

**Government Land Standing Advisory Committee
Tranche 39 Report
30-40 Athol Road, Noble Park**

Planning and Environment Act 1987

11 August 2023

Contents

About this report.....	3
1 Summary and recommendation	4
1.1 The site.....	4
1.2 Inclusionary housing.....	4
1.3 The draft Amendment	4
1.4 Issues raised in submissions	6
1.5 Committee conclusion and recommendations.....	6
1.6 Recommendations	7
1.7 Limitations	7
2 Process overview.....	8
2.1 Process summary.....	8
2.2 Schedule to the Development Plan Overlay.....	9
3 Site and planning context.....	10
3.1 Planning context	10
3.2 History of the site.....	11
3.3 The site and surrounds.....	11
4 Issues with the proposed changes	13
4.1 What zone is suitable?	13
4.2 What overlays are appropriate?	15
4.3 Who should be the Responsible Authority for the site?	22
5 Schedule to the Development Plan Overlay	24
5.1 Objectives of the Schedule	24
5.2 Inclusionary housing and demographic analysis.....	26
5.3 Tree retention and protection	28
5.4 Public open space	30
5.5 Landscape design.....	31
5.6 Access, traffic and transport.....	32
5.7 Cultural heritage management plan	34
5.8 Flooding and stormwater	35
5.9 Environmentally sustainable design.....	37
5.10 Construction management plan	38
5.11 General drafting issues.....	39
Appendix A: About the Government Land Standing Advisory Committee	42
Appendix B: Document list.....	43
Appendix C: Committee Preferred Development Plan Overlay Schedule 16	45

List of Tables

Table 1	Existing and proposed Planning Scheme provisions and Committee recommendation.....	7
Table 2	Site and public exhibition process summary.....	8
Table 3	Committee process	8
Table 4	Zone purposes and neighbourhood character objectives	14
Table 5	Recommended approach to assessing potentially contaminated land	17

List of Figures

Figure 1	Site location.....	4
Figure 2	Indicative Concept Plan.....	5
Figure 3	Current zoning	10
Figure 4	Proposed zoning	10
Figure 5	Proposed DPO16.....	10
Figure 6	TravelSmart Map	33

Glossary and abbreviations

Arboricultural Assessment	<i>Preliminary Arboricultural Assessment, Arbkey, August 2022</i>
Council	Greater Dandenong City Council
DPO	Development Plan Overlay
DPO16	Development Plan Overlay Schedule 16
draft Amendment	draft Greater Dandenong Planning Scheme Amendment C240gdan
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority Victoria
ESD	Environmentally Sustainable Design
Committee	Government Land Standing Advisory Committee
GRZ1	General Residential Zone Schedule 1
Housing Strategy	<i>Greater Dandenong Housing Strategy 2014-2024</i>
IHP	Inclusionary Housing Pilot
MD1	<i>Ministerial Direction No. 1 - Potentially contaminated land</i>
Ministerial Direction on Form and Content	<i>Ministerial Direction - The Form and Content of Planning Schemes</i>
Planning Scheme	Greater Dandenong Planning Scheme
PPN23	<i>Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays</i>
PPN91	<i>Planning Practice Note 91: Using the Residential Zones</i>
Practitioner's Guide	<i>Practitioner's Guide to Victoria's planning schemes, April 2022</i>
Traffic Impact Assessment	<i>30-40 Athol Road, Noble Park: Transport Impact Assessment, One Mile Grid, September 2022</i>

About this report

On 25 January 2023, the Minister for Planning referred 30-40 Athol Road, Noble Park to the Government Land Standing Advisory Committee as Tranche 39.

This is the report under Section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for 30-40 Athol Road, Noble Park.



Lisa Kendal, Chair



Michael Ballock, Member

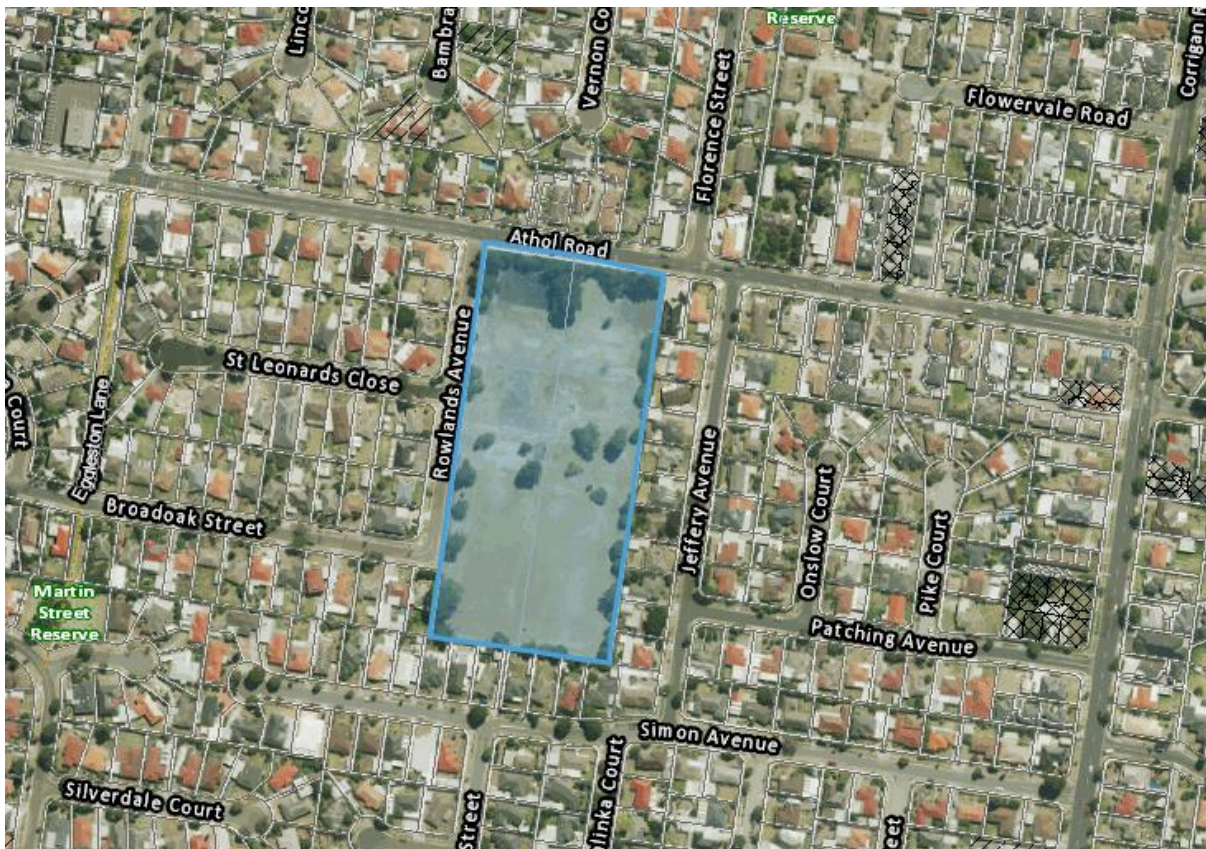
11 August 2023

1 Summary and recommendation

1.1 The site

The site located is located at 30 – 40 Athol Road, Noble Park (see Figure 1). The site is approximately 1.2 kilometres south-west of the Noble Park Major Activity Centre, which is focused around Noble Park Train Station.

Figure 1 Site location



Source: VicPlan

1.2 Inclusionary housing

The site has been declared an Inclusionary Housing Pilot (IHP) site by the Victorian Government, one of six designated sites across Victoria to support the delivery of a mix of social, affordable and market housing. The IHP program proposes to provide a minimum of 100 new social housing homes to be delivered in partnership with a Registered Housing Agency.

Planning scheme amendments have been approved for four IHP sites to date in Boronia, Broadmeadows, Parkville and Wodonga. These amendments applied the Development Plan Overlay (DPO), residential land zone and made the Minister for Planning the responsible authority.

1.3 The draft Amendment

Draft Amendment C240gdan (the draft Amendment) to the Greater Dandenong Planning Scheme (Planning Scheme) proposes to:

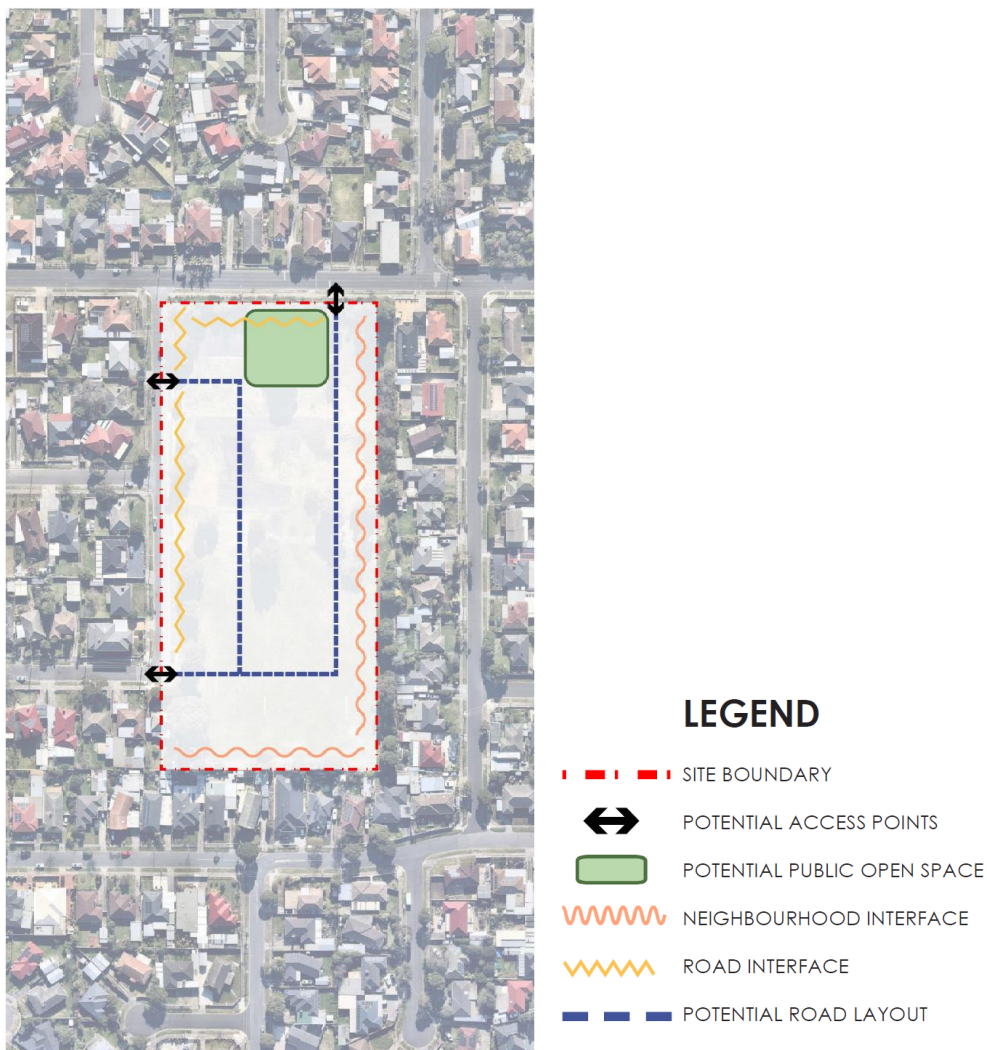
- rezone the site from Public Use Zone 2 (Education) to the General Residential Zone Schedule 1 (GRZ1)
- introduce a new Development Plan Overlay Schedule 16 (DPO16) to the Planning Scheme and apply it to the site
- amend the Schedule to Clause 72.01 (Responsible authority for this Planning Scheme) to list the Minister for Planning as the responsible authority for the site.

