

Planning and Environment Act 1987

Tranche 1 Revised Report

Government Land Standing Advisory Committee

FT34: Corner Wills Street and Brudenell Street, St Arnaud

FT54: 1080a Frankston–Flinders Road, Somerville

FT60: 8-20 and Part 22 Phillip Street, Dallas

8 July 2016

Planning and Environment Act 1987

Tranche 1 Revised Report under Section 151 of the Act
Government Land Standing Advisory Committee

FT34: Corner Wills Street and Brudenell Street, St Arnaud

FT54: 1080a Frankston–Flinders Road, Somerville

FT60: 8-20 and Part 22 Phillip Street, Dallas

First version dated: 18 May 2016

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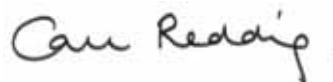
Lester Townsend, Chair



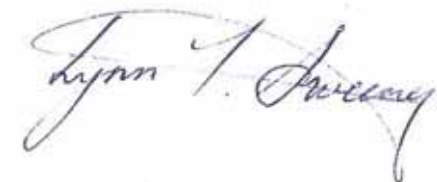
Brett Davis, Deputy Chair



Gordon Anderson, Member



Cazz Redding, Member



Lynn Sweeney, Member

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List of Abbreviations

ANEF	Australian Noise Exposure Forecast
the Airport	Australian Pacific Airports (Melbourne) Pty Ltd
DDO	Design and Development Overlay
DPO	Development Plan Overlay
EAO	Environmental Audit Overlay
FTGL Service	Fast Track Government Land Service
GRZ	General Residential Zone
LDRZ	Low Density Residential Zone
MAEO	Melbourne Airport Environs Overlay
Melbourne Airport CACG	Melbourne Airport Community Aviation Consultation Group
MUZ	Mixed Use Zone
NASF	National Aviation Safeguarding Framework
NRZ	Neighbourhood Residential Zone
PUZ	Public Use Zone
RGZ	Residential Growth Zone
VPP	Victoria Planning Provisions

The Government Land Standing Advisory Committee

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

The purpose of the Committee is:

... to advise the Minister for Planning on the suitability of changes to planning provisions for land owned by the Victorian Government.

The Committee deals with a number of government owned sites in tranches. Rezoning proposals are prepared for each site, and sites are then referred to the Committee.

A public notice and exhibition process gives an opportunity for persons who may be affected to make submissions to be considered by the Committee and present at Committee Hearings.

All referred sites have been declared surplus to the needs of the government agency that manages the land (the Site owner). There is clear policy¹ that government agencies must only hold land or an interest in land where State ownership of that land contributes directly to current or future service delivery outcomes expected of agencies.

The Committee consists of:

- Chair: Lester Townsend
- Deputy Chairs: Brett Davis and Cathie McRobert
- Members: Gordon Anderson, Alan Chuck, John Collins, Mandy Elliot, Jenny Fraser, John Ostroff, Cazz Redding and Lynn Sweeney.

The Committee may meet and invite others to meet with it when there is a quorum of at least two Committee members.

The Committee is assisted by Ms Elissa Bell, Senior Project Manager with Planning Panels Victoria.

The Committee's Terms of Reference state:

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

- *An assessment of the appropriateness of any changes to planning provisions, in light of the relevant planning scheme and State and Local Planning Policy Frameworks.*
- *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.*

¹ Victorian Government Landholding Policy and Guidelines 2015.

- *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.*

This is the Committee's Revised Report for the Minister for Planning, for Tranche 1 sites.

Executive Summary

On 21 December 2015 the Minister for Planning referred the following sites to the Committee:

- Corner Wills Street and Brudenell Street, St Arnaud
- 1080a Frankston–Flinders Road, Somerville
- 8-20 and Part 22 Phillip Street, Dallas.

The proposed zoning for each site is provided in Table 1 below.

Table 1-1: Tranche 1 Existing and proposed controls

Site	Current planning scheme controls	Proposed planning scheme controls	Committee recommendation
Corner Wills Street and Brudenell Street, St Arnaud	Public Use Zone 7 (Other public use)	Industrial 1 Zone	Industrial 3 Zone Design and Development Overlay
1080a Frankston–Flinders Road, Somerville	Public Use Zone 4 (Transport)	General Residential Zone Schedule 1 Development Plan Overlay to the whole of the site Environmental Audit Overlay to the northern portion of the site	General Residential Zone Schedule 1 Environmental Audit Overlay to the northern portion of the site
8-20 and Part 22 Phillip Street, Dallas	Public Use Zone 1 (Service and utility) Melbourne Airport Environs Overlay 2 (MAEO2)	Mixed Use Zone Melbourne Airport Environs Overlay 2 (MAEO2) Site specific provision in the Schedule to Clause 52.03 'Specific sites and Exclusions' to change the minimum lot size under MAEO2 Development Plan Overlay	Commercial 2 Zone Land formerly owned by Melbourne Water and now in an Industrial 3 Zone also be rezoned

These sites raised a number of issues.

First, the need to consider site constraints when selecting the proposed zones and controls. For St Arnaud consideration of the constraint of site contamination and the high cost of clean-up for a residential use supports an industrial zone for the land. At Dallas a failure to properly consider the constraints on residential development imposed by the site's location in an area affected by aircraft noise means the proposed Mixed Use Zone cannot be supported.

Second, some surplus sites are part of holdings from which land has previously been declared surplus and sold. The zoning of the older surplus land is not always appropriate: at

Somerville it remains in the Public Use Zone. There is an opportunity for the FTGL Service to deal with these parcels.

Third, it is clear that the 'highest and best use' in valuation terms is not always an appropriate planning outcome. An Industrial 1 Zone was proposed for St Arnaud but the Committee is recommending an Industrial 3 Zone.

Fourth, consideration of the amenity of the adjacent neighbours is important, particularly where the land will not be in the same zone as adjoining parcels. The use of a Design and Development Overlay was seen as appropriate at St Arnaud to address a number of issues raised in submissions.

Fifth, for sites with complex constraints, such as the Dallas site, a set of planning controls tailored to a specific outcome might deliver a better outcome than applying a VPP zone. Such an approach would require a different land sale process to identify a specific development proposal for the subject site. For the Dallas site it could provide a way to identify an appropriate use and to retain some of the trees on the site.

The Committee recommends:

For Corner Wills Street and Brudenell Street, St Arnaud:

A planning scheme amendment be prepared and approved to:

- a) Rezone the subject site to the Industrial 3 Zone**
- b) Apply a Design and Development Overlay Schedule that provides for:**
 - A 3 metre wide landscape and vegetation buffer at the south (Sawbench Lane), west (Wills Street) and eastern boundaries to screen the site from residential neighbours and retain as many of the mature gum trees as possible.**
 - The main vehicle access to the site from Brudenell Street to minimise disturbance to residential neighbours.**

For 1080a Frankston–Flinders Road, Somerville:

A planning scheme amendment be prepared and approved to:

- a) Rezone the subject site to the General Residential Zone Schedule 1.**
- b) Apply the Environmental Audit Overlay to the northern part of the subject site.**

The proposed Development Plan Overlay not be progressed.

VicTrack review the proposed boundary of the surplus land, mainly at the northern end to see if it can be expanded to create a site that better lends itself to development. If the area of surplus site can be expanded apply the General Residential Zone Schedule 1 to the expanded site, otherwise process as exhibited.

VicTrack work with VicRoads and Council to investigate a suitable and safe access and road user regime for the section of Frankston–Flinders Road between Eramosa Road East and Kinlora Drive, as part of finalising access arrangements to the subject site.

For 8–20 and part 22 Phillip Street, Dallas:

In the absence of a specific development proposal for the subject site, a planning scheme amendment be prepared and approved to rezone the subject site and adjoining Industrial 3 Zone land to the Commercial 2 Zone.

1 Tranche 1 issues

1.1 Notice

Approach taken

On 6 April 2016 Lester Townsend, Brett Davis and Lynn Sweeny met with representatives of the FTGL Service to address a number of process issues that emerged in Tranche 1 (the sites discussed in this report) and in the preparations for Tranche 2 (a number of surplus school sites).

Some submissions raised concerns about the extent of the notice given. On 28 April 2016 the FTGL Service provided written submission to the Committee outlining its notification process. The FTGL Service submitted:

The formal referral of sites by the Minister for Planning requires the FTGL Service to complete notification to affected owners and occupiers of adjoining properties, councils, servicing authorities and prescribed Ministers under the Planning and Environment Act 1987.

- *In the case of the three sites, the FTGL Service sought advice from the landowner and each Council on the extent of notification it should undertake.*
- *FTGL Service took direction from each Council on relevant local newspapers to publish an advert and designated locations to store publically available information on the proposed planning provision changes.*

The Committee is comfortable with the approach the FTGL Service is taking regarding notification. To ensure the Committee has the necessary information to respond to issues of notification if they are raised the Committee has directed:

The Department should provide a submission to the Advisory Committee after the close of the exhibition period detailing the extent and timing of notice for the Tranche.

Administrative error in St Arnaud

The FTGL Service advised the Committee that due to an administrative error, the notification process in St Arnaud was sent only to owners and not occupiers. The FTGL Service submitted that it had still met the minimum notice requirements under the *Planning and Environment Act 1987* by placing advertisements in the public notice section of local newspapers.

The Committee is disappointed that an administrative error has resulted in occupiers of land not being notified by direct mail and notes the FTGL Service's review process will ensure that this does not happen again.

1.2 Consistent assessment methodology

The Committee has established an assessment methodology which it will apply consistently to all referred sites. The Committee has identified that broadly there are three questions that need to be answered for each of the sites:

- What are the constraints and opportunities of the subject site?
- Is an appropriate type of zone proposed – residential, commercial, industrial – and is the specific zone appropriate?
- What controls over development should apply, and what tool should be used to set those controls?

Whether the sites are surplus is not a question before the Committee. The government has made a decision to dispose of the land and this requires rezoning. It is not the role of the Committee to revisit this decision, or to delay recommending a zone.

1.3 Site contamination

All of the Tranche 1 sites are potentially contaminated to some degree. The St Arnaud site has some degree of zinc contamination due to the former use of the land as a Department of Environment, Land, Water and Planning depot.

The Committee has considered how potential contamination issues should be dealt with to ensure both efficient and appropriate future development of the sites for sensitive uses. The tool generally used to identify potential contamination on land is the Environment Audit Overlay (EAO).

