause 22.07 sets policies for development to:

- respond to the 'green leafy character'
- recognise that the environment significance of the Dandenong Foothills and Sites of Biological Significance (Bush suburban areas) outweigh the need for urban consolidation
- contribute to the protection and enhancement of environmental and biological values
- be low scale and subservient to the landscape character.

The landscape character objectives in SLO2 seek to protect the visual and natural values of the foothills landscape; ensure appropriate siting, design or materials of buildings and works; protect the appearance of the foothills, particularly when viewed from the west; and maintain vegetation as a key element of the foothills landscape.

The objective of the proposed DPO is to provide for the coordinated development of the land and ensure that development is responsive to the surrounds and foothills character.

The critical difference between the proposed DPO (combined with application of existing policy and zone and overlay provisions) and the DDO1, is the subdivision size.

The Committee notes that Messrs Brennan and Kern supported maintaining vegetation in the public realm rather than on private property and agreed with the site owner's submissions that lots in excess of 1,000 square metres may render this a difficult objective to achieve. The Committee also agrees that the setting of the site with its limited visibility from abutting streetscapes, provides an opportunity to achieve a slightly different subdivision pattern than exists on surrounding land. The Committee does not agree that the exclusion of a subdivision control will undermine the existing controls. It will, however, provide greater flexibility to provide a site responsive design and layout.

The Committee considers that the site will benefit from the master planning approach that the DPO will require.

(iii) Conclusion

The Committee concludes that deletion of the Design and Development Overlay Schedule 1 and replacement with a DPO is appropriate.

(iv) Recommendation

The Committee recommends a planning scheme amendment be prepared and approved for 40 Mount View Road, Boronia to:

Delete Design and Development Overlay Schedule 1.

Apply a Development Plan Overlay.

4.3 Who should be the Responsible Authority for the site?

(i) Submissions

The proposed planning controls include an amendment to the Schedule to Clause 61.01 to make the Minister for Planning the responsible authority for the site.

The site owner submitted that having the Minister for Planning as the responsible authority will *“ensure a consistent approach to decision making across the six IHP sites and facilitate timely delivery of affordable housing to the community”*.

Council submitted that it should remain the responsible authority for the site as *“it is best placed to understand the local context of the site, particularly given the environmental and landscape significance of the Dandenong Foothills and Sites of Biological Significance”*. It also submitted that given its serious commitment to the provision of social housing, it could facilitate the development of social housing and deliver on the objectives for the IHP.

Ms Lawrence was concerned with specifying the Minister as the responsible authority on the understanding that *“local policies that do not support higher density housing in this location will be ignored”*.

(ii) Discussion

Ensuring that the relevant local information and considerations are considered as part of the approval process is important in considering who the responsible authority should be. Council hold much of the relevant local information that should be considered for this site (for example, drainage, traffic, neighbourhood character).

The Committee is of the view that as a general rule, the provision of social housing on a development site should be managed through normal Council processes rather than specifying the Minister for Planning as the responsible authority, and the Committee acknowledges Council’s capacity to efficiently assess developments, including those with a social housing component.

However, there is merit in providing a consistent approval mechanism for all six sites proposed for the IHP, and therefore for the Minister for Planning to be the responsible authority for all six sites.

The Committee notes that the Minister for Planning and the City of Melbourne have established protocols to ensure that the correct referrals and local input is provided as there are numerous sites within the City of Melbourne where the Minister is the responsible authority. A similar protocol for IHP sites outside the City of Melbourne may have merit.

A section 173 agreement could be considered to set development parameters, including around social housing, that take into account the local factors of which Council has particular knowledge and understanding. The agreement could also be used to establish protocols between the Minister and Council for the approval of future permit applications.

Section 173 of the *Planning and Environment Act 1987* allows:

(2) *A responsible authority may enter into the agreement on its own behalf or jointly with any other person or body.*

The Committee expects that the pilot process will be thoroughly evaluated, including whether it is desirable for the Minister for Planning to be Responsible Authority in future projects.

(iii) Recommendations

The Committee recommends that a planning scheme amendment be prepared and approved for 40 Mount View Road, Boronia to:

Amend the Schedule to Clause 61.01 of the planning scheme to appoint the Minister for Planning as the responsible authority for the site.