The exhibited DPO16 included requirements for a development plan, including:

- a design outcome generally in accordance with the Indicative Concept Plan (see Figure 2)
- various requirements relating to lot sizes, building types, built form, retention of vegetation, road layout and pedestrian network
- context and site analysis
- concept plans for the layout of the site
- landscape concept plan, traffic management report, arboricultural assessment
- details of how the proposal will demonstrate best practice environmentally sustainable design.

The exhibited DPO16 did not include any objectives or conditions and requirements for permits.

Figure 2 Indicative Concept Plan



Note: the figure has been cropped and legend enlarged to assist legibility

1.4 Issues raised in submissions

The Government Land Standing Advisory Committee (Committee) received nine submissions through the Engage Victoria website during exhibition from 28 March to 16 May 2023, and one late submission received by post on 23 May 2023. The Committee has considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from inspections of the site.

Issues raised in submissions related to (in no particular order):

- housing affordability
- social issues
- open space provision
- traffic and transport
- lack of community facilities and services
- drafting and detail of the DPO
- environmental issues relating to potential land contamination, retention of significant vegetation and stormwater management
- cultural heritage sensitivity.

1.5 Committee conclusion and recommendations

The Committee supports application of the proposed planning controls to the site, if the land is to be sold.

Specifically:

- rezoning the land from Public Use Zone 2 (Education) to GRZ1 is appropriate in the context of the site's location in a residential neighbourhood
- applying DPO16 is appropriate to ensure holistic planning of the site, subject to the Committee's recommended changes provided in Appendix C.

The Committee recommends changes to DPO16 relating to:

- the objectives of the schedule, including to provide social housing
- tree retention and protection
- landscape and open space design
- traffic, transport and access
- flooding and stormwater management
- general drafting issues.

Additionally, the Committee recommends application of the Environmental Audit Overlay (EAO) to ensure potentially contaminated land is adequately considered and addressed.

The draft Amendment proposes to make the Minister for Planning the responsible authority for the site. This is consistent with the Minister's role for other IHP sites and will ensure a consistent approach to the planning of the sites.

The proposed planning provisions make proper use of the Victoria Planning Provisions and, subject to the Committee's recommendations, are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes*.

Table 1 Existing and proposed Planning Scheme provisions and Committee recommendation

Current planning provisions	Exhibited planning provisions	Additional planning provisions	Committee Recommendation
Public Use Zone 2 (Education)	GRZ1		Apply
	DPO16		Apply with recommended changes (see Appendix C)
		EAO	Apply
	Amend Clause 72.01 to make the Minister for Planning the responsible authority for the site		Apply

1.6 Recommendations

The Committee recommends:

- 1. Prepare and approve Greater Dandenong Planning Scheme Amendment C240gdan for 30 – 40 Athol Road, Noble Park to:**
 - a) Apply the General Residential Zone Schedule 1.**
 - b) Apply the Development Plan Overlay, consistent with the Schedule shown in Appendix C.**
 - c) Apply the Environmental Audit Overlay.**
 - d) Amend the Schedule to Clause 72.01 to make the Minister for Planning the responsible authority.**

1.7 Limitations

The Committee is required to consider matters within the scope of its Terms of Reference (see Appendix A). The Committee can only consider the application of a public land zone if requested by the Minister for Planning or a Victorian Government department or agency, when the need has been identified. This was not the case with this site, and the Committee has not considered application of a public land zone.

Other issues raised in submissions outside of the scope of the Committee's Terms of Reference or not relevant planning considerations include:

- crime and law and order issues
- support for vulnerable residents
- new dwelling ownership and maintenance arrangements
- financial considerations and agreements between the State government and Proponent
- lack of justification for removal of the school site
- proposed alternative uses.

2 Process overview

2.1 Process summary

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

Table 2 Site and public exhibition process summary

Process summary	
Tranche	39
Site address	30 - 40 Athol Road, Noble Park
Previous use	Southvale Primary School
Site owner	Department of Education
Proponent	MET Communities Pty Ltd
Council	City of Greater Dandenong (Council)
Public exhibition	28 March to 16 May 2023
Notice given	<ul style="list-style-type: none"> - letters to owners and occupiers - letters to prescribed Ministers under the <i>Planning and Environment Act 1987</i> - newspaper advertisements on 17 and 18 April 2023
Submissions	Ten submissions: <ul style="list-style-type: none"> - Dharam Singh - Henry Fung - May Lim - Giao Nguyen - Leila Carroll - Gaye Guest - City of Greater Dandenong - Don MacDowall - Nicholas Deal - Elizabeth Distanislaio

Table 3 Committee process

Committee process	
Members	Lisa Kendal (Chair), Michael Ballock
Information session	2 May 2023, by video conference
Directions Hearing	7 June 2023, by video conference

Committee process

Hearing	By video conference, 6 and 7 July 2023 A link to the Hearing was provided on the Engage Victoria website to enable people to observe the Hearing
Site inspections	6 July 2023, unaccompanied
Appearances	MET Communities Pty Ltd, represented by Anthony Scarparci of Clement-Stone Town Planners who called evidence from Rachael Hofmann of Prensa Pty Ltd on environmental/site contamination City of Greater Dandenong, represented by Kristin Richardson of Maddocks Gaye Guest Nicholas Deal
Date of this Report	11 August 2023

2.2 Schedule to the Development Plan Overlay

The Committee directed MET Communities Pty Ltd (the Proponent) to circulate a 'Day 1' version of DPO16 showing any proposed changes in tracked changes before the Hearing.

On the final day of the Hearing, the Committee issued further directions for parties to provide comments on the 'Day 1' version of the DPO16, as discussed during the drafting session held on day 2 of the Hearing, and for the Proponent to circulate written comments on these suggestions by 19 July 2023.

In response to these directions:

- Council submitted a without prejudice version of DPO16 showing changes on the 'Day 1' version (Document 24)
- the Proponent submitted its without prejudice 'Final day' version of DPO16 on 14 July 2023 (Document 26).

The Proponent's 'Day 1' and 'Final day' versions included extensive changes to the exhibited DPO16, in response to submissions. The updated versions included more expansive requirements relating to components of the development plan, specifically:

- Concept plans
- A Landscape Concept Plan
- Transport Impact Report
- Integrated Traffic Management Plan
- Stormwater Management Plan.

The Committee preferred version of the Schedule to the DPO (see Appendix C) is based on the exhibited version of DPO16. Following submissions from Council that Schedule number 16 had already been allocated, the Committee version notes an appropriate Schedule number needs to be allocated. Associated changes to the draft Amendment documents will need to be made when the Schedule number is confirmed.

3 Site and planning context

3.1 Planning context

The Planning Report exhibited with the draft Amendment identified the site is:

- currently zoned Public Use Zone 2 (Education) with adjoining residential land in GRZ1 (see Figure 3)
- not subject to any overlays.¹

Figures 4 and 5 show the proposed application of GRZ1 and DPO16.

Figure 3 Current zoning

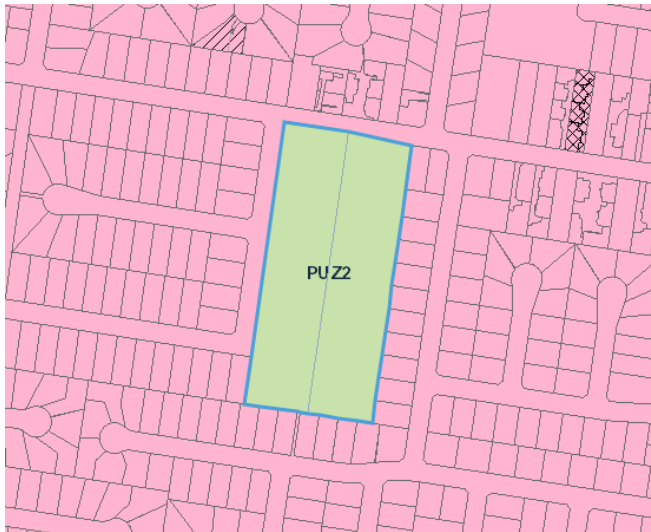


Figure 4 Proposed zoning

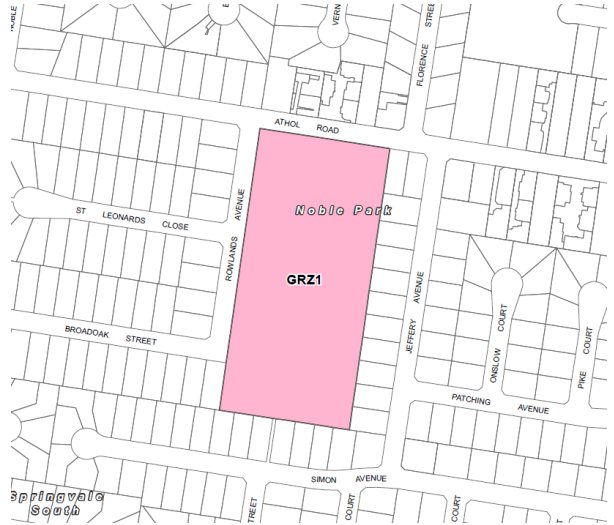
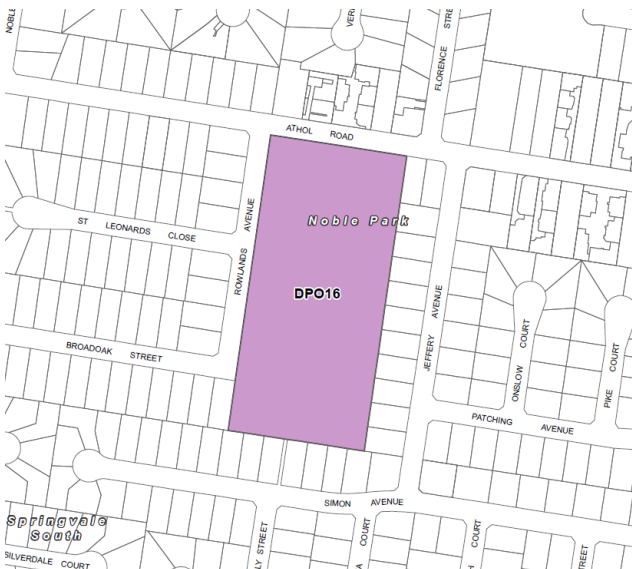


Figure 5 Proposed DPO16



¹ Planning Report for Greater Dandenong Planning Scheme Amendment C240gdan: Inclusionary Housing Pilot (Tranche 2), Clement-Stone Town Planners, November 2022

3.2 History of the site

The site was formerly occupied by Southvale Primary School and is currently vacant with all buildings having been demolished.