The EAO places a requirement to undertake a full statutory environmental audit for the land to which it applies, but in the case of a school site, for example, it is probable that any contamination will be limited to selected parts of the site. Undertaking a full statutory environment audit is expensive, time consuming, and onerous given that contamination is likely to be limited to particular areas.

The Committee notes that Clause 65 of the Victoria Planning Provisions (VPP) requires a responsible authority to consider the matters outlined in Section 60 of the *Planning and Environment Act 1987* prior to deciding an application. This includes consideration of:

60(1)(e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.

and

60 (1a)(f) any relevant State environment protection policy declared in any Order made by the Governor in Council under section 16 of the Environment Protection Act 1970.

In the case of the St Arnaud site an Environmental Site Assessment (Connolly Environmental, January 2015) identified that a low level of zinc contamination existed. The assessment concluded that the zinc would not pose a risk to ongoing industrial use of the site but that it would present a low risk to ecosystems if the site was developed for a 'sensitive use'

including low density residential. In this case, the value of the site would not cover the expense of an environmental audit and site remediation. This is further discussed in the next section of this Report dealing with the St Arnaud site.

At Somerville an EAO is proposed and this is appropriate given the potential contamination issues with railway land, the potential for low density development and the lack of another tool being recommended for the land to address this issue.

2 Corner Wills Street and Brudenell Street, St Arnaud

2.1 Details of the site and process

Table 2-1: Corner Wills Street and Brudenell Street, St Arnaud – Amendment summary

Amendment summary	
Tranche and site	Tranche 1: Site reference FT 34
Previous use	DELWP Depot
Site owner	Department of Treasury and Finance
Council	Northern Grampians Shire
Exhibition	15 February to 25 March 2016
Submissions	Six submissions were received: <ul style="list-style-type: none"> - Justine Kingan, Northern Grampians Shire Council - Cameron Morrison - Camden Goodman - Nicole Porter, Environment Protection Authority - David Peter Lanyon (including Addendum – petition to Council) - Wayne Andison

Table 2-2: Corner Wills Street and Brudenell Street, St Arnaud – Proposed planning scheme changes

Existing controls	Proposed changes
Public Use Zone 7 (Other public use)	Industrial 1 Zone

Table 2-3: Corner Wills Street and Brudenell Street, St Arnaud – Committee process

Committee process	
Members	Brett Davis (Chair) and Lynn Sweeney
Information session	1 March 2016 St Arnaud Council Office
Hearing	13 April 2016 St Arnaud Council Office
Site inspections	1 March and 13 April 2016
Appearances	Department of Treasury and Finance represented by Adam Bradley Environmental Planning Manager of the department and Gerard Gilfedder of Currie and Brown (Town Planner) Northern Grampians Shire represented by Justine Kingan, Town Planner David Lanyon represented by Cameron Morrison

Committee process

Date of this Report 8 July 2016

2.2 Process issues for this site

(i) Title

As the land is currently vested in the Crown it does not have a title. The Site owner advised the Committee that a Crown Grant, or title, will be lodged with the Titles Office after the land is sold.

(ii) Zones to be considered

At the information session the Committee requested that the Site owner present an analysis of the range of potential zones. These included the Industrial 1, Industrial 3, Mixed Use Zones and the General Residential Zone. The Site owner and Council were directed to address the issue of existing industrial land supply and land values in St Arnaud as these were central to the justification for the appropriate zone.

(iii) Notice

A number of submitters commented that the notice given was inadequate and that potential submitters could not participate due to lack of internet access. The issue of notification is discussed at 1.1 of this Report. At the Hearing, the Committee advised that it would accept additional hardcopy submissions for an additional week if they were submitted and that the public notice undertaken satisfied the statutory requirements outlined in the *Planning and Environment Act 1987*.

(iv) Petition

At the beginning of the Hearing the Chair advised that a petition to Council objecting to the site being rezoned for industrial use had been forwarded to the Committee and was considered an addendum to Mr Lanyon's submission.

2.3 The site and surrounds

(i) Location

The subject site is located in the township of St Arnaud, a regional centre located in the Central Highlands Region of Victoria about midway between Bendigo and Horsham and 244 kilometres northwest of Melbourne.

The information sheet published by the FTGL Service describes the site as follows:

The site is approximately 0.4 hectares with a large workshop building and three shed buildings associated with the former depot. Some mature trees are located on the site. It is located next to an existing Northern Grampians Council depot and adjoins a residential area. Cyclone fencing encloses the site.

The site is located on the eastern side of Wills Street and has the following street frontages:

- 90 metre northern frontage to Brudenell Street
- 90 metre southern frontage to Sawbench Lane (location of vehicle access)
- 44 metre western frontage to Wills Street.

Figure 2-1: Corner Wills Street and Brudenell Street, St Arnaud – Site location



The site contains a large workshop building and three shed buildings associated with the former depot. There is vegetation coverage that comprises small trees and shrubs that are particularly concentrated in the western part of the site. The land is relatively flat and is orientated on a northwest to southeast axis. There are a number of mature gum trees close to the perimeter of the site.

(ii) Zoning context

The site abuts the General Residential Zone Schedule 1 on three sides with PUZ 6 (Council Depot) located opposite on the northern boundary. The main access to the site is from the unmade road, Sawbench Lane.

Figure 2-2: Corner Wills Street and Brudenell Street, St Arnaud – Current zoning

Figure 2-3: Corner Wills Street and Brudenell Street, St Arnaud – Proposed zoning



2.4 Site constraints and opportunities

2.4.1 Planning constraints – overlays and restrictions

No overlays apply to the site.

2.4.2 Physical constraints

The land is contaminated from previous use as a depot. The Site owner has undertaken partial remediation of the site by removing the fuel tanks, but the site is not suitable for residential use.

Mr Cameron submitted that the site should be remediated by the Site owner prior to its disposal. Other written submissions supported the remediation of the site prior to its disposal.

The Connolly Environment Site Assessment provides adequate information for potential purchasers to plan for appropriate uses for the site. The report does not indicate that the level of contamination is hazardous to future industrial users or neighbours.

The Site owner acknowledged that while arguments could be made for the site to be residential the Committee needs to balance the range of considerations, practicalities and the economic reality that the site value would not support the level of remediation required for residential use. The Site owner submitted that the potential remediation cost for the site may be in the vicinity of \$250,000 with the Valuer-General valuation for the site approximately \$40,000.

On balance, the Committee concludes that the potential for the site to be reused for an acceptable industrial use is far more beneficial for St Arnaud than an unusable derelict site that cannot be used for residential due to the onerous remediation costs well beyond the value of the site. The site is constrained for residential use.

2.5 Issues with the proposed changes

2.5.1 What zone is suitable

Submissions

Mr Cameron, representing Mr Lanyon submitted that the subject site should be zoned the same as the neighbouring residential properties. Mr Cameron advised that neighbours were concerned that the site would be developed for industrial uses causing inconvenience of noise from trucks or operations. Mr Cameron objected to the industrial use of this site and submitted that Council had made substantial investment in creating an industrial estate to the southeast of the town and this site is outside that estate.

Written submissions noted that the site's close proximity to residential neighbours does not meet the separation requirements between industrial and residential uses at Clause 52.10.

Despite the site being adjacent to GRZ and residential neighbours, Council submitted that an industrial zone was most suitable for site because of:

- its historical use as a depot
- its modest 4,000 square metre size

- alignment with State Planning Policy Framework, Regional Growth Plan and Council's Municipal Strategic Statement, local policies and Economic Strategy – Council noted that Amendment C54, currently being exhibited, removes the outdated St Arnaud Strategic Framework Plan from the Scheme and reinforces support for the provision of serviced industrial land free of potential development constraints
- Council's ability to manage appropriate future industrial development and use through the permit process – this would include managing the separation distance issues raised by submitters
- the relatively low monetary value of the site and lack of potential for the site to be remediated to the extent required for residential use.

Council submitted that the significant costs imposed by the need for an environment audit and remediation for residential use would render the site undevelopable. Council advised that this would lead to the site remaining derelict for the foreseeable future and this would be an undesirable result for the St Arnaud community.

Council presented an audit of industrial land in St Arnaud and advised that there was a modest need for additional industrial land as many of the existing sites are constrained due to lack of infrastructure, services and proximity to native vegetation and waterways.

The Site owner presented a detailed review of the State Planning Policy Framework, Municipal Strategic Statement, Regional Growth Plan policies that support the industrial zoning of the site. The review noted that the Regional Growth Plan identifies the benefits of moving industrial uses out of town, to the east, but noted that this site is already industrial and is east of the centre of the town.

The Site owner submitted that the Industrial 1 Zone (as opposed to the Industrial 3 Zone or other zone) provides an appropriate fit for the site for the following reasons:

- *The Industrial 1 Zone provides for a range of uses at the subject site that will provide flexibility for a future purchaser. This will enable the site to achieve highest and best use and broaden the range of possible purchasers.*
- *The zone provides adequate restrictions to ensure that any future development or uses will address and cater for the amenity of surrounding sensitive residential land.*
- *Given the proximity to surrounding residential development, any application for buildings and works will be advertised publicly.*
- *There is currently a recognised shortage of Industrial 1 Zoned land within the township and the application will therefore address this supply shortage.*
- *While zinc has been found at the site, concentrations above adopted ecological assessment criteria were considered to pose a low risk to ecosystems in the context of ongoing industrial use at the site, however*

were considered a potential risk to ecosystems in a low density residential scenario².

The Site owner submitted that there are other situations where Industrial 1 Zone directly abuts a residential zone and cited the Nunawading example of Whitehorse C155 (Daniel Robertson Brickworks). It did not support the use of the Industrial 3 Zone.

Council agreed with the Site owner that IN1Z is the most suitable zone on the basis that it most closely aligns with the site's previous use. The Committee was referred to Planning Practice Note Number 2 – *Public Land Zones* (Document 7) to add weight to the selection of IN1Z given the site's previous use. Council advised that it is confident that any amenity issues for residential neighbours could be managed through the planning permit process no matter whether IN1Z or IN3Z were applied.

Discussion

While IN1Z may offer the widest range of industrial uses for the site and be the 'highest and best use' in valuation terms this is not the same as the 'highest and best use' in planning terms. Consideration of the amenity of the adjacent residential neighbours is important.

The purpose of the IN3Z is to provide a buffer between industrial uses and local communities. It allows for industries and associated uses compatible with the nearby community and is recommended for the site. This appears to be a better fit for the subject site.