The Committee further recommends that:

Council and the site owner establish a formal protocol regarding the development approval process for any planning permits issued for the site. This could consider the use of a section 173 agreement.

4.4 Development plan considerations

4.4.1 Native vegetation

(i) Evidence and submissions

In 2014 Landserv undertook a vegetation assessment of the site on behalf of the Department of Education and Training. Brett Lane and Associates undertook a subsequent assessment on behalf of the Department of Education and Training having regard to the assessments and findings of the 2014 study. The assessment noted that:

Vegetation in the study area consistent of remnant patches totalling 2.628 hectares of Valley Heathy Forest (EVC 127) and Lowland Forest (EVC 16). The species richness and structural diversity of the understorey within patches varied across the study area, consistent with the former use as a school.

A large number of scattered trees and shrubs were observed within the study area. Seven of these were consistent with the canopy species identified within remnant patches and therefore were considered to be remnant. However, the majority of trees and shrubs were considered to have been planted for amenity purposes associated with landscaping for the school grounds. This included 202 planted trees and shrubs and approximately 262 plants in garden beds.

In evidence, Mr Brennan relied on the 2017 BLA assessment and undertook a subsequent site visit on 3 February 2018 to confirm the 2017 findings. His general recommendations were:

- *All mapped habitat zones and indigenous scattered trees should be retained and protected within any future development.*

- *Tree protection zones (DSE 2011) should be implemented for any trees determined to be retained during any construction activities.*
- *Rubbish removal should be undertaken.*
- *High-threat weeds should be controlled.*
- *Security should be improved to prevent removal of fallen timber.*

Mr Brennan was asked questions regarding the timing of the 2017 BLA assessment and the fact that only one survey had been undertaken. Mr Brennan noted that it is typical for some species to not be visible at the time of assessment, but that a habitat assessment is robust and does not rely on species.

Mr Kern identified that the Urbis planning report does not reflect BLA's full recommendation. He observed that BLA's recommendation in relation to the priority for retention is:

... supported by the available ecological information from Lorimer (2010) and their report. The Lowland Forest EVC on the site is in a large and contiguous patch with significant known indigenous flora values and unknown fauna values and is relatively rare in the Gippsland Plains Bioregion. The Valley Heathy Forest on the site is an Endangered and quite rare EVC in the Gippsland Plains bioregion.

He acknowledged that a compromise is likely "given the context of the site and the need to find more room for housing in existing urban areas".

He also stated that:

... It would be exceedingly difficult to effectively protect any of the ecological values in the significant vegetation zones highlighted by Council for the long term without protecting their entire extent in some sort of conservation reserve with fire breaks outside of existing native vegetation patches.

Mr Kern was critical that despite the existing controls in place to protect indigenous vegetation, the proposed controls would not adequately protect the areas of ecological significance. He concluded that:

The site has State significant ecological values that merit protection under the Knox Planning Scheme and clear protective measures should be resolved at this strategic planning stage rather than at later stages in the planning process.

Council and individual submissions highlighted the ecological significance of the site. The site owner had originally sought to protect only Habitat Zone 7 within the DPO, however, in responding to submissions in closing, it submitted that Habitat Zones 2, 4, 6, 7 and 8 could be retained and preserved.

The Friends of the Glenfern Wedge Inc. submitted that the:

- site is of state significance and lowland forest in Knox is rare
- failure to protect areas of ecological significance has implications for international policy, noting that Australia is a signatory to the Aichi Biodiversity Targets, which originated at the 1992 Earth Summit

- proposal will result in fragmentation of the ecologically sensitive site and fails to give sufficient weight to the need for connectivity
- site plays a role as an outer edge/buffer to the proposed Great Forest National Park.

Ms Irene Kelly submitted that the:

- site is too ecologically important for a residential development
- witnesses agreed that all mapped habitat zones and scattered trees should be retained and protected
- site provides habitat for many local wildlife populations, and connectivity between other habitat areas
- Biodiversity Strategy – Protecting Victoria’s Biodiversity 2037 sets a new direction for Victoria to stop the decline of biodiversity and includes as a priority:

The government will demonstrate leadership by significantly increasing investment in targeted biodiversity management across conservation reserves and other public land, and by transparently reporting on performance

- focus for biodiversity should be on prevention and earlier intervention, rather than just a crisis response.

