

Terms of Reference

Ministerial Advisory Committee:

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

Version 1: August 2021

Advisory Committee appointed pursuant to section 151 of the *Planning and Environment Act 1987 (Act)*

Name

1. The Ministerial Advisory Committee is to be known as the 'Beveridge North West Precinct Structure Plan (PSP), Supplementary Levy Infrastructure Contributions Plan (ICP) and Quarry Planning Permit Application Advisory Committee' (**the Beveridge North West Committee [the Committee]**).

Skills

2. The Committee is to have members with the following skills:
 - a. Strategic, statutory and social planning
 - b. Civil engineering (infrastructure and transport)
 - c. Biodiversity
 - d. Economics/Infrastructure Contributions
3. The Committee will include a Chair, Deputy Chair and other appropriately qualified members.
4. The Committee may engage specialist advice including legal, technical or expert advice on any matter or referral that it sees fit.

Purpose

5. The purpose of the Committee is to advise the Minister for Planning (**Minister**) on whether:
 - a. Draft planning scheme amendment C158mth (**Amendment C158**) is acceptable and appropriately implements the recommendations of the Amendment C106mth (**Amendment C106**) Panel, and any appropriate consequential changes to the Beveridge North West Precinct Structure Plan (PSP) area;
 - b. Draft planning scheme amendment C161mth (Amendment C161) for the supplementary levy Infrastructure Contributions Plan (**ICP**) is acceptable; and
 - c. Planning permit PLP268/19 (**Permit Application**) should be granted to 'use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1' at the Conundrum Quarry Land under WA 1473 having regard to the Mitchell Planning Scheme (as modified by the planning controls proposed by Amendment C158), and if so, the appropriate permit conditions.

Background – Planning Scheme Amendment C158

6. On 28 March 2021, the Minister directed the VPA to prepare a new draft amendment (**C158**) for the Beveridge North West PSP to reflect the Panel recommendations about Amendment C106 which previously sought to introduce the PSP.
7. Amendment C106 was exhibited between September and October 2019. Amendment C106 was exhibited not showing the land at 175 Northern Highway, Wallan as a strategic extractive resource or planning for its future use as a quarry (the **Conundrum Quarry Land**).

8. A draft work plan for a quarry on the Conundrum Quarry Land has been endorsed under section 77TG of the *Mineral Resources (Sustainable Development) Act 1990* (Vic) on 13 February 2014 and assigned Work Authority Number 1473 (**WA 1473**).
9. Submissions about Amendment C106 were considered by the Amendment C106 Panel in 2020, which produced a report dated 7 October 2020 with 17 recommendations (**Panel Report**).
10. The Amendment C106 Panel's recommendation in chief was to "Revise Mitchell Planning Scheme Amendment C106 to explicitly include precinct level planning for resource extraction from Work Authority 1473."
11. Amendment C106 has not yet been adopted by the VPA as the Planning Authority.
12. Draft Amendment C158 is being prepared by the VPA to reflect the recommendations of the Panel Report.

Background – Supplementary Levy ICP - Amendment C161

13. When the VPA sought to introduce Amendment C106 into the Mitchell Shire Planning Scheme, it was envisaged that the PSP would be accompanied by a standard levy ICP.
14. The Amendment C106 Panel recommendations have increased the likelihood of the Beveridge North West PSP requiring a supplementary levy ICP (because of potentially reduced net developable area and increased infrastructure costs to mitigate sodic soils).
15. The VPA will, as necessary, prepare a supplementary levy ICP associated with the updated Beveridge North West PSP to be facilitated via draft Amendment C161.
16. The VPA will develop and undertake notice of the supplementary levy ICP for approval concurrently with draft Amendment C158 but as a separate planning scheme amendment.