The Committee does not accept that the Nunawading example of IN1Z being applied abutting residential zones is a useful precedent for this situation as this involved a Development Plan Overlay requiring an extensive range of issues being addressed – which is not proposed for this site.

Conclusion

The Committee concludes that the site is appropriate for industrial use. The application of an Industrial 3 Zone to the site is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

2.5.2 What overlays are suitable

Submissions

The Committee raised the possibility of applying the Design and Development Overlay (DDO) to the site. Council advised that a DDO may be appropriate to provide additional certainty to neighbours, future owners of the site and Council.

The Site owner did not support the application of a DDO submitting that Council could cover these issues through conditions on any future planning permit.

² Submission p. 8

Discussion

Given the site's proximity to surrounding GRZ land, the Committee thinks that a DDO is appropriate for the site. The DDO could provide for the retention of existing trees by setting buildings back from the boundary and providing a separation buffer. The Committee also thinks the DDO could encourage future vehicle access from Brudenell Street, which abuts the Council depot and not from Sawbench Lane, an unmade road that abuts existing residential properties.

The Committee is confident that Council will carefully manage the amenity implications of future uses on the site.

Conclusion

Considering the close proximity of residential neighbours the Committee considers that the application of a DDO provides additional certainty for site purchasers, neighbours and the wider community.

2.6 Recommendation

The Committee considered all written submissions (listed in Table 2-1), as well as submissions presented to it during the Hearing. Documents tendered at the Hearing are listed in Table 2-4. 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 inspections of specific sites.

The Committee recommends:

For Corner Wills Street and Brudenell Street, St Arnaud:

A planning scheme amendment be prepared and approved to:

- a) Rezone the subject site to the Industrial 3 Zone**
- b) Apply a Design and Development Overlay Schedule that provides for:**
 - A 3 metre wide landscape and vegetation buffer at the south (Sawbench Lane), west (Wills Street) and eastern boundaries to screen the site from residential neighbours and retain as many of the mature gum trees as possible**
 - The main vehicle access to the site from Brudenell Street to minimise disturbance to residential neighbours.**

Table 2-4: Corner Wills Street and Brudenell Street, St Arnaud – Documents tabled

Documents Presented to Hearing (No.)	Description	Presented By
1	Council submission	Justine Kingan, Northern Grampians Shire
2	Industrial Land Audit for Northern Grampians Shire	— " —
3	Department of Treasury and Finance submission	Gerard Gilfedder, Currie and Brown
4	C54 Northern Grampians Planning Scheme Explanatory Report and Clause 21.06-1	— " —
5	Ministerial Direction No 12	— " —
6	General Practice Note – Potentially Contaminated Land	— " —
7	Planning Practice Note No 2 – Public Land Zones	— " —
8	Whitehorse Planning Scheme Map extract	— " —
9	Whitehorse Planning Scheme extract – Schedule 7 to the Development Plan Overlay	— " —

3 1080a Frankston–Flinders Road, Somerville

3.1 Details of the site and process

Table 3-1: 1080a Frankston–Flinders Road, Somerville – Amendment summary

Amendment summary	
Tranche and site	Tranche 1: Site reference FT 54
Previous use	Railway land
Site owner	VicTrack
Council	Mornington Peninsula Shire
Exhibition	15 February to 25 March 2016
Submissions	Four submissions were received: <ul style="list-style-type: none"> - Department of Health and Human Services - Mornington Peninsula Shire Council - Melbourne Water - APA Group.

Table 3-2: 1080a Frankston–Flinders Road, Somerville – Proposed planning scheme changes

Existing controls	Proposed changes
Public Use Zone 4 (Transport)	General Residential Zone Schedule 1
	Development Plan Overlay to the whole of the site
	Environmental Audit Overlay to the northern portion of the site

Table 3-3: 1080a Frankston–Flinders Road, Somerville – Committee process

Committee process	
Members	Lester Townsend (Chair) and Gordon Anderson
Information session	2 March 2016 at Baxter Community Hall
Hearing	11 April 2016 at Baxter Community Hall
Site inspections	2 March and 11 April 2016
Appearances	VicTrack represented by Sotirios Katakouzinis, Planning Manager (Acting) with Ashley Keys, Project Manager Sales, Property Group and Romy Calati, Land Sales Manager, Property Group Shire of Mornington Peninsula represented by Frank Mangan, Team Leader Strategic Projects and Planning
Date of this Report	8 July 2016

3.2 Process issues for the site

Subdivision before rezoning

A lot does not exist for the land. The Site owner has obtained a permit for a subdivision to create a lot to be sold.

The Committee does not see a general need to obtain a permit before the proposed rezoning is considered. It may be better to do this after a rezoning boundary has been decided.

Changes to the proposed amendment

At the Hearing the Site owner advocated that an optimal planning outcome could be achieved by not including a DPO as exhibited.

Council argued that proceeding with the Amendment without a DPO would be contrary to due process, since the exhibited amendment did include a DPO. Council considered the Committee should confine itself to a review of changes to the DPO advocated in submissions. Deleting the DPO altogether Council said would require the Amendment to be re-exhibited.

The Committee does not agree with this approach. The Committee accepts that its processes are bound by natural justice, but cannot identify any party or land whose interests would be materially affected by not proceeding with the DPO. Whether or not a DPO is justified for the site can be considered on its merits.

3.3 The site and surrounds

(i) Location

The subject site is in Somerville, 50 kilometres southeast of central Melbourne.

The information sheet published by the FTGL Service describes the site as follows:

The site is approximately 1.1 hectares with mature trees and shrubs scattered throughout the site. It has been previously used as car parking and for railway activities. The land is undeveloped and is located within a mostly residential area adjoining the Somerville activity centre.

Figure 3-1: 1080a Frankston–Flinders Road, Somerville – Site location



(ii) Zoning context

The site is close to the Somerville Station just to the south of the Somerville activity centre. The rail line runs along the western boundary of the site and the site has frontage to an arterial road, the Frankston–Flinders Road.

Figure 3-2: 1080a Frankston–Flinders Road, Somerville – Current zoning

Figure 3-3: 1080a Frankston–Flinders Road, Somerville – Proposed zoning



3.4 Site constraints

3.4.1 Planning constraints – overlays and restrictions

No overlays apply to the site.

3.4.2 Physical constraints and opportunities

(i) Access and traffic management

To support rezoning to GRZ, appropriate access to the site would need to be provided. The Frankston–Flinders Road in front of the site is a duplicated road with a 2.3 metre median containing several mature trees.

Frankston–Flinders Road is a major road in the overall road network on the Mornington Peninsula, with a high traffic volume that includes many trucks. To protect the efficiency of Frankston–Flinders Road, the number of vehicular access points to the site should be limited.

The Committee notes the TraffixGroup Traffic Assessment Report, December 2015, includes:

- a possible access design to provide for all movements at a new median opening in Frankston–Flinders Road³
- VicRoads comments on the proposal on 20 November 2015.⁴

Council expressed concern that the access proposal, which includes a 55-metre long right-turn lane in the central median to give access to the site from the north, would require removal of four mature trees in the median.

Council stressed that these trees form part of the attractive visual ‘avenue character’ of Frankston–Flinders Road in this location and provide a distinctive entry treatment when approaching the activity centre from the south. Council thought that:

- removing the trees would be a negative outcome from an urban design and local character perspective
- alternative vehicular access arrangements should be investigated to retain these important trees and, pending the outcome of such investigation, the proposed right-hand turning lane should not be supported
- there should be a requirement that vehicular access be designed to accommodate left in, left out traffic movements only, preferably through a revised proposed DPO.

From its own observations and considerations, the Committee supports Council’s concerns about the access concept, but, in a broader way than just potential impacts on the four mature trees and streetscape character.

The Committee believes there is a need for a broader review of traffic design and management for this section of Frankston–Flinders Road, probably as part of finalising access arrangements to the subject site, mainly to address matters such as:

- turning movements into and out of the informal Somerville Station forecourt and car park area and conflicts with northbound right-turning movements into the car park at the ALDI supermarket
- tight, and arguably unsafe, southbound u-turning movements, particularly at Kinlora Drive, worsened by limited median and carriageway widths and other conflicting movements

³ Appendix B of the TraffixGroup Report

⁴ Section 5.3 of the TraffixGroup Report

- the geometry (both vertical and horizontal) of the entrance to Foxwood Close.

At the Hearing the Committee mentioned possible alternatives which it encourages Council, VicRoads, the Site owner and others as relevant, to explore in addressing matters of access to the subject site:

- one was realigning the accesses for Foxwood Close and the surplus land into a single intersection, possibly a roundabout, on Frankston–Flinders Road at One Chain Road to provide for all movements
- others, consistent with a common approach in and around Somerville, could include roundabouts on Frankston–Flinders Road, at:
 - Kinlora Drive which, with some changes to the median opening at Foxwood Close and One Chain Road, would enable access into Foxwood Close and the subject site to be limited to left in, left out movements
 - the ALDI car park entrance and a realigned access into the Somerville Station area.

The Committee is confident that, while traffic access to the site is not straight forward, workable solutions exist, and a broader approach could deliver high quality and safe access.

The Committee supports the notion of a single access to the subject site. But it believes the key stakeholders need to more broadly investigate an appropriate and safe access and road user regime for the section of Frankston–Flinders Road generally between Eramosa Road East and Kinlora Drive, which encompasses the subject site. The Committee recognises there are other issues, such as funding, which would necessarily influence the outcome of any investigations.

(ii) Utility services

Melbourne Water raised no objections but indicated:

This property is located within the Melbourne Water Kinlora Drainage Scheme (2326). There are unpaid contributions owing for increasing density in this area.

As the site is located within a drainage scheme, prior to any development of the site any outstanding drainage scheme contributions must be paid to Melbourne Water.

APA Group had no objection to the proposed rezoning. It confirmed there are no existing gas reticulation mains within the subject area. However, APA Group submitted that future gas reticulation requests are dependent on property development and viability and stressed the need to direct any new subdivision applications or requests for the land to its Mains Extension Co-ordinator.