The site was declared surplus in 2013, with a first right of refusal process occurring from 17 May to 16 July 2016. No other government departments or agencies expressed interest in the land. The land was then nominated to be included within IHP. The surplus statement identifies:

The site was the former Athol Road Primary School and is currently vacant. The Department of Education and Training has no future use planned and the land is surplus to their requirements. Instead, it is proposed the land be used as an Inclusionary Housing Pilot site. The site was nominated a IHP site on 22 May 2017.²

Following an expression of interest process, the Proponent was selected as the future developer of the site.

3.3 The site and surrounds

The rectangular site is approximately 2.3 hectares and comprises two titles.³ The site is generally flat with a north-south fall of approximately two metres and has frontages to Athol Road (103 metres) and Rowlands Avenue (183 metres). The surrounding land is zoned GRZ1 and is predominantly single and double storey detached dwellings with some newer double storey townhouse developments, which is a characteristic of the wider neighbourhood.

The site abuts:

- road frontages to Athol Road and Rowlands Avenue to the north and west respectively
- 11 single dwellings to the east
- 7 single dwellings to the south.

The adjoining dwellings are predominantly detached single storey brick dwellings with pitched tiled roofs. Side and rear setbacks adjoining the common boundary vary but include private open space, outbuildings, car parking areas and garages. Housing stock in the broader area generally comprises single and double storey detached dwellings. The Planning Report notes there is an increasing number of townhouse style developments, including on lots fronting Athol Road to the north east.

The Planning Report details the surround services and facilities, including:

- Noble Park Major Activity Centre approximately 1.2 kilometres to the north east
- smaller public open spaces approximately 200 metres (Sandra Avenue Playground and Martin Street Reserve)
- larger public open space within approximately 700 metres (Alex Nelson Reserve, Alex Wilkie Nature Reserve and Noble Park Reserve)
- local schools within 1.5 kilometres (St Anthony's Primary, Noble Park Primary, Wallarano Primary, Keysborough Primary, Athol Road Primary and Keysborough Secondary).

Noble Park train station is approximately 1.4 kilometres northeast of the subject site.

The Planning Report, supported by a number of background reports, explains the site is:

- in an area of cultural heritage sensitivity
- contains a number of mature trees, including eight assessed as high retention value

² Surplus Victorian Government Land Fact Sheet, Surplus statement for 30-40 Athol Road, Noble Park

³ Lot 1 on TP330157 and Lot 1 on TP906667

- it is a highly modified landscape and there are no nationally or state significant flora or fauna species or communities on the site
- historically contained three petroleum storage tanks and associated fuel lines, which have been removed.

Specific site and context details are addressed as relevant to issues discussed in other chapters of this Report.

4 Issues with the proposed changes

4.1 What zone is suitable?

Submissions

Council submitted the GRZ1 zoning was appropriate. It submitted that it expected the development would be made up of *“semi-detached and detached housing of no more than 2 storeys, with no apartments or reverse living”*.

Council proposed the following changes to Section 4.0 requirements:

- Expanding an exhibited development plan requirement:
 - Analysis of how the layout pattern and proposed development responds to the existing site conditions and adjoining residential interfaces [and local neighbourhood character objectives in the zone](#).
- Adding two new concept plans requirements:
 - [Three-dimensional building envelope plans including indicative building heights and setbacks](#)
 - [Consideration of Council's residential development and neighbourhood character policies and how the development responds to those policies, including the existing and identified future character](#)

Ms Guest submitted that building heights should not exceed two storeys, in line with Council's request to vary certain General Residential Zone schedules as part of Amendment C182gdan.

Submitter 8 asked for the inclusion of appropriate design guidelines and questioned the arrangements for bin collection.

Several submitters sought for the land to be considered for public land zoning for an alternative use, such as open space.

The Proponent submitted the GRZ1 has a three storey height limit. It advised that Council had accepted the recommendation of the planning panel for Amendment C182gdan to delete the proposed two storey maximum height limit. The Proponent noted:⁴

..the height limit is a mandatory maximum, and that future development on the site is required to respond to the existing neighbourhood character of the area, which is predominantly comprised of single-storey dwellings (the base housing stock) and two storey dwellings (more recent infill development).

The Proponent:

- accepted Council's proposed changes to Section 4.0 requirements relating to neighbourhood character
- noted that GRZ1 requires a Waste and Recycling Assessment and Plan to the satisfaction of the responsible authority as part of the application requirements.

Discussion

Submitters generally accepted the GRZ1 is appropriate, however raised issues relating to neighbourhood character, dwelling height and amenity.

The purposes of the GRZ1 are shown in Table 4.

⁴ Proponent Part B submission (Document 11), pages 14 – 15

Table 4 Zone purposes and neighbourhood character objectives

GRZ1 purposes	GRZ1 Neighbourhood character objectives
<p>To implement the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To encourage development that respects the neighbourhood character of the area.</p> <p>To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>	<p>To ensure the scale, built form and setbacks of residential developments respond to the existing site circumstances by respecting the predominant built form, façade and street patterns.</p> <p>To provide appropriate front, side and rear setbacks, garden areas and significant private open space to allow for substantial high quality landscaping and canopy trees to protect the amenity of adjoining properties and to create a landscape character.</p> <p>To maximise the opportunities to create high quality landscaping, through minimal paving and the use of permeable ground surfaces.</p> <p>To ensure vehicle accessways and storage facilities do not visually dominate the streetscape.</p> <p>To ensure that residential development achieves high quality useable private open space outcomes for future residents, including the provision of secluded private open space at the side or rear of each dwelling.</p>

According to *Planning Practice Note 91: Using the Residential Zones* (PPN91) the GRZ is applied to incremental or substantial change areas:

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

In applying a residential zone, PPN91 requires:

- consideration of a residential framework plan
- the intent of housing change areas to not be undermined
- greater certainty about the future development of an area
- facilitation of long-term housing growth and diversity and protection of neighbourhood character in the right locations.

GRZ1 is the most appropriate zone in the context of the surrounding residential land. It is consistent with guidance in PPN91 as the site is within an identified incremental change area, it will provide certainty about the future development of the area and will facilitate long-term housing and diversity, consistent with the proposed IHP outcomes.

A purpose of the zone is to encourage development that respects neighbourhood character of the area, and GRZ1 contains neighbourhood character objectives (see Table 4). The site is identified in an Incremental Change area of Clause 22.09 (Residential Development and Neighbourhood Character policy), with reference to the *City of Greater Dandenong Neighbourhood Character Study (September 2007)*.

A permit application to subdivide land under GRZ1 must respond to considerations in Clause 56 (Residential subdivisions) including local policy, site and context, lot and urban design. Built form requirements for dwellings are detailed in Clause 54 and 55, as relevant. GRZ1 requirements also relate to minimum garden areas includes the default maximum building height of three storeys or 11 metres.

The Committee accepts the Proponent's submission that the two storey maximum height limit is not relevant. Planning Scheme Amendment C220gdan amended the GRZ1 to make the provisions of the Schedule consistent with the Victoria Planning Provisions by removing the two storey height limit.

The Committee is satisfied future development will be required to ensure built form responds to the site context by respecting predominant built form. The additional wording proposed by Council effectively duplicates the policy basis and objectives of Clause 22.09, and requirements in other planning provisions, and is not required.

Conclusion and recommendation

The Committee concludes:

- The land should be rezoned to GRZ1.
- The additional Section 4.0 requirements relating to neighbourhood character and amenity are not appropriate.

The Committee recommends:

Prepare and approve Greater Dandenong Planning Scheme Amendment C240gdan for 30 – 40 Athol Road, Noble Park to:

- a) **Apply the General Residential Zone Schedule 1.**

4.2 What overlays are appropriate?

(i) Development Plan Overlay

Submissions

The Proponent submitted that application of a DPO is consistent with *Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays* (PPN23). It submitted the DPO:

- was a flexible method to guide future use and development of the land
- requires a development plan which describes the land, the proposed use and development and a range of other matters required to be assessed and contemplated
- is suitable as future development of the site, is not likely to significantly affect third-party interests, has one owner and does not contain an existing residential population.

The Proponent considered the form and content had been drafted in accordance with Ministerial Directions and planning guidance.

Council submitted it supported application of the overlay subject to appropriate drafting. It explained it had "*significant concerns with the adequacy of information provided with the exhibited Amendment and the lack of detail provided in the exhibited DPO16*".⁵ Council submitted:

The need for sufficient information to be provided at this stage of the process is consistent with orderly planning and particularly important in the context of the exhibited DPO16, given that third party notice and appeal rights do not apply to the approval of a development plan or subsequent planning permit applications and the Council is not the Responsible Authority for the Subject Land.⁶

Council suggested many changes to the content of DPO16, which are addressed in other chapters of this Report.

⁵ Council's hearing submission (Document 14, paragraph 10)

⁶ Council's hearing submission (Document 14, paragraph 22)

Submitters raised issues with the level of detail and form and content of DPO16.

Discussion

The purpose of the DPO is:

To implement the Municipal Planning Strategy and the Planning Policy Framework.

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 a development plan has been prepared to the satisfaction of the responsible authority.

PPN23 states the DPO is used to:

- provide certainty about the nature of a use or development proposal for land
- require a plan to be prepared to coordinate proposed use or development, before a permit under the zone can be granted
- guide the content of the plan by specifying that it should contain particular information
- remove notice requirements and third-party review rights from planning permit applications for proposals that conform to a plan
- ensure that permits granted are in general conformity with the plan
- apply permit conditions that help to implement the plan
- provide statutory force to plans.

It is appropriate to use the DPO in situations where a development proposal is not likely to significantly affect third parties. While PPN23 states the DPO should not normally apply to land adjoining established residential areas, the Committee accepts its application is appropriate on the basis:

- Council and other submitters generally accept the DPO as a suitable tool, subject to drafting
- the land is proposed to be rezoned GRZ1, consistent with the surrounding residential land, which is zoned GRZ1 and is not subject to any overlays
- the anticipated form of development on the site would not be out of context with the surrounding neighbourhood
- exhibition of the proposal has occurred through this draft Amendment process, and the Schedule to the DPO refined in response to issues raised in submissions, subject to the Committee's recommendations).