Background – Planning Permit – P1745/2020

17. The Permit Application seeks permission to '*use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1*' at the Conundrum Quarry Land under WA 1473. The Permit Application was before the Victorian Civil and Administrative Tribunal in proceeding P1745/2020 (**VCAT Proceeding**).
18. The Minister called in the VCAT Proceeding on 24 February 2021.
19. The Permit Application was lodged with Mitchell Shire Council prior to the commencement of the Amendment C106 Panel hearing. The VCAT Proceeding had not been filed at the date of the Panel Report.
20. The use and development proposed by WA 1473 and the Permit Application is directly relevant to the content of draft Amendment C158 given a number of interrelated issues, including (but not limited to):
 - a. Creation of potential buffers
 - b. Future Urban Structure
 - c. Management of the hours of operation
 - d. Any requirement that the use must cease by a specified date
 - e. Site remediation requirements
 - f. Site management requirements.

Method

General

21. The Committee may inform itself in any way it sees fit.
22. The Committee may meet and invite others to meet with it when there is a quorum of at least two members, one of whom must be the Chair or Deputy Chair.

23. Having regard to its purpose, the Committee is to consider the matters outlined in these Terms of Reference (as set out in Paragraph 46) and any submission made in relation to those matters.
24. The Committee may apply to the Minister to vary these Terms of Reference in any way it sees fit before submitting its report.

Stage 1 - Notice

25. Notice of Amendment C158 (Beveridge North West PSP) and Amendment C161 (Supplementary Levy ICP) will be undertaken by the VPA on behalf of the Minister in accordance with section 20(5) of the Act. The parties to be notified include:
 - a. Mitchell Shire Council and relevant agencies.
 - b. All parties notified of Amendment C106 (including prescribed Ministers).
 - c. All submitters to Amendment C106.
 - d. All parties to the VCAT Proceeding.
 - e. Any parties required to be notified of the proposed Supplementary Levy ICP, as would normally be required under the Planning & Environment Act 1987.
26. When preparing documentation for public notice, the VPA must liaise with the Committee to confirm:
 - a. the directions hearing date
 - b. the public hearing datesThe agreed pre-set dates are to be included on all notices for public exhibition.
27. Petitions and pro-forma letters will be treated as a single submission and only the first name to appear on the first page of the submission will receive correspondence on Committee matters.
28. The VPA must refer all submissions to the Committee. Electronic copies of submissions will be made available on the VPA website.
29. The Committee must provide an opportunity to the permit applicant to amend its proposal to respond to draft Amendment C158.
30. Should the permit applicant wish to amend its plans, it must circulate amended plans in writing at least 30 business days before the Directions Hearing date.
31. Circulation of amended plans should be provided to Mitchell Shire Council, parties to the tribunal proceeding and any relevant referral authorities.
32. Circulation of any amended plans must provide a statement of changes specifying the nature of changes, the reason for the change and a detailed explanation of each change and how that will improve the proposal or respond to an issue that has been raised regarding the proposal. Any supporting material used to assess the application must be updated to reflect the proposed change to plans should also be circulated with any amended plans.
33. DELWP must provide all files to the Committee in relation to the VCAT proceeding.
34. The Committee is not expected to carry out any further public referral or notice but may do so, or direct others to do so, if it considers it to be appropriate.

Stage 2 - Public Hearing

35. Following the receipt of submissions, the Committee must conduct public hearing/s in relation to draft Amendment C158, draft Amendment C161 and the Permit Application and provide an opportunity for any submitter to be heard who wishes to be heard, including all parties to the VCAT Proceeding.
36. The Committee may conduct its hearings on draft Amendment C158, draft Amendment C161 and the Permit Application as a single hearing or in parts.
37. The Committee may limit the time available to parties appearing before it and may prohibit or regulate cross-examination.
38. The Committee may:

- a. Direct that parties meet, including by video conference, to further resolve issues, or
- b. Act as a mediator to seek to resolve issues in dispute.