(iii) Size and shape of surplus land

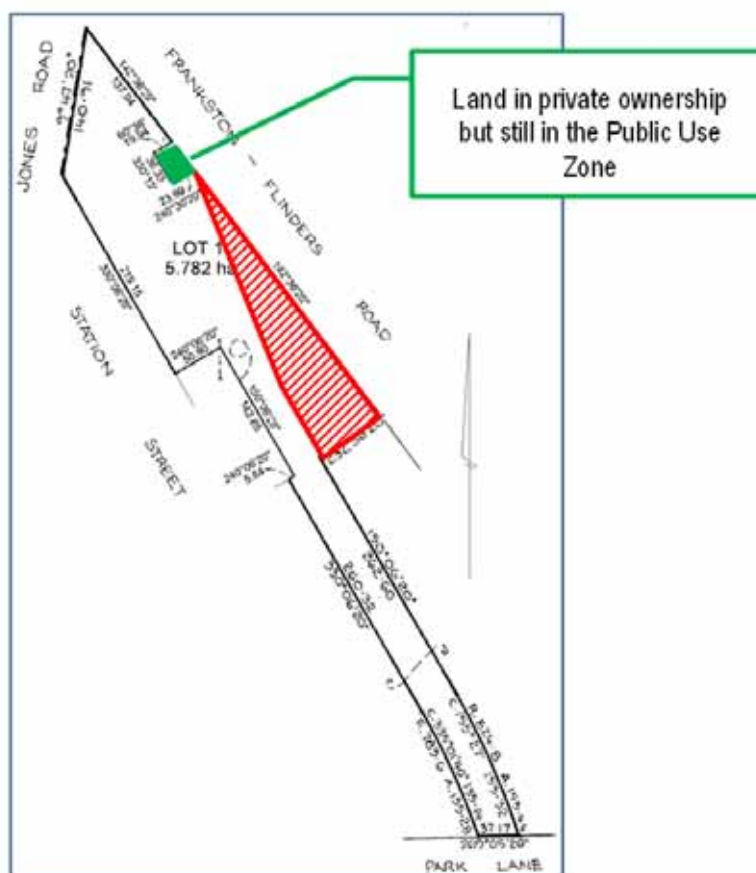
In its submission, Council suggested the Committee might wish to consider the proposed form of subdivision which essentially creates a triangular shaped lot, making it more difficult to achieve an appropriate form of development.

Council submitted:

While the site is surplus to railway requirements, its shape and size needs to be carefully considered to determine the extent to which it is suitable for residential development. The narrow northern section of the proposed site is arguably unsuitable for residential development.

The Committee raised the matter of the status of the small ‘indented’ parcel of land on the Frankston–Flinders Road frontage immediately to the north of and adjoining the surplus land – shown as ■ on Figure 3-4.

Figure 3-4: 1080a Frankston–Flinders Road, Somerville – Existing lot arrangement of VicTrack land



The Site owner said the small parcel of land, previously public land, was declared surplus some years ago and is now held in private ownership. The Committee was told that the decision on the size and shape of the present surplus land was made after broad consideration by the ‘transport family’ which has access to all relevant information including land ownership. The Committee understands the taper to the north along the western edge of the surplus land is necessary to ensure satisfactory visibility for train drivers.

The Committee asked, if driver visibility is a controlling factor on the shape of the subject site, why the small parcel would not limit visibility and, if not, why the taper could not be realigned to join with the southwest corner of the small parcel. Such a change could address many of the issues Council raised about better using the northern part of the surplus land – discussed in Section 3.5.2(i) below.

The Committee believes there would be merit in reviewing the shape and size of the surplus land at the northern end to better connect to the privately-owned parcel of land at the station entrance while still preserving train driver view lines. This would increase the area of land that was surplus.

(iv) Site contamination

VicTrack land can be contaminated from a number of sources. The Committee has no concerns with and supports application of the EAO to the northern part of the surplus land. The Committee does not see this as a fundamental constraint to a residential use of the land.

3.5 Issues with the proposed changes

3.5.1 What zone is suitable

The Site owner submitted that the proposed rezoning to General Residential Zone Schedule 1 (GRZ 1) was appropriate for a number of reasons:

- *Surrounding residential land is located within this zone. In the Somerville township the only other residential zone is the Low Density Residential Zone (LDRZ) and this applies to land on the periphery of the township as a transition to the Green wedge which encompasses the township.*
- *There is no apparent need for additional Commercial Zone land.*
- *There are no other public uses requiring land in the Somerville township and which this land is appropriate.*
- *The Council has not identified it as suitable for public open space or expressed an interest in purchasing the land for Council purposes.*
- *The General Residential Zone is consistent with the zoning of land in small townships of the Mornington Peninsula.*
- *A Mixed Use Zone may introduce commercial uses which will require more detailed planning to cater for traffic generation, access to the Road Zone, car parking and interface with surrounding uses.*

Council supported the proposed GRZ 1 because it was the alternative zoning most consistent with the zoning pattern of the surrounding land.

The site does not have constraints that rule out a residential use. The Committee concludes that the application of the GRZ1 is consistent with the surrounding zoning and can be supported.

3.5.2 What overlays are suitable

(i) Development Plan Overlay

While a DPO was proposed, the Site owner did so based on an earlier rezoning proposed for the site, but did not seek to progress the DPO.

Submissions

Council submitted:

... the exhibited information did not include information about what is envisaged in the future on the railway station land, particularly the area adjacent to the subject site. Although this may have been considered in deciding to declare the land as surplus, no explanation or justification has been provided.

In the absence of this information, a careful assessment needs to be made about the extent to which a setback from the railway reserve should be provided within the site to provide for suitable buffer arrangements. While the current railway services and their noise and other amenity impacts are limited, there remains uncertainty about the potential for a substantial increase in Hastings Port related railway services in the future.

In its submissions about the DPO Council made suggestions about potential use of the tapered northern section of the site for facilities for users of the Westernport Trail and to retain some existing mature trees. Council considered that, with adequate design and safeguards, the area could be suitable for a small public open space reserve giving benefit to both the residents of the development and the wider community and providing some degree of net community benefit to support the planning scheme amendment.

The Committee heard submissions from VicTrack and Council about the need and content of a DPO.

The purpose of a DPO as set out in Clause 43.04 of the VPP is:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.

To exempt an application from notice and review if it is generally in accordance with a development plan.

The DPO is a tool to facilitate the master planning of land. It does not change what permissions are required.

Council supports the proposal to apply a DPO to the site as this will ensure that:

- the site will be used and developed exclusively for (medium density) residential purposes – not only is this considered the best fit for this site, but it also excludes possible unsuitable commercial uses that are permissible in the zone
- the site will be developed in an integrated manner
- a reasonable level of certainty is obtained regarding the development outcome.

Council seeks a different DPO to that exhibited and provided a detailed submission on the particular requirements sought.

The Site owner has a number of concerns with Council's proposal. In summary these are:

- Council wishes to lock in the land being used only for residential purposes when the proposed GRZ allows for a number of other uses either with or without a permit.
- Council is seeking to place a notation on the title of the land about railway noise that has no meaningful purpose other than to state the obvious, that the land abuts an operating railway line which may be a receiver of noise generated by railway operations.
- The requirement for at least 15 per cent of the land as public open space with fencing and recreational facilities is unclear as to whether this is for the residents of the future development or whether it is to be transferred to Council and made available to the broader community.
- The proposed height limit of 9 metres and two storeys above natural ground level is arbitrary and does not consider that a higher built form may be appropriate for community and residential buildings.

The Site owner submitted that an optimal planning outcome is best achieved when the uses that are permissible in the GRZ, continue to be allowed on the subject site, at the discretion of the responsible authority on their individual planning merits.

Council report refers to the purpose of the DPO:

The purpose of the DPO is to stipulate a range of mandatory parameters for that development and avoid a potential future appeal on crucial matters, such as building height and the building setback from Frankston–Flinders Road (Council Meeting Minutes – 15 March 2016, p48).

The Site owner submitted that the aim of a DPO should never be about avoiding future appeals. The aim should be about providing meaningful certainty that achieves a good and appropriate planning outcome. The Site owner agreed that matters such as building height, building setbacks, landscaping and access to main roads are matters that properly fit into the scope and purpose of a DPO, but there should also be a reason for these requirements which relates to the site context, site characteristics and site attributes.

It was submitted that when properly examined this site has many attributes which make it a prime site in the Somerville township that should not be unnecessarily constrained in how it can be used or developed. Such sites are scarce and if the planning scheme 'locks it up' it ultimately is a poor outcome for the community which can be deprived of facilities for which there is a need in the township.

VicTrack's primary role, as is the role of other government agencies, is to identify land that is surplus to its purposes (transport) and make it available for alternative community use and development, whether that is public or private. The overall priority here is to make a scarce resource, land, available in a township which has defined urban boundaries. Underutilising this land and not achieving an optimal outcome is a poor allocation of this scarce resource and is not a good planning outcome.

Discussion

It is not clear to the Committee that this site warrants the application of a DPO. The site is not particularly large and typical development issues could be handled by way of a normal permit application process.

The reasons Council put forward for supporting a DPO are not supported by the Committee.

Planning Practice Note 23 clearly states that a DPO cannot “*change the scope of the discretion provided in the zone applying to the land*”. Council’s expectation, and its interpretation of the effect of the proposed DPO to rule out so called commercial uses which are discretionary in the GRZ, is contrary to the Planning Practice Note 23. There is no strategic basis why non-residential uses could not be considered on their merits for the site.

Council has not explained why it is opposed to any of the uses for which a permit may be sought on any other GRZ land in Somerville. The other policies and provisions in the planning scheme which guide the planning of commercial uses in residential zones that apply to other GRZ land in Somerville will equally apply to this land. In fact it may be very prudent to allow for such uses on this site should there be a demonstrated need for them and they have planning merit. After all, performance-based planning is to be preferred to rigid prescriptive planning which does not allow flexibility to use scarce urban land in Somerville and the Mornington Peninsula. An example of the shortage of land in Somerville is the location of the Somerville Police Station on the urban fringe of the township rather than in its centre.

The Committee does not support notation on title regarding train noise. It is not clear what this is meant to achieve: the presence of a train line will be clear to future purchasers.

Other requirements over open space and built form seem to be seeking something special for the site which are not supported by policy and which do not apply to nearby private land.

Conclusion

The use of a DPO on the site is not warranted.

(ii) Environmental Audit Overlay

The Site owner submitted that the EAO will ensure the suitability of the land for any proposed future uses. Council noted the EAO would only apply to the northern section of the land, because an environmental audit has previously been completed for the southern section.

The Committee supports the application of the EAO.

3.5.3 Affordable housing

The exhibited DPO requires the provision of at least four dwellings for affordable housing.