Specific issues relating to form and content of DPO16 are discussed in Chapter 5 of this Report.

Conclusion and recommendation

The Committee concludes it is appropriate to apply the DPO to 30 - 40 Athol Road, Noble Park, subject to the recommendations in this Report.

The Committee recommends:

Prepare and approve Greater Dandenong Planning Scheme Amendment C240gdan for 30 – 40 Athol Road, Noble Park to:

- a) Apply the Development Plan Overlay, consistent with the Schedule shown in Appendix C.**

(ii) Environmental Audit Overlay

The issues

The issues are whether:

- potentially contaminated land has been adequately considered and assessed
- the site is potentially contaminated land, and if so if the exhibited documentation satisfies ministerial guidelines and planning guidance
- the EAO should be applied to the site.

Background

The EAO was not proposed in the exhibited draft Amendment.

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

Ministerial Direction No. 1 - Potentially contaminated land (MD1) applies to potentially contaminated land and seeks to ensure the land is suitable for the use proposed under a planning scheme amendment. It includes a definition of potentially contaminated land and requirements that must be met in preparing a planning scheme amendment on potentially contaminated land.

Planning Practice Note 30 – Potentially Contaminated Land (PPN30) provides planning guidance on:

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

PPN30 identifies the recommended assessment mechanism for a planning proposal (see Table 5).

Table 5 Recommended approach to assessing potentially contaminated land

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

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

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

Source: PPN30 Table 3

Ministerial Direction 19 requires planning authorities seek written views of the Environment Protection Authority Victoria (EPA) in preparing a planning scheme amendment that “*could result in use or development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste*”.⁷ It requires the views of EPA are addressed in the explanatory report.

Two environmental site assessments were exhibited with the draft Amendment, one prepared in September 2022 and one prepared in October 2022.

The Proponent advised during the Hearing that the *Letter of advice regarding potentially contaminated land at 30-40 Athol Road, Noble Park Victoria*, Prensa 25 October 2022 (Prensa Letter of Advice October 2022) was an update of the September report.

The Prensa Letter of Advice October 2022 provided advice on the potential for contaminated land at the site. The scope of works included:

- desktop assessment and review of previous contamination assessments⁸
- assessment of requirements against MD1 and PPN30
- assessment of potential environmental duties
- preparation of the letter of advice.

The Prensa Letter of Advice October 2022 concluded that former activities on the site present a low contamination risk, with the exception of former underground storage tanks. It considered the high potential for contamination not reflective of the risk due to:

- the underground storage tanks having been removed in a matter consistent with industry guidance
- completion of a validation report, consistent with EPA guidance
- analytical results and field observation confirming the absence of residual contamination
- the underground tanks were removed some time ago.

Following the Directions Hearing, Department of Transport and Planning’s Government Land Planning Service advised (Document 4):

- the EPA was notified of the draft Amendment, but indicated it did not intend to respond

⁷ Ministerial Direction 19 – Amendments that may result in impacts on the environment, amenity and human health

⁸ Previous assessments had been completed prior to the updated Environment Protection Regulations 2017 and amendment of Ministerial Direction No. 1 in 2021.

- as contamination had been raised as an issue in submissions “*out of an abundance of caution*” it had referred the draft Amendment to EPA under Ministerial Direction 19 on 6 June 2023
- it would liaise with EPA to receive a response as soon as possible.

The EPA responded by letter dated 14 June 2023 (Document 7) which, among other things, expressed the following:

- The Explanatory Report makes reference to a ‘low’ potential for certain activities to contaminate the Site.
- It is important to highlight that, in addressing MD1, land is either potentially contaminated or not.
- Where land is potentially contaminated, the risk is either ‘medium’ or ‘high’.
- PPN30 sets out the recommended level of assessment where land has been determined to have a ‘medium’ or ‘high’ potential for contamination and an amendment would allow the land to be used for a sensitive land use.
- If it has been determined that the Site is not potentially contaminated, reference to ‘low’ risk is not consistent with MD1.
- Based only on the information provided in the Explanatory Report regarding the Underground Storage Tanks, it appears that this risk has been addressed.

EPA also stated that should the planning authority be satisfied the land is not potentially contaminated in accordance with MD1, the Explanatory Report should be updated consistent with policy and guidance.

Submissions

Council’s view was that it was unclear whether the site is suitable for a sensitive use. It sought clarification on the differences between the two versions of the Prensa Letter of Advice.

Council submitted there was a general lack of clarity and certainty in relation to the following basic questions:

- Is the site contaminated?
- Has the necessary work been done to ensure the land is suitable for sensitive uses?
And
- Is it consistent with Ministerial Direction 1?

Council submitted that if the Committee was satisfied the land did not pose a risk and was suitable for a sensitive use, it should direct that the reports be modified to clarify the conclusion.

Otherwise, additional requirements for further environmental assessment should be included in DPO16. Council proposed the following wording (Document 24):

- An assessment of the environmental conditions of the site, that includes either:
 - A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or proposed use; or
 - An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or proposed use.

The Proponent submitted the site was not potentially contaminated. Regarding the letter from the EPA (Document 7) it said:

To summarise the correspondence, it is the EPA’s view that the potential contamination on the site is not ‘significant’, and does therefore not justify a Ministerial Direction 19 referral.

It considered Clause 13.04-1S (Contaminated and potentially contaminated land) was satisfied as the underground tanks had been removed, and suitable remediation of the land had taken place. It stated the draft Amendment was consistent with MD1 and PPN30:

- as site remediation resulted in the land not being considered potentially contaminated, as defined by MD1
- the land had been assessed as not being high or medium risk, and would therefore allow for sensitive uses.

The Proponent did not support Council's suggestion that a requirement for a Certificate of Environmental Audit should be included in DPO16.

The Proponent submitted while "*there is no evidence to the contrary that the site is or may be contaminated*", if the Committee considered the site may be potentially contaminated land the EAO is the appropriate planning tool. Further:

The application of an EAO would be consistent with that of a similar IHP Tranche 1 site [2-16 Nicholas Street, Broadmeadows] which previously accommodated a school.

The Proponent relied on the evidence of Ms Hoffman, who considered the methodology and findings of the exhibited Prensa Letter of Advice October 2022, which she authored, were appropriate and consistent with MD1.

In response to Council's questions about discrepancies in wording between the two versions of the Prensa Letter of Advice, Ms Hoffman explained the changes resulted from feedback from the Department of Environment, Land, Water and Planning, and the wording in the report more accurately reflected the intention of MD1. She advised the overall findings and conclusions had not changed.

Ms Hoffman reiterated the conclusions of the Prensa Letter of Advice October 2022 stating:

...it is my opinion that the site is not considered to represent a high or medium potential for contamination as defined in the *Potentially Contaminated Land Planning Practice Note 30*. Additionally, the site is not considered to be potentially contaminated land as defined in Section 35 of the *Environment Protection Act 2017*, or *Ministerial Direction No.1 – Potentially Contaminated Land*.

Ms Hoffman supported the advice of EPA that wording of the Explanatory Report be updated to reflect her opinion the site is not considered to represent high or medium potential for contamination. This would involve removing reference to historical activities having a 'low' potential to contaminate land because where land is potentially contaminated, the risk is either 'medium' or 'high'.

During cross examination, Ms Hoffman confirmed the land would be considered potentially contaminated in the context of the definition in MD1, prior to removal of the tanks. On this basis it did not warrant a Preliminary Risk Screen Assessment.

Further:

- asbestos had been found on the site in the pits filled following tank removal, which was likely to be contaminated fill as it was not found on the balance of the site
- while the tanks had been removed some time ago, it was possible there may be some residual hydrocarbon contamination, and it is not possible to give an exact timeframe for these to break down when the concentrations are not known.

Discussion

MD1 defines potentially contaminated land as land:

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

or c) where a known past or present activity or event (occurring on or off the land) may have caused contamination on the land.

The Prensa Letter of Advice October 2022:

- confirms a past activity of liquid fuel storage in underground storage tanks, which in accordance with PPN30 have high potential for contamination
- notes asbestos had been found on the site, and was likely in the buildings demolished on the site and encountered in the fill used to backfill the pits.

In this context, the Committee is satisfied the site is potentially contaminated land.

MD1 and PPN30 require that where a planning scheme amendment allows sensitive uses on potentially contaminated land, a process under the environmental audit system must be required to demonstrate the land use suitable for its intended use. PPN30 states that the environmental audit system is legislated under the *Environment Protection Act 2017*. As shown in Table 5, land with high potential for contamination, a Preliminary Risk Screen Assessment (PRSA) or environmental audit applies.

Importantly PPN30 states:

Both a PRSA and environmental audit result in the issue of a formal statement and accompanying report which is available on the EPA website.

...

An environmental audit or PRSA statement reflects the condition of the site at the date of issue.

The consistency of approach, documentation and reporting is important for transparency and record keeping in relation to potentially contaminated land. The Prensa Letter of Advice October 2022 does not satisfy these requirements, and is not consistent with the guidance in MD1 and PPN30.

In the circumstance where it is difficult or inappropriate to meet environmental audit requirements, an EAO must be applied. Application of an EAO means the land is determined to be potentially contaminated, and a process under the environmental audit system will be required before the land is used or developed for a sensitive use.

The Committee is satisfied the views of EPA have been sought, consistent with Ministerial Direction 19. The Committee understands from the EPA's letter (Document 7) it did not make its own determination about whether the land was potentially contaminated. It stated that based **only** on the information provided in the Explanatory Report, it appeared the risk had been addressed (Committee emphasis).

The letter from the EPA:

- identifies a number of inconsistencies with the exhibited documents with consideration of planning guidance
- advises that PPN30 sets the recommended level of assessment for potentially contaminated land for proposed sensitive uses.

PPN30 states:

For proposals involving sensitive uses, ... on potentially contaminated land, Ministerial Direction No. 1 and the EAO allow for either an environmental audit or a PRSA to be undertaken. Under the provisions of clause 13.04-1S an audit or PRSA may also be required for permit applications where no EAO applies. The role of a PRSA is to determine the need for an environmental audit.

Clause 6 of MD1 states that the PRSA or audit must be undertaken before giving notice of the amendment, or if difficult or inappropriate to do this, requirements may be deferred *“provided the requirements are included in the amendment through the application of an Environmental Audit Overlay or other appropriate measure”*.

It is unfortunate that the PRSA or audit process were not completed before the draft Amendment was exhibited.