The Knox Environment Society submitted:

- the benefits of green spaces are geometry, landscape configuration and habitat
- larger areas have greater benefits, with fewer edge effects
- connected areas are best.

Ms Steggink submitted that the:

- site is a haven for wildlife, gum trees, and top level mature trees with hollows
- removal of trees would have an impact on climate change.

Ms Lawrence submitted:

- Volunteers should be recognised and a conservation area should be established.
- Habitat Zones 1 and 2 have greater monetary value because it would allow for dwellings with views. New residents will want to see trees removed.
- A knolled tree on the site contains a colony of micro bats. The bats feed off pest insects to humans such as mosquitos.
- People’s health and wellbeing benefits from green open space. Many social housing residents suffer depression and these will benefit from landscape setting.
- Many inner city councils have made bad decisions in the past and now go to extreme lengths to encourage tree planting.
- Protection of trees should be first and foremost in the decision making.

In rights of reply, most individual submitters continued to oppose the extent of proposed retention of habitat zones as being too limited. They noted that the revised plan creates fragmented habitat.

In its right of reply, Council submitted:

Council strongly supports the revised vegetation protection and conservation areas as provided in the written statement by Urbis, and included in the map for the schedule to the proposed DPO. The revised map is in accordance with the expert evidence sought by Council and provided to the Advisory Committee via Mr Lincoln Kern.

(ii) Discussion and conclusion

The Committee observes that both witnesses agreed as to the biological significance of the site. Messrs Brennan and Kern were also agreed that the preferred approach would be to retain all habitat zones and scattered trees; and that these would be located within the public realm and not included in private properties. Mr Kern was also of the view that firebreaks should be provided.

It seems to the Committee that, Mr Kern adopted a position that a compromise was likely on habitat retention and proceeded on that basis. Mr Brennan provided a priority order for retention, but his overriding position was that all mapped habitat zones and scattered trees should be retained.

Given the unrefuted ecological significance of the site; its location in the foothills; and the existing planning controls, including existing overlays and local planning policies, the Committee thinks that all mapped habitat zones and scattered trees should be retained and preserved. The Committee also agrees with Mr Kern that firebreaks should be provided within the site.

The Committee observes that there is very strong policy support to protect and conserve areas of ecological significance. Planning is a matter of striking a balance between competing objectives, and in this case, the appropriate balance means giving policies relating to ecological protection greater weight than others relating to urban consolidation.

For instance, Clause 21.02-2 of the planning scheme identifies the key planning issues and influences affecting the City of Knox are:

- *Protecting the Dandenong Foothills, Sites of Biological Significance and other areas of significant biological and landscape value from inappropriate development.*
- *Loss of vegetation, tree canopy and habitat eroding Knox's 'green and leafy' impact.*
- *Habitat fragmentation.*
- *Risk to life and property from bushfire.*

Clause 21.02 of the Planning scheme sets the vision for the municipality. The Strategic Framework Plan sets major strategic directions which includes identifying 'strategic investment sites' which could be suitable for "*a range of future residential, commercial and employment uses*". The site is identified as a strategic investigation site. Key strategic directions also include protecting major environmental and landscape features including the Dandenong Foothills and Sites of Biological Significance.

Further, policy seeks to direct growth away from bush suburban areas (within which the site is located). In relation to bush suburban areas, Clause 21.06-3 notes that *limited and low*

scale residential development is anticipated in these areas in order to protect the environmental and biological qualities that make these areas distinct. Strategies at Clause 21.06-4 are:

- **Recognise that the environment and landscape significance of the Dandenong foothills outweighs the need for urban consolidation in the foothills** (emphasis added).
- *Require development in areas that have been identified as Sites of Biological Significance retain indigenous vegetation and create habitat.*

The Committee observes that despite the site's designation as a 'strategic investigation site' there is no doubt that the overriding priority and policy objective in the Knox Planning Scheme is in recognising the environmental significance of the site and acknowledging that its ecological features outweigh the need for urban consolidation.