The Site owner submitted that it:

... also understands the need for affordable housing and the pressures placed on housing providers to meet this objective. It is willing to provide a reasonable and meaningful contribution to the provision of affordable housing.

Council submitted that the location and nature of the social housing should be to the satisfaction of the responsible authority, in other words, themselves. The Site owner submitted that any affordable housing to the satisfaction of the responsible authority for a number of reasons:

- It is working to provide affordable housing in a meaningful way, in conjunction with the Department of Health and Human Services. However it needs to balance this objective with achieving an appropriate return for the site which realises its best and optimal development opportunities. There may be other locations which are better able to provide affordable housing which address more pressing housing needs.
- It is concerned that a site specific provision in the planning scheme DPO is being used to achieve greater housing diversity and affordability when no information has been provided to support how this would be reasonably addressed to the satisfaction of Council. Loose terms such as affordable housing which remain solely at the discretion of the responsible authority add to the planning risk of the subject site. Council has not provided any certainty as to what is being sought.

The Site owner prefers to achieve a direct contribution to the Director of Housing based on the gross sale price of the subject site as determined by the Office of the Valuer-General Victoria. This will ensure that the process is straightforward, immediate and achievable without placing a compliance and enforcement burden upon the responsible authority, the needs for restrictions and agreements on the title and the inclusion of additional parties such as future owners to ensure the social housing is delivered.

The Site owner submitted that it has a responsibility under section 16 of the *Transport Integration Act 2010* to apply the principle of the triple bottom line. The principle of triple bottom line assessment means an assessment of all the economic, social and environmental costs and benefits taking into account externalities and value for money. The functions of VicTrack under section 120 of the Act include (subject to section 125), *“to promote the sustainable development of land vested in Victorian Rail Track which is not required for the future development of the transport system”*.

The Committee notes the Site owners’ commitment to affordable housing and supports the mechanism that has been identified to achieve this. There is no need for this to be reinforced under a DPO, and it is not clear whether such a condition would ultimately have any legal affect.

3.6 Recommendation

The Committee considered all written submissions (listed in Table 3-1), as well as submissions presented to it during the Hearing. Documents tendered at the Hearing are listed in Table 3-4. 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 inspections of specific sites.

The Committee recommends:

For 1080a Frankston–Flinders Road, Somerville:

A planning scheme amendment be prepared and approved to:

- a) Rezone the subject site to the General Residential Zone Schedule 1
- b) Apply the Environmental Audit Overlay to the northern part of the subject site.

The proposed Development Plan Overlay not be progressed.

VicTrack review the size and shape of the surplus land, mainly at the northern end, to see if it can be expanded to create a site that better lends itself to development. If the area of surplus site can be expanded, apply the General Residential Zone Schedule 1 to the expanded site, otherwise proceed as exhibited.

VicTrack work with VicRoads and Council to investigate a suitable and safe access and road user regime for the section of Frankston–Flinders Road between Eramosa Road East and Kinlora Drive, as part of finalising access arrangements to the subject site.

Table 3-4: 1080a Frankston–Flinders Road, Somerville – Documents tabled

Documents Presented to Hearing (No.)	Description	Presented By
1	VicTrack submission	Sotirios Katakouzinis
2	Extracts from <i>Network Development Plan – Metropolitan Rail</i> , December 2012, Public Transport Victoria	— “ —
3	Extracts Panel Report <i>Western Port Highway North Upgrade</i> , 7 August 2015	— “ —
4	Panel Report Mornington Peninsula Planning Scheme Amendment C86, September 2009	— “ —
5	Aerial Oblique and site photographs	— “ —
6	Panel Report Mornington Peninsula Planning Scheme Amendment C184 Part 2, 30 June 2015	— “ —
7	<i>Playspace Strategy 2015-2020</i> , April 2015, Mornington Peninsula Shire Council	Frank Mangan
8	VicTrack suggested changes to proposed DPO20	Mr Katakouzinis
9	Mornington Peninsula Shire Council submission	Mr Mangan

4 8–20 and part 22 Phillip Street, Dallas

4.1 Details of the site and process

Table 4-1: 8–20 and part 22 Phillip Street, Dallas – Amendment summary

Amendment summary	
Tranche and site	Tranche 1: Site reference FT60
Previous use	Part of site for water tank and water distribution
Site owner	Melbourne Water
Council	City of Hume
Exhibition	15 February to 25 March 2016
Submissions	Seven submissions were received: <ul style="list-style-type: none"> - Melbourne Airport Community Aviation Consultation Group - Mark Hynes - Australian Pacific Airports Melbourne - Sait Sen - Melbourne Water - Hume City Council - Environment Protection Authority (late submission).

Table 4-2: 8–20 and part 22 Phillip Street, Dallas – Proposed planning scheme changes

Existing controls	Proposed changes
Public Use Zone 1 (Service and utility)	Mixed Use Zone
Melbourne Airport Environs Overlay 2 (MAEO2)	To remain Site specific provision in the Schedule to Clause 52.03 'Specific sites and Exclusions' would change the minimum lot size of this Overlay
	Development Plan Overlay

Table 4-3: 8–20 and part 22 Phillip Street, Dallas – Committee process

Committee process	
Members	Lester Townsend (Chair) and Gordon Anderson
Information session	29 February 2016 at Broadmeadows Global Learning Centre
Hearing	19 April 2016 at Westmeadows Community Centre
Workshop	15 June 2016 at Keilor
Site inspections	29 February and 19 April 2016
Appearances Hearing	<p>Melbourne Water represented by Jane Sharpe (Barrister), advised by Mr Matthew Gilbertson (Town Planner) with Robert White and calling evidence from:</p> <ul style="list-style-type: none"> - Robert Milner (Strategic and Statutory Planner) from 10 Consulting Group - Timothy Marks from Marshall Day Acoustics <p>Hume City Council represented by Michael Sharp with Andrea Taylor Australian Pacific Airports (Melbourne) Pty Ltd represented by John Carey of Minter Ellison with Melanie Hearne Mark Hynes Sait Sen</p>
Appearances Workshop	<p>Melbourne Water represented by Mr Matthew Gilbertson and John Glossop of Glossop Town Planning Hume City Council represented by Michael Sharp Australian Pacific Airports (Melbourne) Pty Ltd represented by John Carey of Minter Ellison and Melanie Hearne Sait Sen Brimbank Council represented by Lorraine Dowsey Department of Education represented by Laura Thomas of Urbis and Geoffrey Mills Places Victoria represented by Amanda Hunt Department of Treasury and Finance represented by Joan Copeland Department of Environment, Land, Water and Planning represented by Kate Stapleton.</p>
Date of this Report	8 July 2016

4.2 Process issues

Council submitted that it did not support the Amendment because it was premature; Council considered further work was required to justify both the rezoning of the land and the nature of the proposed development.

Council submitted that the Committee should not give any weight to the land's status as surplus: Council drew on the Terms of Reference which it said infer:

... the Committee is confined to considering planning merit, not the ability or need of Melbourne Water to dispose of the surplus land.

Council submitted the aim of the FTGL Service and the Committee is to facilitate government policy for the sale of surplus land and it is not the role of the Committee to determine the best zone for land.

Revised Committee report

On 18 May 2016 the Committee advised the Minister that it recommended:

For 8–20 and part 22 Phillip Street, Dallas, the proposed rezoning to Mixed Use Zone, introduction of an Incorporated Plan under Clause 52.03 and application of the Development Plan Overlay not be progressed.

On 26 May 2016 the Minister for Planning wrote to the Committee and said:

I would like you to convene a workshop session with the interested parties and seek their views on an alternative planning scenario for the site. It must be made clear that the current Public Use Zone is no longer appropriate and that I am seeking a specific recommendation from the Advisory Committee on an alternative suitable zone.

The Committee convened a workshop and invited all parties to the Hearing on 15 June 2016. Parties with an interest in sites referred to the Committee in Tranche 2 that are also affected by the MAEO also participated in the workshop. Alternative zones were discussed but no consensus was reached on an alternative zone that all parties considered suitable. Alternative approaches to disposal of land for highly constrained sites such as this one were also discussed. The round table agreed there was an opportunity for highly encumbered land to be sold through an expressions of interest process targeted at the private, community and not-for-profit sectors.

4.3 The site and surrounds

(i) Location

The subject site lies in the middle of the suburb of Dallas located 15 kilometres north of central Melbourne and 7 kilometres east of Melbourne Airport.

The information sheet published by the FTGL Service describes the site as follows:

The site is approximately 1.15 hectares with mature trees and shrubs scattered throughout the site. The site is undeveloped and has cyclone fencing around the perimeter. It is located in a mostly residential area adjoining the Dallas activity centre.

The site is part of a water supply tank storage system. It is flat, essentially unencumbered, contains no buildings and has a number of established trees of which three require a planning permit for removal. It is secured from public use by a two-metre chain mesh fence.

Figure 4-1: 8–20 and part 22 Phillip Street, Dallas – Site location



Figure 4-2: 8–20 and part 22 Phillip Street, Dallas – Photo of land from Inverloch Street⁵



(ii) Zoning context

The site is part of land used for water supply infrastructure and this use will continue on the balance of the land. Land to the west is residential with dwellings developed in the 1960s and 70s. To the south is the Dallas activity centre which has a mix of shops including a supermarket. To the east is an industrial site that was previously part of the larger publicly owned parcel.