The Committee considered whether it may be appropriate to require a PRSA or environmental audit in DPO16, as suggested by Council, rather than applying an EAO. While MD1 provides for an EAO or *“an appropriate measure”* to satisfy this requirement, the Committee is of the view an EAO is a more appropriate planning tool. The purpose of the EAO is *“to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination”*. It is used to identify sites known or likely to be potentially contaminated, and sets out the requirements before a sensitive use commences on the site. The EAO would be enduring on the site, until it is removed by a planning scheme amendment. This is appropriate and a safeguard to ensure potentially contaminated land is considered in the context a permit granted before a development plan has been approved, as provided for under Clause 2.0 of proposed DPO16.

Conclusion and recommendation

The Committee concludes:

- The site has high potential for contamination as defined in MD1.
- Additional documentation under the environmental audit system, specifically a PRSA or environmental audit, is required to satisfy MD1 and PPN30 requirements.
- In the absence of a PRSA and environmental audit it is appropriate to apply an EAO.
- In accordance with Ministerial Direction 19, the Explanatory Report should be updated to include a statement of how the proposed Amendment addresses the views of the EPA.

The Committee recommends:

Prepare and approve Greater Dandenong Planning Scheme Amendment C240gdan for 30 – 40 Athol Road, Noble Park to:

- a) Apply the Environmental Audit Overlay.**

4.3 Who should be the Responsible Authority for the site?

Submissions

The Proponent submitted it was significant that no submitter objected to:

Amending the schedule to Clause 72.01 to nominate the Minister for Planning as the responsible authority for considering and determining future planning applications on the site.⁹

Council did not object to making the Minister for Planning the responsible authority for the site. It submitted, however, that sufficient information should be provided at this stage of the process to achieve orderly planning because third party notice and appeal rights do not apply to approval of the development plan and Council will not be the responsible authority.

Council proposed a number of changes to DPO16 to require some plans be *“to the satisfaction of Council”* and the Minister for Planning as the responsible authority. It explained during the

⁹ Proponent Part B Submission (Document 11), page 23

Hearing that Council was not interested in taking control of the project, however it was interested to provide advice at appropriate times and that some documents should be to its satisfaction, namely those relating to stormwater, sustainability and traffic.

The Proponent responded that it understood the Minister for Planning would consult with relevant authorities as necessary in the approval process.

Discussion

Assignment of responsible authority duties to either the Minister for Planning or Council is an administrative and resourcing decision. It is not material to the strategic justification for the Amendment. The Committee accepts that in this instance the proposal is part of a suite of IHP pilot projects for the State government. For consistency, the Committee accepts it is appropriate for the Minister for Planning to be responsible authority. Council and other submitters did not object to this arrangement.

The Committee understands the reasons why Council sought to amend DPO16 to require some plans be prepared to its satisfaction, as well as the Minister for Planning. However, the Committee is reluctant to complicate the approvals process by including requirements to the satisfaction of Council and the Minister for Planning as responsible authority. The Committee's preferred version of DPO16 does not refer "*to the satisfaction of Council*".

The Committee contemplated including in the relevant requirements for the documents to be approved by the responsible authority, with advice from Council, however PPN23 provides guidance that a Schedule to the DPO "*cannot include a requirement for consultation*".

With this in mind, and on the basis that no parties objected, the Committee accepts it is appropriate for the Minister for Planning to be the responsible authority as exhibited. This will ensure the assessment is coordinated and interrelated issues are considered across the various plans.

The Committee has made recommendations on the drafting and requirements of DPO16, with consideration of specific issues raised by Council, as discussed in other chapters of this Report.

Conclusion and recommendation

The Committee concludes the Minister for Planning should be the responsible authority.

The Committee recommends:

Prepare and approve Greater Dandenong Planning Scheme Amendment C240gdan for 30 – 40 Athol Road, Noble Park to:

- a) Amend the Schedule to Clause 72.01 to make the Minister for Planning the responsible authority.**

5 Schedule to the Development Plan Overlay

5.1 Objectives of the Schedule

The issues

The issues are whether:

- the Schedule to the DPO should include objectives
- and if so, what those objectives should include.

Submissions

In its original submission, Council submitted it was disappointed no objectives were included in the exhibited DPO16, and objectives should be included relating to neighbourhood character, housing diversity and landscaping.

The Proponent's 'Day 1' version of DPO16 included suggested objectives. A number of the proposed objectives were originally included as requirements in the exhibited DPO16.

Council submitted that while it supported the objectives proposed by the Proponent in its 'Day 1' version of DPO16, redrafting was necessary to ensure that the objectives did not read as requirements or conditions. Council proposed an alternative list of objectives.

During the Hearing the Committee asked the Proponent to explain how the 'Day 1' version of DPO16 complied with the *Ministerial Direction - The Form and Content of Planning Schemes* (Ministerial Direction on Form and Content), which limits the number of objectives in a DPO schedule to a maximum of five. The Proponent explained it did not consider including more than five objectives inconsistent with the Ministerial Direction on Form and Content, however it could redraft or move some objectives to achieve this.

In its comments on the Proponent's 'Day 1' version of DPO16, Council proposed the following objectives (Document 24):

- To provide housing diversity and cater for a variety of needs by delivering a range of lot sizes and dwelling types that fulfill the objectives of the Inclusionary Housing Pilot program to deliver community housing.
- To achieve a high quality, integrated residential development that capitalises on the existing landscape features and adopts a form and density that is consistent with the established neighbourhood character.
- To facilitate a high quality landscape outcome that integrates with the overall layout and design of the site and recognises and protects existing significant vegetation.
- To ensure that new development provides reasonable internal and external amenity for both future and existing residents, without compromising the amenity of adjacent community uses.
- To achieve a built form outcome that demonstrates a high quality architectural response, implements innovative Environmentally Sustainable Design features, and improves local accessibility and permeability throughout the site.

Further, it proposed that some of the objectives in the Proponent's 'Day 1' version be relocated to Section 3.0 (Conditions and requirements for permits) or Section 4.0 (Requirements for development plan).

In its 'Final day' version of DPO16, the Proponent supported Council's proposed objectives at dot points 2 to 5 without change (Document 25). Further, it supported dot point 1 with the references to the IHP program and community housing removed, as follows:

- To provide housing diversity and cater for a variety of needs by delivering a range of lot sizes and dwelling types ~~that fulfill the objectives of the Inclusionary Housing Pilot program to deliver community housing.~~

Discussion

The *Practitioner's Guide to Victoria's planning schemes, April 2022* (Practitioner's Guide) states a schedule may contain objectives which specify aims or ambitions for the use, development, management or conservation of an identified area. It states "A name can also encapsulate the objective that the schedule serves".¹⁰

It sets out general guidelines for drafting schedules, including (among others):

- a schedule must be read with other planning controls
- the local content in a schedule should help to implement a planning objective
- the local content in a schedule should be strategically justified
- the local content in a schedule should not duplicate other provisions.

The inclusion of objectives in DPO16 are useful if they define specific goals for the site and are intended to guide implementation of planning policy. In this matter the Schedule name is "Inclusionary Housing Pilot – 30-40 Athol Road, Noble Park" which also encapsulates an objective of the Schedule.

The Committee supports inclusion of an objective relating to the purpose of the site to provide diverse housing for social housing, given this is a catalyst for the proposed rezoning and it acknowledges the role of the land as an IHP site.

The Committee also supports inclusion of objectives that are derived from the strategic work underpinning the draft Amendment and which do not duplicate State and local planning policy, such as those relating to:

- capitalising on existing landscape features and protecting significant vegetation, in particular high value trees
- local access and permeability.

It does not support the inclusion of objectives that are not necessary, with consideration of existing relevant planning policy and provisions, or that do not relate to proposed Schedule requirements, including those relating to:

- a high quality, integrated residential development that is consistent with established neighbourhood character
- internal and external amenity
- innovative Environmentally Sustainable Development (ESD)
- high quality architectural response.

By way of further explanation, for example:

- GRZ1 encourages development that respects neighbourhood character of the area
- Clause 22.06 (Environmentally Sustainable Development) applies to all land in the GRZ and has objectives, policy and application requirements relating to sustainable development
- Clause 22.09 (Residential development and neighbourhood character policy) applies to land in the GRZ which includes objectives and design principles to achieve high quality

¹⁰ Practitioner's Guide, page 109

design and amenity outcomes for all new residential development, in the context of the *City of Greater Dandenong Neighbourhood Character Study* (September 2007).

As shown in Appendix C, the Committee has recommended the objectives be revised as follows:

- [To achieve residential development that meets the needs of a diversity of households](#), including social housing, by delivering a range of lot sizes and dwelling types.
- To facilitate a high quality landscape outcome that integrates with the overall layout and design of the site and recognises and protects existing significant vegetation, including high value trees.
- To improve local accessibility and permeability throughout the site [and connects with the surrounding area](#).

Conclusion

- It is appropriate for the Schedule to the DPO to include objectives, as shown in the Committee's preferred version in Appendix C.

5.2 Inclusionary housing and demographic analysis

The issues

The issues are whether in the DPO16:

- inclusionary housing should be defined
- an affordable or inclusionary housing target or minimum requirement should be specified
- a demographic analysis should be included as a development plan requirement.

Submissions

Council submitted that it was uncertain about the meaning of inclusionary housing and it was unclear what proportion of the development would be used for social and affordable housing. The draft DPO16 does not include any minimum requirements and Council was unsure whether the development would provide an appropriate mix of social, affordable and/or inclusionary housing. To address this uncertainty Council recommended the controls contain a minimum percentage of affordable and/or inclusionary housing as well as a definition of inclusionary housing.

Council submitted the *Greater Dandenong Housing Strategy 2014-2024* (Housing Strategy) identified "*just under 10 per cent of all housing stock would need to be social or permanently available affordable housing to meet the housing needs of Greater Dandenong's community*".¹¹ This would not, however, avoid public housing waiting lists or make inroads into 'moderate' housing stress. Council advised the Housing Strategy is a reference document in the Planning Scheme.

In its comments on the Proponent's 'Day 1' version of DPO16, Council suggested an objective refer to "*community housing*" (Document 24). It also suggested the requirements for the development plan include a demographic analysis.

Council explained the demographic analysis was required to ensure objectives to provide for social and affordable housing could be delivered.

The Proponent submitted the site is one of six proposed for residential development as part of the IHP Program to:

¹¹ Council submission (Document 14), page 10

...deliver a mix of social, community and market housing on infill residential sites that exhibit good access to services and infrastructure.

...

The Pilot is to provide a minimum of 100 new social housing dwelling across the 6 sites, which will be delivered in partnership with a Registered Housing Agency, with the non-market housing referred to as Social/Community Housing. The proposed development of this site will include social and community housing to contribute to the target of 100 new dwellings across the IHP sites.¹²

The Proponent said that a deliberate feature of the planning controls was to not set a “*minimum percentage of social/community housing or a mechanism to ensure this percentage of social/community housing is retained in perpetuity*”.¹³ This approach was considered necessary to avoid the risk of identifying vulnerable people housed on the site. Further, the provision of “*social and community*” housing on the site is a matter for the State government as the current owner.