Accordingly, the Committee is of the view that there is no imperative to maximise the development potential of the site through the removal of habitat zones and that rather the retention of the areas is of greatest importance.

The Committee concludes that the DPO Schedule should:

- include clear requirements relating to preservation, protection and management of the habitat zones and scattered trees
- include a requirement to provide firebreaks within the development.

(iii) Recommendations

The Committee recommends:

The Development Plan Overlay Schedule be amended to include:

- **clear requirements to preserve, protect and manage habitat zones and scattered trees**
- **a requirement to provide firebreaks**
- **a map to show the location of all scattered trees and mapped habitat zones for retention and preservation.**

These changes are reflected in the Committee's preferred DPO provided in Appendix D.

4.4.2 Public open space contribution

(i) Evidence and submissions

Following its revised position in relation to the extent of habitat zones to be preserved, the site owner proposed that the habitat zones to be retained, protected and managed for conservation would satisfy the public open space contribution.

Council opposed the site owner's position that the habitat zones should form part of the public open space contribution:

The expert evidence provided regarding the biodiversity values on the land suggest that it is not suitable for the significant landscape habitat areas to be used as public open space, and that allowing it to be used as public open space would be contrary to the conservation of its biodiversity.

Council's submission was supported by various individual submitters.

(ii) Discussion and conclusion

The Committee agrees with Council and submitters that the preserved ecological areas should not form part of the public open space contribution.

On the basis of the significance of the habitat zones the Committee agrees that new residents will not use these areas as places of resort or recreation as this would have the potential to compromise the preservation of the areas.

(iii) Recommendation

The Committee recommends:

The Development Plan Overlay Schedule be amended to make it clear that the preserved ecological areas do not form part of any public open space contribution.

This change is reflected in the Committee's preferred DPO provided in Appendix D.

4.4.3 Traffic

(i) Evidence and submissions

The site owner engaged GTA Consultants to prepare a traffic assessment that was exhibited with the Amendment. Mr Graham of GTA provided evidence during the Hearing and relied on the data and findings of the GTA assessment dated 27 June 2017.

Mr Graham adopted the conservative assumption of a maximum yield of 90 dwellings. In terms of likely proposed traffic generation, Mr Graham relied on survey data from seven residential developments.

Mr Graham advised that the daily traffic generation for a residential development would be higher than that generated by the former school; but that the movements in the peak periods would be less. It was his evidence that the traffic volume increase on Mount View Road will be well within the capacity of the road. Traffic volumes on other roads would be less than on Mount View Road and therefore unlikely to impact on the capacity of these roads.

Mr Graham undertook an analysis of the impact on the intersection of Mount View Road and Forest Road based on existing traffic volumes and future volumes based on the assumed yield. It was Mr Graham's evidence that *there would be minimal impact on the operation of the intersection, with only minor increases to average delays and queues.*

It was Mr Graham's opinion that one of the existing vehicle access points in Mount View Road could adequately service a residential development on the site. He agreed with Council's request that the DPO Schedule include an additional requirement in the traffic management report to include details of the capacity of surrounding roads and intersections and impacts of additional access points into the site.

(ii) Discussion and conclusion

The Committee accepts Mr Graham's evidence that the existing surrounding road network has the capacity to accommodate the traffic likely to be generated from the proposed redevelopment of the site. However, it is reasonable to expect that traffic levels will vary should alternate dwelling forms such as aged care or social housing be developed, or for a different yield or for non-residential uses. It is therefore appropriate for the DPO to require further assessment of the capacity of surrounding road networks and impacts of additional access points, once the details of likely future development on the site is better understood.

(iii) Recommendation

The Committee recommends that:

The Development Plan Overlay Schedule be amended to require that the traffic management report identify the capacity of surrounding roads and the impacts of additional access points to the site.

This change is reflected in the Committee's preferred DPO provided in Appendix D.