Stage 3 - Committee Assessment

39. The Committee may inform itself in any way it sees fit, but in relation to draft Amendments C158 and C161, it must consider:
 - a. Draft Amendment C158
 - i. how draft Amendment C158 implements the recommendations of the Amendment C106 Panel;
 - ii. whether in doing so, draft Amendment C158 constitutes an acceptable strategic planning outcome.
 - b. Draft Amendment C161
 - c. The recommendations made by the Amendment C106 Planning Panel.
 - d. The referred submissions, including the views of the Mitchell Shire Council and other agencies.
 - e. Plan Melbourne.
 - f. Any relevant Regional Growth Plan or Growth Corridor Plan.
 - g. The Mitchell Planning Scheme.
 - h. Relevant State and local policy.
 - i. Any other material referred to it.
40. The Committee may inform itself in any way it sees fit, but in relation to the VCAT Proceeding, it must consider:
 - a. Planning permit application PLP268/2019
 - b. The relevant provisions of the *Planning and Environment Act 1987* and the Mitchell Planning Scheme (as proposed to be modified by the planning controls in draft Amendment C158).
 - c. All relevant material prepared by or for the applicant
 - d. All material filed in the VCAT Proceeding including all submissions and objections.
 - e. Any other material referred to it.
41. The Committee is expected to provide all parties to the VCAT Proceeding with an opportunity to present submissions and evidence. The submissions and evidence, in relation to the Permit Application, must be assessed against the Planning Scheme having regard to the proposed planning scheme as modified by draft Amendment C158.
42. The Committee is directed not to consider (including submissions or evidence relating to these matters):
 - a. Whether draft Amendment C158 should "explicitly include precinct level planning for resource extraction from Work Authority 1473" (Recommendation 1 of the Amendment C106 Panel).
 - b. Whether draft Amendment C158 should implement the other recommendations of the Panel (Recommendations 2-17 of the Amendment C106 Panel).
 - c. The above is not intended to limit consideration of submissions and evidence related to how draft Amendment C158 implements the recommendations of the Amendment C106 Planning Panel and any matters consequential to implementing these recommendations.
43. The Committee must produce a written report for the Minister and the VPA, providing the following:
 - a. Consideration of the matters in these Terms of Reference.
 - b. A summary and assessment of the issues raised in submissions referred to it.

- c. Any other relevant matters raised during the Committee process, within the scope of the Terms of Reference taking into account paragraph 44.
- d. A list of parties that made submissions considered by the Committee.
- e. A list of tabled documents.
- f. A list of parties consulted or heard, including via video conference.

Stage 4 - Outcomes

44. The Committee is expected to advise the Minister on whether:
- a. Draft Amendment C158 is acceptable and appropriately implements the recommendations of Amendment C106 Panel, and any appropriate consequential changes to strategic planning for the PSP area (and surrounding road network). This includes whether draft Amendment C158:
 - i. Provides an appropriate statutory context to evaluate proposals for stone extraction from the land subject to WA1473 in advance of proximate urban development, whether through the planning permit application or a subsequent planning permit application; and
 - ii. Provides an appropriate planning response to:
 - 1. the commencement and end date for any stone extractive land use within the WA 1473 Area;
 - 2. any rehabilitation requirements arising from resource extraction within the WA 1473 Area;
 - 3. the future land use within proposed buffers from WA 1473 and within the WA 1473 Area;
 - 4. any other potential mitigation measures that may be required as a result of stone extraction within the WA 1473 Area; and
 - 5. any other precinct level planning matters resulting from the proposed extraction of stone within the WA 1473 Area and/or the Permit Application.
 - b. A planning permit should be granted for the Permit Application having regard to the proposed planning scheme as modified by the planning controls proposed by draft Amendment C158, and if so, the appropriate permit conditions.
 - c. Draft Amendment C161 is acceptable and any appropriate changes to the proposed supplementary levy ICP.

Submissions are public documents

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

Timing

47. The Committee should commence hearings as soon as practicable after the referral of submissions to the Committee.
48. The Committee is required to submit its report in writing to the Minister and the Victorian Planning Authority as soon as practicable but no later than 40 business days from the last day of the hearing or consultation process.

Fee

49. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

50. The costs of the Committee will be met by the VPA.



Richard Wynne MP
Minister for Planning

Date: 26/10/21