The Proponent submitted defining inclusionary housing in DPO16 is beyond the scope of the draft Amendment and unnecessary.

In response to the Committee’s question about the meaning of ‘community housing’, the Proponent referred the Committee to the reference to the *Housing Act 1982* in the definition of ‘social housing’ in the *Planning and Environment Act 1987*.

The Proponent did not accept Council’s suggestion to include demographic analysis as a development plan requirement.

Discussion

The Explanatory Report, which details the basis for the draft Amendment, only refers to the provision of ‘social housing’. Section 3AA of the *Planning and Environment Act 1987* includes a definition of social housing which in turn refers to section 4(1) of the *Housing Act 1983* which states:

social housing means the following housing (other than under the Victorian Affordable Housing Programs)—

- (a) public housing;
- (b) housing owned, controlled or managed by a participating registered agency.

The term ‘community housing’ is not included in the Planning Scheme or *Planning and Environment Act 1987* and the Committee does not support its use in DPO16 as suggested by Council. The Committee supports a reference to ‘social housing’ in the objectives of DPO16, consistent with the Explanatory Report and the definitions in the *Planning and Environment Act 1987*. This is reflected in the Committee’s preferred version of the Schedule in Appendix C.

The Committee has considered Council’s Housing Strategy which, in relation to affordable housing, states “*Council has decided not to adopt a ‘housing target’*”. Council has identified other priorities to increase social housing supply.¹⁴

The Committee finds little substance to the Proponent’s concern that the inclusion of a minimum percentage of social or affordable housing would identify vulnerable people housed in the development. In a program intended to provide a mix of housing, including social housing, some qualification of the level of social housing to be provided would be beneficial.

¹² Proponent Part A submission (Document 8), page 10

¹³ Proponent Part A submission (Document 8), page 10

¹⁴ Housing Strategy, page 67

However, the Committee was not presented with submissions or a strategic basis to recommend a specific percentage. In the context of the IHP which intends to provide 100 houses across six sites, the Committee has not recommended a minimum percentage of social housing to be achieved.

While the pilot program uses the term ‘inclusionary housing’, it is not a term used in the Planning Scheme or the *Planning and Environment Act 1987*. The Committee does not support adding a definition of inclusionary housing to the DPO16, and agrees with the Proponent this is beyond the scope of the draft Amendment. However, it accepts the use of this term in the Schedule name, as it is applied in the context of the IHP Program which is relevant to the site.

Including a requirement to a demographic analysis would duplicate analysis that has informed council’s housing strategy. There is sufficient State policy to inform provision of a mix of housing types for a range of households. The Committee does not support this proposed requirement.

The Committee’s preferred version of the DPO Schedule includes these changes.

Conclusion

- It is appropriate for the term inclusionary housing to be used in the Schedule heading, and social housing to be included in the objectives of the DPO16.
- An inclusionary housing target should not be specified in the DPO16.
- It is not appropriate to include a requirement for a demographic analysis as a development plan requirement.

5.3 Tree retention and protection

The issue

The issue is whether the planning provisions adequately provide for retention and protection of high and medium value trees.

Background

The *Preliminary Arboricultural Assessment*, Arbkey, August 2022 (Arboricultural Assessment) exhibited with the draft Amendment identified 127 trees on or in close proximity to the site, with mature examples located mostly towards site boundaries and through the middle of the site. Eight trees were identified as having high retention value (Lemon-scented Gum, River Red Gum, Spotted Gum, Grey She-oak) and 37 as medium retention value (predominantly various native or indigenous species). Trees in adjacent ownership are assumed to be of high retention value. Most trees were deemed to have a useful life expectancy of greater than 15 years. The assessment identified Tree Protection Zones around the trees with a high and medium retention value.

A permit is required to remove native vegetation on sites larger than 0.4 hectares under Clause 52.17 (Native vegetation).

Submissions

Council submitted that, given the exhibited Arboricultural Assessment concluded most of the 114 onsite trees and the 13 trees on adjoining land had full canopies and “*lacked major structural defects*”, it was important to ensure high value trees were protected and retained. It added that the Arboricultural Assessment does not make any impact assessment of the DPO16 concept plan.

Council strongly supported retaining the Section 4.0 requirement in the exhibited DPO16 which states:

An arboricultural assessment of all on and off site vegetation, including advice on the long term health and retention value of on-site vegetation.

In its comments on the 'Day 1' version of DPO16, Council recommended retaining 'medium' as well as 'high' value trees, and recommended the following amended text be moved from Section 1.0 (Objectives) to Section 3.0 (Conditions and requirements for permits):

Outline measures to protect and enhance identified vegetation, including detailed measures for the protection of trees to be retained (including tree protection zones). The Landscape Plan should be consistent with the surrounding landscape character and should have regard to the Preliminary Arboricultural Assessment (Arbkey, 2022), including the retention of high [and medium](#) value trees.

It also proposed the following additional dot point in Section 4.0, under the Landscape Concept Plan requirement:

The retention of high and medium value trees in accordance with the Preliminary Arboricultural Assessment (ArbKey, 2022).

The Proponent supported strengthening requirements for the retention of high value trees. It did not support the inclusion of a Section 3.0 requirement as proposed by Council.

The Proponent's 'Final day' version of DPO16 included:

- Section 1.0 (Objectives):
 - a reference to "recognising and protecting existing significant vegetation" in the objectives
- Section 4.0 (Requirements for development plan)
 - a requirement for the Concept Plan to show:

Identification of all on and off-site to be protected and enhanced vegetation as per the Preliminary Arboricultural Assessment (Arbkey, 2022), including tree protection zones.
 - a requirement for the Landscape Concept Plan including:

The retention of high value trees in accordance with the Preliminary Arboricultural Assessment (ArbKey, 2022).
 - a requirement for the development plan to include:

An arboricultural assessment of all on and off-site vegetation, including advice on the long-term health and retention value of on-site vegetation.

Discussion

The objectives of the Schedule are discussed above. The Committee supports inclusion of an objective that recognises and protects significant vegetation, and it recommends including specific reference to high value trees. This is consistent with the more expansive objectives proposed by the Proponent and Council during the Hearing, which included a reference to high value trees, but was removed in reducing the number of objectives.

Council and the Proponent support retention of the requirement for an arboricultural assessment in Section 4.0. The Committee agrees, however proposes the requirement be included in the Landscape Concept Plan requirement. It also supports the proposed Landscape Concept Plan requirement for retention of high value trees, in accordance with the Arboricultural Assessment. The inclusion of medium value trees was only proposed during the drafting session at the Hearing and the merits of this have not been sufficiently aired for the Committee to support the addition.

It is not appropriate for the Arboricultural Assessment to be referenced in the requirements as it is not a background or incorporated document in the Planning Scheme. As shown in its preferred version at Appendix C, the Committee:

- recommends the high value trees identified in the Arboricultural Assessment be included on the Indicative Concept Plan
- has amended the requirements to remove the reference to the report.

As discussed in Chapter 5.11, the Committee has concluded it is not appropriate to include Section 3.0 and conditions. The Committee is satisfied the requirements in its preferred version of the DPO adequately address tree retention and protection.

Conclusion

The Committee concludes:

- The requirements in the Schedule to the DPO adequately provide for retention and protection of high value trees, subject to the Committee's recommendations.
- Adequate justification for inclusion of medium value trees was not provided.

5.4 Public open space

The issues

The issues are whether the:

- amount of public open space required is adequate
- location of public open space on the Indicative Concept Plan is appropriate.

Submissions

Council submitted that there should be more detailed open space provision requirements included in the DPO16. It supported the 'Day 1' requirements in Section 4.0 but recommended changes to the wording. Council proposed the following changes to the 'Day 1' version (Council changes underlined):

A well-expressed and integrated internal open space network be provided that meets the required minimum of 6.3% land contribution that has regard to the findings of Arboricultural Report, is unencumbered, is consistent with the park development standards set out in the Greater Dandenong Open Space Strategy 2020-2030, is clearly visible and can be easily accessed by residents and applies landscaping treatments to all areas of open space.

In response to questions from the Committee, Council confirmed the Greater Dandenong Open Space Strategy had been introduced to the Planning Scheme as a background document through Amendment C228gdan, and was referenced in Clause 21.06 (Open space and natural environment).

The Proponent supported the additions proposed by Council to Section 4.0.

Mr Deal and Ms Guest submitted that the entire site should be retained as public open space. Mr Deal presented the Committee with a detailed and complex public open space analysis which he stated demonstrated the need for additional open space in Noble Park. He also questioned whether the location of the open space proposed in the Indicative Concept Plan was appropriate, given its location abutting the narrow and busy Athol Road.

Discussion

The Committee supports the inclusion of an additional requirement relating to the open space network, noting it was supported by Council and the Proponent. It is reassured by the reference to standards in Council's Open Space Strategy to ensure that the location and type of open space provided is fit for purpose. This allows for further site and context analysis to determine the best location for the open space.

The Committee recommends some changes to the wording of the provision, in the context:

- It is not necessary to specify the percentage requirement, as the open space requirement of 6.3 per cent is specified in the Schedule to Clause 53.01 (Public open space

contribution and subdivision) and will be considered in the subdivision application assessment.

- It is not appropriate to refer to the Arboricultural Assessment, however it is appropriate to refer to the high value trees shown on the Indicative Concept Plan, as recommended by the Committee (see Chapter 5.3).
- It is not appropriate to state it must be the minimum requirement, a land contribution, or that the land must be unencumbered, as the strategic basis for this has not been explained or justified and the appropriate requirement will be assessed through the subdivision permit stage. Clause 56.05-2 (Public open space provision objectives) includes an objective “to provide adequate unencumbered land for public open space and integrate any encumbered land with the open space network”.

The Committee’s preferred Schedule to the DPO includes its recommended wording as follows:

A well-expressed and integrated internal open space network be provided that has regard to the high value trees identified in the Indicative Concept Plan (Figure 1), is consistent with the park development standards set out in the *Greater Dandenong Open Space Strategy 2020-2030*, is clearly visible and can be easily accessed by residents and applies landscaping treatments to all areas of open space.

Conclusion

The Committee concludes it is appropriate to include a public open space requirement, as suggested by Council and refined by the Committee. The exact location and design of open space is subject to further work, in the context of the standards in the Open Space Strategy.

5.5 Landscape design

The issue

The issue is whether the additional landscape concept plan requirements proposed by Council are appropriate.

Submissions

Council submitted that the development of this site has a role in implementing the *Greater Dandenong Urban Forest Strategy 2021-2028* which has a target canopy cover of 15 per cent by 2028. In response to questions from the Committee, Council advised that while this is an adopted Council document it is not included in the Planning Scheme.