4.4.4 Other DPO issues

(i) Evidence and submissions

The Urbis planning report identified that preliminary and detailed environmental site investigations were undertaken by Senserva prior to and after demolition of the school buildings and underground tanks. The Urbis report identified a need for further work to be undertaken prior to development. Ms Kelly advised the Committee during the Hearing that this further work had now been undertaken as documented in a final report (September 2017), and the site is now clean and suitable for residential purposes.

Council submitted that the following aspects of the proposed DPO warranted further attention:

General

- *The Development Plan should be prepared having regard to the foothills setting and the objectives of the Dandenongs Foothills Local Policy as a guiding principle.*
- *A minimum of 5 per cent social housing contribution should be provided.*
- *Stronger protection for significant remnant and native vegetation through the establishment of development exclusion zones.*
- *Recognition of the ANZAC memorial and its retention, as appropriate.*

Open Space

- *Retention of the school oval as a net community benefit open space area, accessible to the surrounding neighbourhood.*
- *Identification of the usability of open space and how it is incorporated into development.*

(ii) Discussion and conclusion

The Committee accepts Ms Kelly’s submissions in relation to the final clean-up of the site, and does not consider that any further work is required in regard to site contamination.

In relation to Council's submission for further changes to the DPO, the Committee observes that:

- it is not necessary to duplicate policy in the DPO Schedule
- the recommended DPO will provide clear guidance in respect to vegetation retention
- it is not the role of this Committee to advise on the yield of social housing.

The Committee agrees the Schedule should provide for recognition and retention of the ANZAC memorial on site.

The draft DPO contained a requirement to “*demonstrate best practice Environmentally Sustainable Design principles*”. It is not clear to the Committee why this site might warrant such an approach above other land in Knox. It is also not clear precisely what “best practice” might entail. The Committee concludes that this requirement should be deleted.

The Committee’s terms of reference include:

25. *The Standing Advisory Committee must produce a written report for the Minister for Planning providing: ...*
- *An assessment of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes.*

The Committee has assessed the proposed DPO against the Ministerial Direction on The Form and Content of Planning Schemes, and has identified the need to:

- remove text related to the purpose of the Schedule which is not contemplated in the Ministerial Direction
- remove text under ‘Conditions and requirements for permits’ that does not relate to specific permit conditions
- clarify the language of a number of provisions.

The Committee also considers that matters that are broadly dealt with in the head clause of the DPO or by other parts of the planning scheme do not have to be repeated in the requirements for the development plan including:

- internal amenity
- sustainable design features.

(iii) Recommendation

The Committee recommends:

That the Development Plan Overlay Schedule be amended to:

- **include reference to the recognition and retention of the ANZAC memorial as appropriate**

- **delete the requirement to demonstrate best practice Environmentally Sustainable Design principles**
- **clarify language and ensure compliance with the Ministerial Direction on The Form and Content of Planning Schemes.**

These changes and clarifications are reflected in the Committee's preferred DPO provided in Appendix D.

Appendix A: About the Government Land Standing Advisory Committee

The Fast Track Government Land Service is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Government Land Standing Advisory Committee (the Committee) was appointed in July 2015 under Part 7, section 151 of the *Planning and Environment Act 1987*. The Minister for Planning approved revised Terms of Reference for the Committee in July 2017.

The purpose of the Committee is:

... to advise the Minister for Planning on the suitability of changes to planning provisions for land owned, proposed to be owned in the future, or to facilitate the delivery of priority projects by the Victorian Government.

The Committee was reconstituted in March 2018 and currently consists of:

- Chair: Lester Townsend
- Deputy Chairs: Mandy Elliott and Trevor McCullough
- Members: Gordon Anderson, Elissa Bell, Alan Chuck, Jenny Fraser, Prue Mansfield, Jane Monk, Rachael O'Neill, John Ostroff, Tania Quick, Cazz Redding and Lynn Sweeney.

The Committee is assisted by Ms Emily To, Project Officer with Planning Panels Victoria.