⁵ Source: Advisory Committee

Figure 4-3: 8–20 and part 22 Phillip Street, Dallas – Current zoning



Figure 4-4: 8–20 and part 22 Phillip Street, Dallas – Proposed zoning



4.4 Site constraints and opportunities

4.4.1 Planning constraints – overlays and restrictions

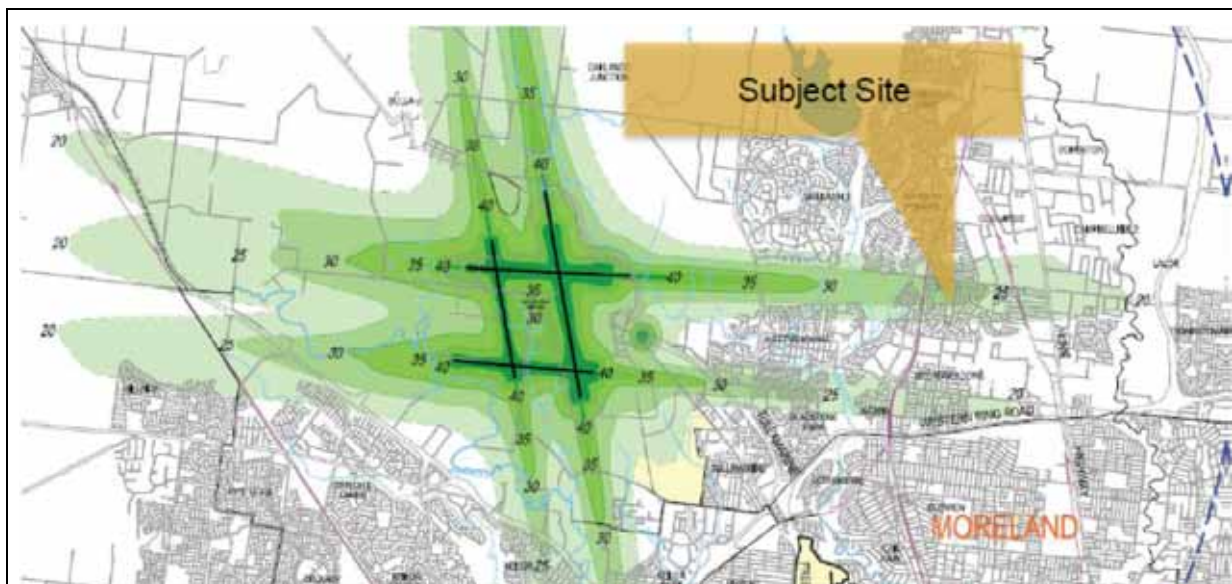
Background

The Australian Noise Exposure Forecast (ANEF) system was developed through a major socio-acoustic survey carried out in the vicinity of a number of Australian airports in 1980. ANEF charts are contour maps that show a forecast of aircraft noise levels that are expected to exist in the future. They are prepared for all of the major and regional airports and most of the minor aerodromes that have a large number of annual movements.

The subject site is subject to aircraft noise. Planning scheme overlays MAEO1 and MAEO2 restrict sensitive uses such as dwellings in this location. In locations like the subject site, occupants of the land will be frequently exposed to high levels of aircraft noise.

Figure 4-5 shows the location of the subject site relative to Melbourne airport on one type of noise chart prepared using the ANEF system. It is a noise prediction (ANEC2) which is for one of the airport’s major operational stages, namely three runways at maximum capacity (parallel east–west runway as the third runway).

Figure 4-5: 8–20 and part 22 Phillip Street, Dallas – Noise Contours (ANEC2) Airport operating at Maximum Capacity with Three Runways



Source: Figure 12.3 Melbourne Airport Master Plan 2013

The purposes of the Melbourne Airport Environs Overlay are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To ensure that land use and development are compatible with the operation of Melbourne Airport in accordance with the relevant airport strategy or master plan and with safe air navigation for aircraft approaching and departing the airfield.

To assist in shielding people from the impact of aircraft noise by requiring appropriate noise attenuation measures in dwellings and other noise sensitive buildings.

To provide for appropriate levels of noise attenuation depending on the level of forecasted noise exposure.

More specifically, the purpose of MAEO2 is:

To identify areas that are or will be subject to moderate levels of aircraft noise based on the 20-25 ANEF contours and to limit use and development to that which is appropriate to that level of exposure.

MAEO2 sets out a number of requirements for use, development and subdivision of land.

The area surrounding the site is covered by either MAEO1 or MAEO2, there are many dwellings within both Overlay areas despite there being a prohibition on dwellings within MAEO 1 and density and subdivision controls in MAEO2.

Clause 18.04 of the VPP and the National Aviation Safeguarding Framework (NASF)⁶ provide guidance in the assessment of planning decisions within airport environs, such as the rezoning of land. Council submitted that this meant considering ‘need’ and ‘community benefit’ in the strategic assessment of an amendment that enacts conflicting policy of equal State significance.

Submissions and evidence

In considering need, net community benefits, and conflicting policies, Council submitted:

- The site is well placed to deliver medium and higher density residential development and has state and local policy support.
- Clause 18.04 seeks to strengthen⁷ the significance of Melbourne Airport by ensuring any new use or development does not prejudice the operations and curfew-free status of the airport. One prime means to achieve the objective is to:

... prevent or limit development on land like the subject site that is subject to the impacts of aircraft using Melbourne Airport and experiences a level of noise that could generate significant pressure to limit airport operations, including a curfew.

Council made submissions about the use and interpretation of NASF. It believed it was possible to resolve the policy conflicts by drawing on Guideline A (part 2) in NASF, which specifically seeks to provide guidance on the assessment of proposals seeking to rezone brownfield areas to permit noise sensitive uses. Council submitted the combined statements in Guideline A implied three clear ‘tests’ to determine whether development of the land would deliver a net community benefit that warrants the introduction of additional noise sensitive uses within the airport environs:

- Test 1: Is the development of this site needed to meet a housing or employment supply requirement?
- Test 2: Does the development of the land in question offer specific or unique benefits that outweigh the exposure to aircraft noise?
- Test 3: Are optimal measures proposed as part of the development to manage the impacts?

Council stressed that the third test should only be considered if the first two tests determine that development of the site would meet an identified need. Council added the third test should not be used to prove that noise impacts could be mitigated, thereby removing the need to demonstrate community benefit. This was particularly relevant in the case of the proposed Amendment given the availability of land to accommodate 6,500 new dwellings in the Broadmeadows structure plan area less than 500 metres south of the subject site.

Council did not support the proposed controls and strongly encouraged the Committee to recommend that the Minister for Planning does not progress an amendment.

⁶ NASF introduced as a policy guideline to Clause 18.04-1 of the VPP on 8 October 2015.

⁷ Council’s submission used ‘maintain’. The Committee inserted ‘strengthen’ as in the Objective for Clause 18.04-1 Melbourne Airport.

Council further encouraged the Committee to:

Require the [Site owner] ... to undertake further strategic work to justify the proposed rezoning which better addresses State and local planning policy, including NASF, in consultation with Council and Melbourne Airport.

Confirm and outline a process to assist the [Site owner] ... in undertaking the future work needed to properly assess and work through the strategic merits of an amendment such as this.

Mr Milner gave evidence on behalf of the Site owner that the Committee should measure the likely impact on Melbourne Airport to determine if the proposal was likely to seriously threaten the curfew-free status was not appropriate because:

The scale of land that is affected by the airports operations is far less than the scale of land available within Melbourne to meet housing need.

The current zoning protects the curfew-free operation of Melbourne Airport – therefore it is rezoning that is generating the conflict.

It is possible to measure the need and impact of the provision of an identified number of additional dwellings (particularly dwelling types and bedroom numbers that meet a particular housing need) to a particular area. However, it is difficult to measure the number of possible noise complaints that is likely to be generated from the proposed development of a site such as this, and thus the potential risk the proposed development will have on the curfew-free operation of the Melbourne Airport.

Mr Milner gave evidence on the threshold test aspect of his assessment, namely:

If the proposed rezoning was likely to seriously threaten the curfew-free operation of the airport then the cost to the State and the nation would unequivocally outweigh the redevelopment potential of the subject site.

He concluded that his was not the case:

The principles and detail underpinning this Amendment do not pose that threat.

Mr Marks provided a statement and presented evidence on his peer review of the aircraft noise assessment part of the Vipac Engineers and Scientists (Vipac) acoustic report⁸ submitted in support of the proposed rezoning of the land.

Mr Marks thought the forecast noise levels due to aircraft over flights at the subject site presented in the Vipac report were too low. Therefore the construction of future dwellings on the site should provide a sound reduction of more than R_w 29 dB for bedrooms and more than R_w 24 dB for living areas. He estimated that the sound reduction performance for each

⁸ Dallas Tank Site – rezoning for residential, Acoustic Report, 18 September 2015, by Vipac Engineers & Scientists

space may need to be increased by up to 6 dB. He did not think that this would be an onerous requirement.

Mr Marks noted there are large numbers of existing dwellings covered by MAEO2 that are already subject to similar levels of aircraft noise as the subject site:

We are of the view that provided the appropriate procedures detailed in [Australian standard] AS2021 are followed, and by using a more rigorous calculation procedure, that the AS 2021 indoor design sound levels can be achieved.

These indoor noise levels are commonly accepted by authorities and acoustic consultants as providing a suitable amenity for the majority of residents who occupy houses or apartments within aircraft noise affected areas.

It is our view that, provided with an adequate construction, and with good sound reduction properties that will meet the indoor sound levels as detailed in AS 2021, then there is no reason why use of the subject site for residential development should be refused on the grounds of noise.

Mr Marks added:

As described in Table 2.1 of AS 2021 this area is considered to be 'conditionally acceptable' for the purposes of a residential development. AS 2021 states that if the building site is classified as 'conditionally acceptable' then aircraft noise levels and the required aircraft noise reduction for the proposed construction should be determined in accordance with the procedures in the standard.

Mr Marks gave evidence about interpreting and using AS 2021 and said:

It is our view that, provided with an adequate construction, and with good sound reduction properties that will meet the indoor sound levels as detailed in AS 2021, then the use of the subject site for residential development is acceptable.

He said building design should be specific, for example on door and window sizes, and that submissions in the permit process would need to demonstrate compliance with AS 2021.

The Site owner submitted that:

The continuation of the MAEO2 provisions over the land (with modifications to the subdivision controls) and the introduction of the Development Plan Overlay (DPO) requiring acoustic attenuation measures and a section 173 agreement on title [required under the proposed DPO] will ensure that the ongoing 24 hour curfew-free status of the Melbourne Airport will not be compromised.

In relying on the reasons it outlined and the evidence of Mr Milner and Mr Marks, the Site owner submitted:

... this Amendment will provide a net community benefit and provide for sustainable development for present and future generations.

The Site owner stressed the land is not a greenfield site; it is a brownfield site in the middle of a developed area. It added that:

- MAEO2 is aimed at managing rather than preventing uses (an interpretation not supported by Melbourne Airport)
- the overlays were introduced after the suburb developed
- Melbourne Airport has operated for a long time and existing residents have not affected its curfew status
- development of the land will not affect airport operations.

It submitted that, although the land for development was opposite the existing shopping centre, it would not be competing with it.