Council supported the ‘Day 1’ version and proposed to include the following under the landscape concept plan:

A Landscape Concept Plan including:

- Treatment of the public realm, having regard to the surrounding landscape character. Lots adjacent to the new reserve must provide a positive interface to the public open space that enables safety and passive surveillance.
- Lots identified as having a ‘neighbourhood interface’ in the Indicative Concept Plan to provide generous landscaped setbacks.
- Vegetation to be retained, areas of new planting and planting themes and species.
- Provision of indicative site cross sections showing the relationship existing dwellings and new public open space (inclusive of landscape buffers to key interfaces as appropriate).
- The retention of high and medium value trees in accordance with the Preliminary Arboricultural Assessment (ArbKey, 2022).

In addition, it proposed to relocate some ‘Day 1’ version open space requirements to Section 3.0.

The Proponent did not support the second dot point dealing with neighbourhood interface because the requirements are vague and uncertain. It also did not support the requirement to be to a standard specified by Council as well as any requirements being included in DPO16 Section 3.0.

Discussion

The Committee supports inclusion of an updated Landscape Concept Plan requirement, as proposed in the Proponent's 'Final day' version of DPO16, which incorporates some of the changes proposed by Council, subject to rewording the final dot point relating to high value trees as recommended by the Committee and shown in Appendix C.

Issues relating to Section 3.0 conditions are discussed in Chapter 5.11 of this Report. Regarding the condition relating to open space landscaping standards, the Committee considers this addressed through the new open space requirement discussed in Chapter 5.4 above. The requirement for detailed landscaping plans is not necessary as this will be addressed through Clause 56.05-1 (Integrated urban landscape objectives), Standard 12, which states "*an application for subdivision that creates streets or public open space should be accompanied by a landscape design*", and specifies details.

The Committee agrees with the Proponent that the reference to 'generous landscapes setbacks' is unclear and ambiguous particularly given the more specific provisions of the GRZ1 and the requirements of Clause 54 and 55. The Committee does not support inclusion of the requirement.

Conclusion

The Committee concludes:

- The landscape concept plan provisions proposed by Council are appropriate with the exception of the second dot point which refers to neighbourhood interface lots.
- The additional conditions and requirements for a permit proposed by Council are appropriate.

5.6 Access, traffic and transport

The issue

The issue is whether the access, traffic and transport requirements in the DPO16 are appropriate.

Background

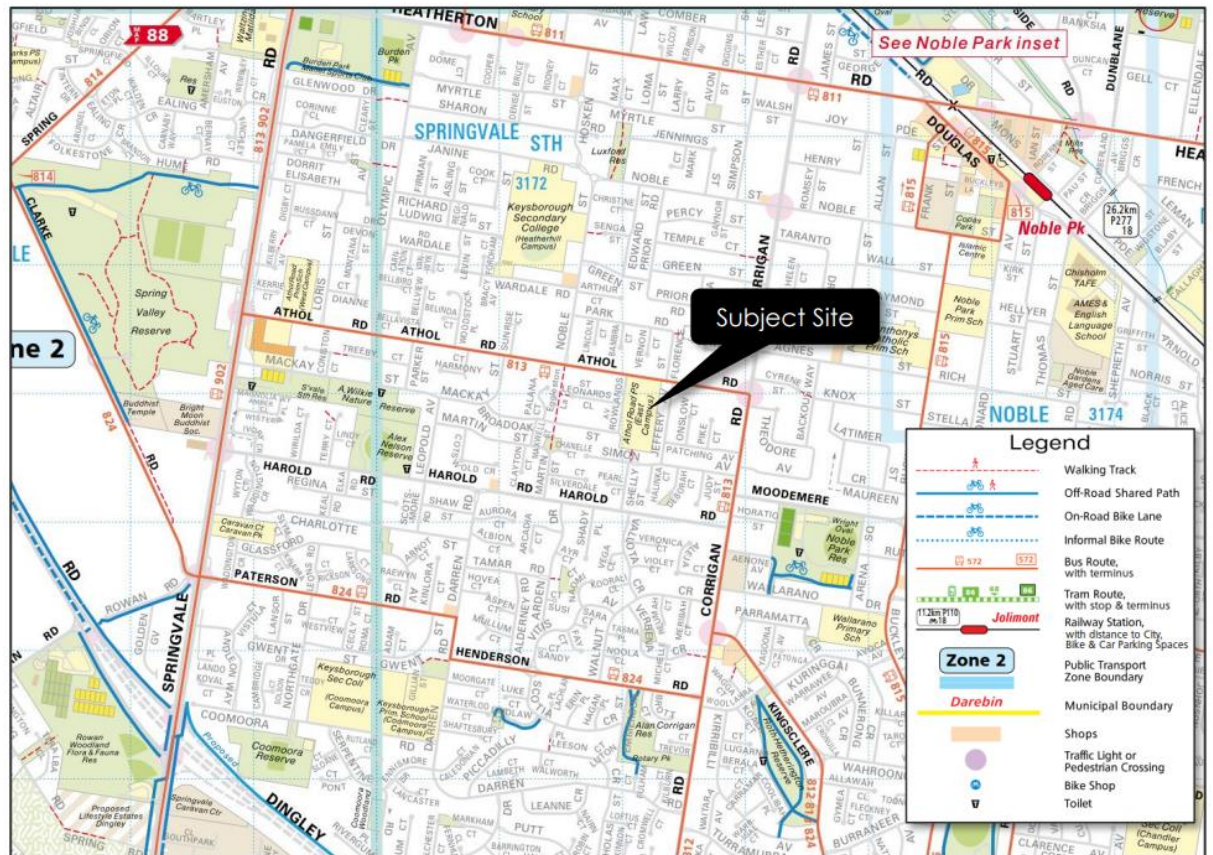
The *30-40 Athol Road, Noble Park: Transport Impact Assessment*, One Mile Grid, September 2022 (Traffic Impact Assessment) exhibited with the draft Amendment summarised the local access conditions including Athol Road and Rowlands Avenue, noting that there are currently various informal access points located across the site through the external road network. Local public transport access is limited to the bus routes 813 and 979, with the nearest stop located at Jeffery Avenue / Athol Road.

The Transport Impact Assessment identifies:

A future assessment of the traffic impact will be necessary once detailed design is completed for the site and the final number and make-up of dwellings is known. That said, noting the site's location with access to two road frontages (both Athol Road and Rowlands Avenue) which will allow for a distribution of traffic across the road network, the development of the site is not expected to impact on the operation of the surrounding road network. Accordingly, it is considered that a suitable level of development can be easily accommodated by the existing road network.

The Transport Impact Assessment includes a site and context assessment, including a TravelSmart Map (see Figure 6).

Figure 6 TravelSmart Map



Source: Transport Impact Assessment, page 9

Submissions

Council supported the changes to the traffic and transport provisions of the DPO16 detailed in the ‘Day 1’ which reflected its original submission. It proposed the Integrated Traffic Management Plan should also include:

Provision of an internal road and pedestrian network that promotes safe and convenient movement to existing street networks and community uses.

Council submitted the Transport Impact Report and the Integrated Traffic Management Plan should be prepared to its satisfaction.

Submitter 8 submitted that the traffic generation rates in the exhibited Traffic Impact Assessment were “surprisingly low.” He asked what provision has been made for monitoring traffic prior to and after the build and for traffic calming if needed.

The Proponent’s ‘Day 1’ version of DPO16 included requirements for a Traffic Impact Report and Integrated Traffic Management Plan. The Proponent supported the Council’s proposed addition to the requirements, with the exception of the reference to Council’s satisfaction.

The Proponent stated:

As per Clause 4.0 of the proposed DPO schedule, a permit applicant must provide a Transport Impact Report and an Integrated Traffic Management Plan once the detailed design of the site is complete, which will form part of the subsequent planning applications made on the site as required by the proposed planning controls (both the DPO and the zone).

The Proponent added that seeking Council’s approval could give rise to a stalemate situation which could frustrate the development of the site.

Discussion

Council and the Proponent support the amended requirements for a Traffic Impact Report and Integrated Traffic Management Plan. The Committee supports the inclusion of these requirements as appropriate and reasonable to address issues raised in submissions. The Committee understands the Transport Impact Report and an Integrated Traffic Management Plan will be finalised with the detailed design of the site and the consideration and remediation of traffic impacts will be part of the planning permit process. These proposed requirements are included in the Committee’s preferred version of the Schedule at Appendix C.

For the reasons discussed in Chapter 4.3, the Committee does not agree the requirements should include “*to the satisfaction of Council*”.

The new Integrated Traffic Management Plan requirement focusses on pedestrian as well as vehicle movement, including:

- an internal road and pedestrian network
- a pedestrian network plan.

The exhibited Traffic Impact Assessment report identifies the surrounding pedestrian and cycling networks and connections (see Figure 6) and concludes “*the internal road network regardless of the ownership should allow for two-way traffic movements, whilst also considering pedestrians and cyclists*”.¹⁵ While the Indicative Concept Plan identifies roads, it does not refer to the surrounding pedestrian links and potential connections. It would be appropriate to include on the Indicative Concept Plan pedestrian links to and from the site, and note the internal road network should accommodate pedestrians and cyclists. As shown in its preferred version at Appendix C, the Committee recommends the Indicative Concept Plan be updated accordingly.

Conclusion

The Committee concludes, subject to its recommendations and preferred version of the Schedule in Appendix C:

- The proposed new Traffic Impact Report and Integrated Traffic Management Plan requirements are appropriate.
- The Indicative Concept Plan should be updated to show indicative pedestrian links to and from the site, and to include a note that the internal road network should accommodate pedestrian and cycling networks.

5.7 Cultural heritage management plan

The issue

The issue is whether a reference to the Cultural Heritage Management Plan is required in the Schedule to the DPO.

Submissions

Council submitted that the site is within an area of Aboriginal Cultural heritage sensitivity which had not been considered in any of the draft Amendment documentation. Council submitted it

¹⁵ Transport Impact Assessment, page 13

recognised that *Planning Practice Note 45: The Aboriginal Heritage Act 2006 and the planning permit process* states:

request to rezone land does not trigger a requirement to prepare a CHMP. A preliminary cultural heritage assessment is strongly recommended at this stage to identify any relevant constraints and opportunities that may assist in the rezoning of land. (Council emphasis)

Council was of the view a preliminary cultural heritage assessment would identify any constraints or opportunities and should have been completed prior to the Amendment. It recommended a Section 4.0 requirement be included as follows:

The development plan must incorporate the findings and recommendations of the approved Cultural Heritage Management Plan (CHMP).

The Proponent indicated an assessment of cultural heritage sensitivity is underway, and it had been “*instructed that there is no evidence of Aboriginal cultural heritage artefacts found following the initial investigations on the site*”.¹⁶

The Proponent opposed the requirement proposed by Council because any planning permit application will need to be assessed against the relevant Planning Scheme provisions which will include the preparation of a Cultural Heritage Management Plan. It considered the requirement proposed by Council unnecessary as it is a duplication of planning provisions and inconsistent with planning guidance.