The Committee's Terms of Reference state:

25. *The Standing Advisory Committee must produce a written report for the Minister for Planning providing:*
- *An assessment of the appropriateness of any changes of planning provisions, in light of the relevant planning scheme and State and Local Planning Policy Frameworks.*
 - *An assessment of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes.*
 - *An assessment of whether planning scheme amendments could be prepared and adopted in relation to each of the proposals.*
 - *An assessment of submissions to the Standing Advisory Committee.*
 - *Any other relevant matters raised in the course of the Standing Advisory Committee Hearing.*
 - *A list of persons who made submissions considered by the Standing Advisory Committee.*
 - *A list of persons consulted or heard.*

Appendix B: List of Submitters

No.	Submitter
1	Alasdair O'Brien
2	Andrew Douglas
3	Andrew K Daws
4	EPA Victoria
5	Knox City Council
6	Ashley Davies
7	B Gibson
8	Birgit Goetz
9	Br Tristan O'Brien SDB
10	Brendan Maxwell
11	Brendon Carlill
12	Carmel Feeney
13	Catherine Adilia Steggink
14	Knox Appropriate Development Alliance
15	Dale Miles
16	Ecolandcraft
17	Doug Mason
18	Douglas Mason
19	Douglas Mason
20	Douglas Mason
21	Douglas Mason
22	Biosphere Pty Ltd
23	DELWP, Port Phillip Region
24	Knox Environment Society, Gardens for Wildlife Knox, Chandler Hill Park Care Dandenong Ranges National Park
25	Erin Dean
26	Faye Parker
27	Friends of the Glenfern Green Wedge Inc.
28	Graeme Enbom
29	Graham Wright
30	Knox Environment Society
31	Knox Gardens for Wildlife Program and Knox Environment Society

32	Ivan Borys
33	Janice Cooke
34	Jeannine Smillie
35	Knox Environment Society
36	Jo-Anne Atkinson
37	Joel Loukas
38	Johanna Selleck
39	John Cull
40	John Exon
41	John Henry Purdy
42	John Robert Boyce
43	Jordan Crook
44	Keith Miles
45	Kerrie-Anne McRae
46	Kirsty MacKinnon
47	Louise Maxwell
48	Luke Selleck
49	Mary-Lyn Joy Dyamond
50	Melissa Reoch
51	Merrin Lancet
52	Michelle Loebert
53	Suzanne Scarlett
54	Natalie Lawrence
55	Nicholas Jackson
56	Pam Hutchinson
57	Peter Baird
58	Peter Dunn
59	Radmila Jukic
60	Knox Environment Society
61	Richard Faragher
62	Rob O'Brien
63	Robert Alan Hayhurst
64	Ruth Evelyn Beard
65	Sharyn Baird
66	Triana Meagher
67	Trina McKeverne

Appendix C: Document list

Documents Presented to Hearing (No.)	Description	Presented By
1	The site owner submission	Ms Jane Kelly
2	DPO track changes version	Ms Jane Kelly
3	The site owner response to key issues raised in submissions	Ms Jane Kelly
4	Council submission	Mr Gilbertson
5	Folder containing planning controls	Mr Gilbertson
6	Friends of the Glenfern Green Wedge Inc submission	Ms Selleck
7	Knox Gardens for Wildlife Program and Knox Environment Society submission	Ms Irene Kelly
8	Submission	Ms Selleck
9	Knox Environment Society PowerPoint submission	Mr Faragher
10	PowerPoint presentation	Ms Feeney
11	Submission	Ms Feeney
12	Submission	Ms Baird
13	Submission	Ms McKeverne
14	Submission	Mr O'Brien
15	DPO Schedule 13 DTF Final	DTF
16	DTF Right of Reply	DTF
17	Final DPO Schedule track changes	DTF
18	Email: Friends of the Glenfern Green Wedge: Reply to revised Urbis plan	Johanna Selleck
19	Email: Response to DTF Right of Reply	Irene Kelly
20	Email: Council response to amendments	Cliff Bostock, Knox Council
21	Email: Knox Environment Society's response to DTF Right of Reply	Richard Faragher
22	Email: Response to DTF Right of Reply	Erica Peters
23	Email: Response to DTF Right of Reply	Catherine Steggink
24	Email: Response to DTF Right of Reply	Carmel Feeney

Appendix D: Committee Preferred DPO Schedule 13

SCHEDULE 13 TO THE CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO13**

40 MOUNT VIEW ROAD, BORONIA

~~The Development Plan is intended to provide for the coordinated development of the land and to ensure that development is responsive to surrounding land uses.~~

1.0 Requirement before a permit is granted

A permit may be granted before a ~~D~~development ~~P~~lan has been approved provided the responsible authority is satisfied that it will not prejudice the future use and development of the land.