Melbourne Airport CACG lodged a written submission but was not able to appear at the Hearing. It summarised its role which started in 2011 as one of 19 such groups required by the Commonwealth Government to be established by each leased federal airport. In its submission Melbourne Airport CACG highlighted some key matters, including:

While it can be argued that building design can be employed to overcome the high proportion of the population adversely affected by aircraft noise, this fails to recognise that external noise is not reduced and limitations will be imposed on lifestyle, for example, windows and doors must remain closed in order to achieve designed levels of noise attenuation.

Melbourne Airport CACG also raised and addressed issues about the proposed rezoning and its implications on aspects such as residential density. It drew on its experiences about development around Melbourne Airport and of residents living in areas impacted by aircraft noise and aviation.

Melbourne Airport CACG said it had raised its concerns about a lack of understanding and application of planning controls around airports with various ministers and agencies over the past year. It added:

This current proposal by Melbourne Water, a corporation owned by the Victorian Government, demonstrates a lot more needs to be done to give airport safeguarding the pre-eminence the community expects and deserves.

Australian Pacific Airports Melbourne (the Airport), summarised its role and some background to Melbourne Airport, including the decision taken in the late 1950s to establish the airport at Tullamarine. At the time it was the view of both State and Federal governments that Melbourne Airport should be relocated close enough to be reasonably accessible to the city and far enough away from established areas so as to be able to operate without constraint. Over following years there were many supporting statements about its ability to operate 24 hours a day and the importance of the large area of land acquired to provide a safety and noise buffer for people.

The Airport stressed and quantified the importance of the airport to Victorian business and tourism while confirming its competitive advantage compared with many other Australian and overseas airports, largely because of its curfew-free status.

The Airport submitted details and examples of the considerable policy support for strengthening and protecting the role and function of the airport.

The Airport made submissions on the MAEO1 and MAEO2 controls (including the bases for their boundaries – the recommendations of AS 2021 and the 2003 Ultimate Capacity ANEF boundaries). It said the policy framework also speaks of protecting the airport and:

... seeks to caution against the encroachment of residential and other sensitive uses which have the potential to interfere with the long-term planning and operational aspirations for this important transport gateway.

The Airport expressed its strong view about avoiding the imposition of external constraints on airport operations, notably operational curfews, which largely arise from:

... short-sighted planning decisions made to appease land speculators on the urban fringe, or on the fundamentally misguided assumption that individual applications of a minor nature will not have any real impact over time.

The Airport concluded, among other things:

- The Committee should recommend the Amendment not proceed for, to do otherwise, would be to undermine those provisions of the planning scheme which seek to ‘ensure’ the continued operation of Melbourne Airport.
- In any ‘balancing’ of competing interests, the scales must come down heavily in favour of the airport.
- While tempting to consider the proposal as minor or isolated, beware of the ‘tyranny of small decision’ where small changes are seen as insignificant, but eventually add up to a large change.

Mr Hynes described the accumulation of small changes as an exercise in ‘frog boiling’.

Discussion

The Committee could consider framing and applying Mr Milner’s suggested threshold test in the opposite, namely: What is the impact on housing need by not developing the land as proposed? Council noted this in the context of *Plan Melbourne* (2014) estimating an additional 1.6 million dwellings would be needed by 2051 to meet Melbourne’s housing needs and the Broadmeadows structure plan identifying land for some 6,500 new dwellings.

While Mr Milner’s approach was useful in clarifying the policy at play, it did not lead to a compelling case of required community benefit and did not provide the quantitative and qualitative evidence of housing need to confirm his view that “*reasonable redevelopment should not be prevented*”. It also brings into question the definition of ‘reasonable development’ and what is reasonable development in a noise affected area?

The approach of looking at community benefit in determining whether the provision of housing on the site would provide a net community benefit that outweighs any potential impact to Melbourne Airport’s ongoing curfew-free operation is consistent with the aims of planning in Victoria, set out in the State Planning Policy Framework.

In strategic planning terms, the reason sensitive uses are restricted in locations like this is they are sensitive to change. That sensitivity manifests itself in complaint. Over time complaint has the capacity to generate broad-based community opposition and the introduction of limitations on the operation of the airport.

The impact of aircraft noise, both now and in the future, should not be underestimated. If anything, a precautionary approach should be taken.

While a lot of policy points to the suitability of the subject site for a high density mixed use outcome, the site's location under the flight path of Melbourne Airport means that a higher level of analysis and justification of the need for the development is required to demonstrate that the community benefit from the development outweighs any potential impact on the airport.

The proposal currently before the Committee seems to assume that housing and urban consolidation objectives automatically trump other State policy objectives. The Committee does not agree with this.

Conclusion

The Committee concludes that a policy objective to limit residential encroachment into areas affected by aircraft noise is a constraint that cannot be overcome. It cannot be overcome by simply providing acoustic insulation to dwellings: the issue is more complex than this and the policy settings do not suggest this as a cure-all for the amenity impacts of aircraft noise.

Residential development of the site is not appropriate in light of the relevant planning scheme and State and Local Planning Policy Frameworks.

4.4.2 Physical constraints and opportunities

The site contains a number of large trees that make a significant contribution to the local landscape. Development of the site would almost certainly require the removal of the trees. In the local context this would be a significant reduction in the attractiveness of the area.

A detailed assessment of the trees on the site was undertaken by Graeme Lewis a consultant arborist. This report concluded:

A broad range of species have been planted across the site. The most commonly utilised being the Eucalyptus genera; which included nine species. Of the one hundred and 86 trees assessed, one hundred and 64 were Eucalypts.

Three large maturing River Red Gum ... are thought to be naturally occurring indigenous trees. Most of the subject trees are planted in formal rows adjacent Inverloch Street and Phillip Street. Other trees are planted in a more random pattern.

The report concluded that 4 per cent of the assessed trees are well suited to retention within a residential site, 37 per cent are moderately suited to retention within a residential site and 59 per cent are unsuitable. This is based on the nature of trees. Any development may require further removal to establish a building footprint.

Mr Hynes made submissions about the importance of the site, not for the needed housing density and diversity in Dallas, but for the community. He submitted that, rather than use a natural setting to develop housing, there were other disused industrial sites suitable for development. Mr Hynes suggested there were many other potential uses for the land,

including a traffic school, playgrounds, picnic areas, a bird hide and a community meeting place, drawing comparisons with the Westmeadows venue for the Committee Hearing. He submitted that the trees on the land contribute to the Inverloch Crescent streetscape which forms part of a significant north–south pedestrian ‘highway’ between Broadmeadows Station and Shopping Square and the areas of Coolaroo, Bethal and Meadow Heights.

Mr Hynes stressed the land was iconic, was the beginning of the suburb, and submitted he would like to see:

... it remain and developed with little impact for a community that would welcome greater engagement with it through recreational and aesthetic enjoyment.

The Committee agrees that the trees are a significant site feature and their removal would have a significant adverse impact on the amenity and character of the locality.

4.5 Issues with the proposed changes

4.5.1 What zone is suitable

(i) Is the Mixed Use Zone suitable

Submissions and evidence

The Site owner proposes a Mixed Use Zone (MUZ) to encourage a range of uses, including medium density housing in the form of one and two-bedroom apartments and townhouses, to facilitate the highest and best use of the land. The MUZ is part of the residential suite of zones.

Council submitted that although some ideas emerged for possible retail, commercial and open space development, Council submitted they were not part of the proposal before the Committee. Council’s clear view was the Committee could not make recommendations on these. Doing so would prejudice fuller examination of the merits of any alternative proposals. For example, Council added it would have concerns regarding large scale retail that would not be consistent with its activity centre hierarchy.

Mr Sen supported the proposed rezoning, given his view about the lack of smaller (two-bedroom) houses in the area. He accepted there are many houses without noise attenuation and submitted that people do get used to aircraft noise. In supporting the Site owner’s proposal Mr Sen felt it important to put before the Committee the background and status of the proposal his company had submitted to Council to rezone adjoining land at 2-6 Phillip Street, Dallas from Industrial 3 Zone to a MUZ.

Discussion

The Committee commends the Site owners for its efforts to meet government requirements for dealing with this surplus site and in preparing the Amendment documentation.

While the Committee understands the Site owner’s aspirations for residential development on the subject site, mainly to achieve its highest and best use, it is in no doubt about:

- the primacy of protecting and, as embodied in policy, strengthening Melbourne Airport's role as significant State and arguably national infrastructure
- residents and airport flight paths not mixing.

Conclusion

The Committee recognises and unequivocally accepts the various policies and supporting documentation, such as the NASF Guidelines, outweigh any other which may affect Melbourne Airport's curfew-free status and the competitive advantages for Victoria. And certainly outweigh any residential development and urban consolidation policies and objectives. The MUZ is not appropriate for the site.

(ii) What zone might be suitable

The Airport is concerned to limit uses sensitive to airport noise.

Accepting that such uses should be limited leaves a small choice of urban zones:

- Industrial 3 Zone
- Commercial 2 Zone
- A Special Use Zone tailored to a specific proposal.

The purposes of the Industrial 3 Zone are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.

To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.

To allow limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations.

To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.

The purposes of the Commercial 2 Zone are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.

To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

There was general acceptance at the workshop that there are competing policy objectives for the site:

- the policy objective for the State to dispose of land
- the policy objective to limit residential development under the flight paths of Melbourne Airport, and the policy to ensure appropriate amenity in residential areas.

Government policy on the disposal of land states:

Unless an exemption applies as detailed at section(d), Victorian Government agencies:

- (iv) prior to offering land for sale by a public process, must have in place the most appropriate zoning (and other relevant planning provisions) so that the land can be sold on the basis of its highest and best use.*

The curfew-free status of Melbourne Airport derives from long-term planning. It would be short sighted to permit further residential development in areas affected by noise on the sole basis that doing so would deliver a higher sale price to surplus government land. ‘The highest and best use’ must be determined in the context of the ‘most appropriate zoning (and other relevant planning provisions)’.

A tension arises when the most appropriate zoning does not deliver the highest price for the land. In this situation the relative weight of the financial return to government must be balanced against a ‘better’ planning outcome. The Committee thinks this balancing may need to have a broader perspective than the individual site.

Council’s primary submission is that the land should be retained in some form of public ownership “*whether that is Melbourne Water or other government agency or authority*”.

Council does not support a commercial outcome for the subject site. Council considered that a Comprehensive Development Zone was the most preferred outcome.