2.1 Conditions and requirements for permits

~~A permit for subdivision and/or development shall include provisions and conditions relating to:~~

- ~~▪ the interface between proposed residential development/lots and existing native vegetation within the site, and~~
- ~~▪ the interface of the site and adjoining residential properties.~~

The following requirements apply to permits:

- Permits must include a condition to establish tree protection zones for trees to be retained.

3.1 Requirements for development plan

~~In preparing a development plan or an amendment to a development plan, the following should be achieved:~~

- ~~▪ A range of dwelling types, as appropriate to cater for a variety of housing needs.~~
- ~~▪ Internal amenity for future residents.~~
- ~~▪ Designation and protection of the Sanctuary~~
- ~~▪ Identification and protection of scattered trees, remnant vegetation and other significant native vegetation as appropriate.~~
- ~~▪ A street network which improves the connectivity within the neighbourhood.~~
- ~~▪ Sustainable design features to address water management, solar access and energy saving initiatives, to deliver lower living costs for future residents.~~

~~The Development Plan may consist of a plan and/or other documents.~~

Development Plan Components

A development plan must include the following requirements to the satisfaction of the responsible authority:

- The key attributes of the land, its context, the surrounding area and its relationship with existing and ~~or~~ proposed uses on adjoining land;
- Concept plans for the layout of the site which show:
 - Designation of the habitat zones identified in Figure 1 as areas that must be retained, protected and managed for conservation.
 - Developable area limited to parts of the land beyond the habitat zones and scattered trees.

- [Firebreaks as appropriate between habitat zones and development.](#)
- Proposed lot and road layout, new building orientation and location, public roads, vehicle access locations, and pedestrian and bike paths.
- [A street network which improves the connectivity within the neighbourhood.](#)
- Proposed earthworks and levels for future development
- A mix of dwelling sizes to provide for a diversity of housing.
- ~~Designation of the sanctuary located in the north-east of the site which will satisfy the public open space contribution for the site.~~
- [The protection of the scattered trees identified in Figure 1.](#)
- Tree protection zones and appropriate integration of significant native vegetation with the future development.
- Stormwater and drainage management treatments including any water sensitive design, or integrated water management elements.
- [Any public open space contribution provided within the developable area and not to within any habitat zone.](#)
- [Recognition of the ANZAC memorial and retention as appropriate.](#)
- How the layout pattern and proposed development responds to the site analysis and treats residential interfaces;
- A traffic management report prepared by a suitably qualified person(s), which identifies, as relevant:
 - [The capacity of surrounding roads and intersections and impacts of additional access points into the site.](#)
 - [Roads, pedestrian, cyclist and vehicle access locations.](#)
 - [Any traffic management measures.](#)
- ~~I~~ntegrated pedestrian and bicycle path network, incorporated into the road ~~and public open space~~ system that:
 - Provides clear linkages within the land and connections to the surrounding community and other local destinations, including public transport.
 - Provides for community safety.
- A Native Vegetation Management Plan to identify how native vegetation will be protected onsite, [including but not limited to, tree protection zones, protection works during construction, rubbish removal, management of high-threat weeds](#) ~~and how offsets will be provided for any approved removal of native vegetation;~~
- ~~Details of how the proposal will demonstrate best practice Environmentally Sustainable Design principles;~~
- An environmental management plan prepared by a suitably qualified person(s) which ensures that all necessary measures are identified and implemented in order to protect the environment and comply with environmental legislation.
- [A management plan confirming how the habitat zones will be managed.](#)

The Development Plan for any part of the development area or for any stage of development may be amended from time to time to the satisfaction of the responsible authority.

The responsible authority may waive the need to provide any of the information detailed above that is not relevant to a particular Development Plan or part of a Development Plan.

REPLACE Figure 1: Plan showing all habitat zones, and identifying all habitat zones and scattered trees identified by Brett Lane to be retained