Applying the Comprehensive Development Zone would require agreement of an acceptable development outcome for the subject site. The Committee thinks such a discussion would be unwise in the absence of a concrete proposals for the land; it would be too easy to envisage an outcome for which there was no community or commercial interest. A Comprehensive Development Zone would require some form of expressions of interest process prior to sale.

Undertaking an expressions of interest process for the subject site would be a departure from the accepted land disposal process. The Airport warned the Committee to be aware of situations where small changes are seen as insignificant, but eventually add up to a large change. This argument was made in relation to the zoning of the land, but it applies equally to the integrity of the disposal process for government land. Deciding on an alternative disposal process for some land has the potential to undermine the integrity of the government land disposal process.

Having said this, the subject site presents a range of attributes that distinguish it from most other developable land in Melbourne:

- the site is constrained by the MAEO

- the site is heavily treed in an area with relatively few trees
- the site abuts an activity centre
- the site connects to open space by other public land to the north.

The Committee thinks, given the complexities of the site, a disposal process that sought specific expressions of interest and tailored a planning zone to a particular proposal could be appropriate for this land without implying that such a process was appropriate for all surplus government land. Such a process would only make sense if community use of the land with a lower financial return was contemplated, otherwise a typical sale process or a sale conditional on the purchaser obtaining a planning permit would make more sense. It is not the Committee's role to advise on whether such a process is warranted but make the observation that it may be an alternative option open to the government as a way of determining the best outcomes for the subject site.

A planning control tied to a specific development outcome would also provide greater scope for retaining some of the visually significant trees on the subject site.

If a standard VPP zone is to be applied to the land then the Commercial 2 Zone would be the best fit. The Committee notes that this is not accepted by Council and there is limited policy support for commercial development of the subject site. The only alternate zone that could be applied without allowing sensitive uses into the MAEO area is the Industrial 3 Zone and this zone would not fit well within the existing adjacent exiting residential area. It is also not clear that the Industrial 3 Zone would attract any purchasers.

A small parcel of land adjoining the subject site previously sold by Melbourne Water is in the Industrial 3 Zone. If the subject site is to be rezoned to the Commercial 2 Zone this parcel should also be rezoned. There would be no planning justification for leaving that site as a single Industrial 3 Zone parcel. The Committee's terms of Reference require it to provide an assessment of submissions to it. The Committee received a submission that this land should be rezoned, and sees that this submission has merit.

4.5.2 What overlays or specific provisions are suitable

A DPO was also exhibited for the site. Because the Committee recommends the exhibited rezoning not proceed it has not considered this DPO in detail. However, the Committee notes that the proposed schedule:

- does not follow the department guidance on how such schedules should be drafted
- presents 'objectives' which are not called up by the provision and have no role in a DPO schedule
- requires the responsible authority to consider the views of a range of people before approving the development plan which is legally unsound.

The Committee cannot support the use of the specific sites and exclusion clause to circumvent the density controls in the MAEO2. There is no strategic justification for this; this is essentially an attempt to modify a state standard provision to suit a financial development outcome, rather than an outcome supported by broader policy.

The Committee considered whether an overlay could be applied to protect the existing trees which are a significant feature of the subject site. In the absence of any specific development proposal it is not clear which trees could be protected while allowing for the

efficient development of the land. If the land is to be sold for commercial development the expectation must be that a significant number of the trees will be removed.

4.6 Recommendation

The Committee considered all written submissions (listed in Table 4-1), as well as submissions presented to it during the Hearing. Documents tendered at the Hearing are listed in Table 4-4. 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 inspections of specific sites.

The Committee recommends:

For 8–20 and part 22 Phillip Street, Dallas:

In the absence of a specific development proposal for the subject site, a planning scheme amendment be prepared and approved to:

- a) **Rezone the subject site and adjoining Industrial 3 Zone land to the Commercial 2 Zone.**

Table 4-4: 8–20 and part 22 Phillip Street, Dallas – Documents tabled

Documents Presented to Hearing (No.)	Description	Presented By
1	Melbourne Water submission	Jane Sharpe
2	Melbourne Airport Environs Strategy Plan 2003	— " —
3	Hume City Council submission	Michael Sharp
4	Australian Pacific Airports (Melbourne) Pty Ltd submission	John Carey
5	Folder of documents	— " —
6	Media Extracts – Airport complaints	— " —
7	Logical Inclusions Advisory Committee Hearing John Glossop Expert Report	— " —
W1	Melbourne Water submission to workshop	Matthew Gilbertson
W2	Redevelopment proposal	— " —
W3	Hume Council submission to workshop	Michael Sharp

Appendix A: Terms of Reference

Government Land Standing Advisory Committee

Terms of Reference

Version: July 2015

Standing Advisory Committee appointed pursuant to Part 7, Section 151 of the *Planning and Environment Act 1987* to report on proposals to change the planning provisions to land owned by the Victorian Government.

Name

1. The Standing Advisory Committee is to be known as the 'Government Land Standing Advisory Committee'.
2. The Standing Advisory Committee is to have members with the following skills:
 - Statutory and strategic land use planning
 - Land development and property economics
 - Civil engineering and transport planning
 - Social and environmental planning.
3. The Standing Advisory Committee will include an appointed Chair, Deputy Chair and not less than five other appropriately qualified members.

Purpose

4. The purpose of the Standing Advisory Committee is to advise the Minister for Planning on the suitability of changes to planning provisions for land owned by the Victorian Government.

Background

5. The Victorian Government continuously reviews its land holdings to determine sites that are surplus to current or future service delivery requirements. It sells this land so as to:
 - Reinvest in new infrastructure such as schools, hospitals and public transport
 - Reduce the cost of government services and deliver more services
 - Eliminate unnecessary expenditure on maintenance and security services at vacated sites
 - Provide for the renewal of sites which are no longer required.
6. When a department or agency identifies land as surplus, it is first offered for sale to all other Victorian Government departments and agencies, as well as to the relevant local government and the Commonwealth Government. Once it is determined that there is no other government purchaser for future service delivery, the site is determined to be surplus to requirements. It is outside the scope of the Standing Advisory Committee to review the decision that a subject site is surplus to government needs.
7. Ensuring that appropriate planning provisions are in place on the subject site is critical. Often government sites are zoned Public Use Zone (PUZ) to reflect their public ownership and purpose. Sites zoned PUZ cannot be sold to the private sector, so an appropriate zone needs to be put in place, together with any other planning provisions that should be applied to ensure that the site has consistent requirements and opportunities as other privately held land.
8. The Standing Advisory Committee process has been established to provide a consistent and transparent process to facilitate changes to planning provisions of government land.

Method

9. The Minister for Planning or delegate will refer sites or groups of sites to the Standing Advisory Committee for advice on future planning provisions for the land.

Stage 1 – Exhibition

10. Once a referral has been received, the Standing Advisory Committee will meet with the Project Manager to discuss the procedures and timeframes, including pre-setting the Hearing dates.
11. The Department of Environment, Land, Water & Planning (DELWP) will write to each of the relevant councils, government agencies and services authorities with a copy of the planning proposals seeking comments within six weeks.
12. DELWP will notify nearby residents who may be affected by the rezoning of the sites and place a notice in local newspapers.
13. The Standing Advisory Committee will hold a briefing session with all relevant councils, government departments, agencies, service authorities and other interested parties three weeks after the commencement of the consultation period to discuss the Standing Advisory Committee process.
14. Submitters will have six weeks from notification to prepare written submissions, with all relevant submissions referred to the Standing Advisory Committee.
15. All submissions are to be collected at the office of Planning Panels Victoria in accordance with the *Guide to Privacy at PPV*. Hard copies will be made for each relevant council, DELWP and government land owning body, and electronic copies may also be provided to other submitters upon request.
16. Petitions and pro-forma letters will be treated as single submissions and only the first name to appear on the first page of the submission will receive correspondence in relation to Standing Advisory Committee matters.

Stage 2 – Public Hearings

17. The Standing Advisory Committee is expected to carry out a Public Hearing and provide all submitters with an opportunity to be heard. Submitters are not required to have formal representation at the Hearing.
18. The Standing Advisory Committee may limit the time of parties who wish to appear before it at the public Hearing and may regulate cross-examination. The Standing Advisory Committee will set time frames as follows:
 - local council – 3 hours
 - land owner – 3 hours
 - agency or statutory authority – 1 hour
 - community group – 1 hour
 - individual – 30 minutes
19. The Standing Advisory Committee may meet and invite others to meet with it when there is a quorum of at least two of the Committee members.

Stage 3 – Outcomes

20. The Standing Advisory Committee may inform itself in anyway it sees fit, but must consider:
 - The suitability of the proposed land rezoning, and any overlay, for each property in light of the relevant planning scheme, State and Local Planning Policy Frameworks and public open space contributions in line with current development requirements. It is not open to the Standing Advisory Committee to consider the application of any public land zones unless requested to by DELWP.
 - The extent to which the proposed planning framework is responsive to any key issues on the site or within the local context.
 - All relevant documentation prepared by or for DELWP, or otherwise provided to the Standing Advisory Committee.
 - All relevant submissions made in regard to the proposed planning controls for identified government land.
21. 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 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.
22. The Chair or the Deputy Chair must endorse and submit the report for each sites or group of sites.
23. The Standing Advisory Committee may apply to vary these Terms of Reference in any way it sees fit prior to submission of its report to the Minister for Planning.

Submissions are public documents

24. The Standing Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
25. Any written submissions or other supporting documentation provided to the Standing Advisory Committee must be available for public inspection until the submission of its report, unless the Standing Advisory Committee specifically directs that the material is to remain 'in camera'.

Timing

26. The Standing Advisory Committee is required to begin its hearings no later than 20 business days from the date of final date of submissions.
27. The Standing Advisory Committee is required to submit its report in writing as soon as practicable but no later than 20 business days from the completion of its hearings. The report may be submitted in stages for a site or a group of sites.

Fee

28. The fee for the Standing Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
29. The costs of the Standing Advisory Committee will be met by the relevant government land holding agency. Where there is more than one government land holding agency, the costs will be pro-rated between the agencies.

Project Manager

30. Day to day liaison for this matter will be through Kate Stapleton, Senior Planner, Department of Environment, Land, Water and Planning on 9094 8473 or kate.stapleton@delwp.vic.gov.au.
31. Inquiries regarding the Standing Advisory Committee Process can be made to Planning Panels Victoria on 8302 6369 or planning.panels@dewlp.vic.gov.au.



Hon Richard Wynne MP
Minister for Planning

Date:

19/7/15