Discussion

The Committee understands that Cultural Heritage Management Plan may identify opportunities and constraints that will influence the future development of the site. While a preliminary cultural heritage assessment is strongly recommended and would have been beneficial, it is not a requirement at this stage of the planning process.

Clause 15.03-2S (Aboriginal cultural heritage) includes a strategy:

Ensure that permit approvals align with the recommendations of any relevant Cultural Heritage Management Plan approved under the *Aboriginal Heritage Act 2006*

An approved Cultural Heritage Management Plan will be required prior to issue of the planning permit to develop the site. The Committee does not support the requirement proposed by Council as it is a duplication of planning policy and other regulatory requirements.

Conclusion

The Committee concludes it is not necessary or appropriate to refer to the Cultural Heritage Management Plan in the Schedule to the DPO.

5.8 Flooding and stormwater

The issues

The issues are whether:

- stormwater and drainage issues are adequately addressed in the DPO16 requirements
- the additional Stormwater Management Plan requirements proposed by Council are reasonable
- the Stormwater Management Plan should be prepared to the satisfaction of Council.

¹⁶ Proponent Part B submissions (Document 11), page 19

Submissions

Council submitted that stormwater or drainage issues had not been adequately addressed, which was problematic given the northern part of the site had *“been identified as being liable to overland stormwater flooding”*. It considered increased drainage infrastructure may be needed, including upgrade to existing Council infrastructure and water sensitive urban design. The accommodation of overland flow may, in turn, require changes to the layout of the development and dwelling design.

Council explained that the ‘Day 1’ version of the DPO16 did rectify this situation to some extent, but sought the following additional requirements:

- Any upgrade of the existing Council’s stormwater infrastructure to accommodate any increase in stormwater runoff upgrades must be paid for by the land developer.
- Should this land development be staged, a drainage scheme for the whole site, with the determination of funding provisions.
- Any other matters as required by Melbourne Water.
- Details of service infrastructure provision.
- A response to the Safer Design Guidelines for Victoria.
- Any modification to the Stormwater Management Plan component of the Development Concept Plan must be to the satisfaction of Council.

Council also sought for the Stormwater Management Plan to be prepared to its satisfaction, and for it to approve any modifications to the plan.

Submitter 8 submitted that the development of the site will result in increased impermeable surfaces increasing run-off. Further action would be needed to *“minimise run-off, retain water and use it for the benefit of the local environment”*.

The Proponent stated that site permeability is generally governed by the standards of Clause 55 which are commonly addressed with at the detailed design stage. It did not support the additional requirements proposed by Council, and its ‘Day 1’ and ‘Final day’ versions included a Section 4.0 requirement as follows:

A Stormwater Management Plan including:

- Provisions to accommodate overland stormwater flows where development occurs on land that is liable to overland stormwater flooding.
- A Drainage impact assessment to advise on the best options available to accommodate increased discharge from the anticipated residential development.
- How the development will comply with best practice environmental management of urban stormwater and incorporate water sensitive urban design to assist on-site retention of stormwater.
- Details of stormwater management measures.
- Construction and maintenance requirements for water sensitive urban design.

The Proponent did not support the requirement for the plan to be prepared to the satisfaction of Council.

Discussion

The inclusion of a Stormwater Management Plan requirement is appropriate because overland stormwater flooding is an issue for the site which may influence development design, and there are no overlays in place to guide a response. Council and the Proponent agreed the ‘Day 1’ provisions were appropriate. The Committee accepts the addition of these requirements, apart from the final dot point relating to construction and maintenance requirements, as these will be dealt with through a future planning permit application.

The additional provisions proposed by Council essentially seek more detail to be included in the Stormwater Management Plan including identification of any needed infrastructure upgrades and Melbourne Water requirements. Most of these requirements are not appropriate for the following reasons:

- it is not appropriate to include a requirement for a development contribution
- it is not appropriate to refer to a document that is not an incorporated or background document in the Planning Scheme
- a DPO cannot include a requirement for consultation (see Chapter 4.3) and reference to undefined requirements of another government agency may cause confusion
- any modification to the Stormwater Management Plan will be dealt with through permit conditions.

The Committee's preferred version of the Schedule to the DPO includes the requirement relating to staging of development.

The Committee understands that Council is the drainage authority for the site and as such any connection into its network will require its consent. From this perspective the requirement for its satisfaction is unnecessary and not supported, for the reasons outlined in Chapter 4.3 of this report.

Conclusion

The Committee concludes it is appropriate to require a Stormwater Management Plan in the Schedule to the DPO, subject to the recommendations of the Committee as shown in Appendix C.

5.9 Environmentally sustainable design

The issue

The issue is whether an alternative ESD requirement should be included in Section 4.0, as proposed by Council.

Submissions

Council submitted the DPO16 should include requirements for ESD, on the basis *"ESD principles can contribute to the affordability of dwellings by limiting the need for heating and cooling, including drought tolerant landscaping, and using high quality, low maintenance materials"*.¹⁷

Council proposed:

- inclusion of an objective relating to ESD
- an alternative Section 4.0 requirement to those exhibited, on the basis this was consistent with other DPO schedules applied to former school sites in the municipality:
A Sustainability Management Plan (including an assessment using BESS/Green star, STORM/MUSIC or other methods) outlining the environmentally sustainable practices and best practice water sensitive design principles that will be incorporated into the development such as energy and water conservation, passive solar design, waste minimisation, vegetation retention, the promotion of alternative transport options and other innovative practices.

The Proponent opposed this alternative requirement on the basis it was unnecessary and a duplication of planning provisions, which is inconsistent with PPN23, ministerial directions and the Practitioner's Guide.

¹⁷ Council submission (Document 76), Page 16

Discussion

The Committee agrees with the Proponent's submission that ESD matters are appropriately dealt with at the permit stage, and in the context of policy in the Planning Scheme.

Local policy Clause 22.06 (Environmentally Sustainable Development) applies to residential and non-residential development that requires a planning permit, in accordance with thresholds defined in the policy. It provides a framework for early consideration of environmental sustainability and includes objectives relating to energy performance, water resources, indoor environment quality, stormwater management, transport, waste management and urban ecology. Application requirements include a Sustainable Design Assessment and Sustainability Management Plan, as appropriate.

The alternative Section 4.0 requirement proposed by Council duplicates planning policy and is not required.

Section 4.0 of the exhibited DPO16 included two development plan requirements relating to ESD, including:

- Incorporation of sustainable design features to address water management, solar access and energy saving initiatives.
- Details of how the proposal will demonstrate best practice Environmentally Sustainable Design principles.

The development plan's purpose is to outline the future design and development of the site, of which ESD is an integral component. It should drive the overall sustainability strategy and consequently it is appropriate to consider how ESD will be achieved in the preparation of the development plan. The Committee concludes it is appropriate to retain the following exhibited Section 4.0 requirement:

Details of how the proposal will demonstrate best practice Environmentally Sustainable Design principles.

Conclusion

The Committee concludes it is not appropriate to include the alternative ESD requirement proposed by Council.

5.10 Construction management plan

Issue

The issue is whether a condition for a construction management plan should be included, as proposed by Council.

Submissions

Council submitted that Section 3.0 should include the following permit condition, and a similar requirement should be in Section 4.0:

The preparation and endorsement of a construction management plan, that includes (but is not limited to) measures for managing land contamination.

The Proponent opposed the requirement for a construction management plan because it is a matter that would be considered at the planning permit stage.

Discussion

The Committee agrees with the Proponent that a construction management plan is a matter to be considered at the planning permit stage once the design has been finalised. Clause 56.08-1 (Site

management objectives) requires a subdivision application to describe how the site will be managed prior to and during construction. This includes, among other things, chemical contamination and vegetation and natural features proposed for retention.

Further, issues of land contamination will be addressed through application of the EAO as recommended by the Committee (see Chapter 4.2).

Conclusion

The Committee concludes it is not appropriate to include the provisions relating to a construction management plan as proposed by Council.

5.11 General drafting issues

The Committee has reviewed the proposed Schedule and has made a number of wording refinements and suggestions with consideration of:

- clarity and use of plain English
- removing duplicated content with planning policy or other provisions
- alignment with the drafting of the parent DPO clause.

Other changes to specific sections are discussed below.

Section 2.0 (Requirement before a permit is granted)

The exhibited DPO16 included Section 2.0 (Requirement before a permit is granted):

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority.

Council submitted this should be changed to:

A permit may not be granted before the development plan has been prepared to the satisfaction of the responsible authority.

The Proponent supported Council's suggested change.

The Ministerial Direction on Form and Content provides for the inclusion of the words as exhibited, or "*None specified*" where no requirements are specified. It is not appropriate to include a unique requirement that is not consistent with ministerial directions, as it may preclude other uses and development that may be proposed and are not regulated by the DPO16.

The Committee supports the exhibited Section 2.0, and this is shown in the Committee preferred Schedule in Appendix C.

Section 3.0 (Conditions and requirements for permits)

Council proposed a number of conditions be included in Section 3.0 of the Schedule, as follows:

All planning permits must, where relevant, include conditions providing for the following:

- Outline measures to protect and enhance identified vegetation, including detailed measures for the protection of trees to be retained (including tree protection zones). The Landscape Plan should be consistent with the surrounding landscape character and should have regard to the Preliminary Arboricultural Assessment (Arbkey, 2022), including the retention of high and medium value trees.
- All public open space to be landscaped to a standard specified by the Council.
- A requirement for detailed landscape plans to the satisfaction of the Council showing details of tree planting and landscaping generally in accordance with the Development Plan approved under this Overlay

- The preparation and endorsement of a construction management plan, that includes (but is not limited to) measures for managing land contamination.

The Proponent did not support the inclusion of requirements in Section 3.0.

The Practitioner's Guide states:

Some schedules can include conditions or requirements that a planning permit or class of planning permits must contain. This can be useful where the schedule has been applied to deal with a site or development that involves a wide range of uses. Conditions applying to particular uses in particular locations can assist in reducing or eliminating concerns at the boundary with another sensitive use. For example, conditions could relate to noise emissions or hours of operation, where commercial premises are proposed to be located next to a future residential area.

If Section 3.0 conditions are included in the DPO, it is important to specify what use or development the conditions apply to. This was not specified by Council in its submissions. Further, as the conditions were not exhibited, the Committee is reluctant to recommend their inclusion.

With regard to the specific conditions proposed, many elements will be addressed through the subdivision application, including:

- construction management, including tree protection and land contamination (as discussed above)
- public open space and landscaping requirements.

Section 4.0 (Requirements for a development plan)

The exhibited DPO16 introduced the Section 4.0 requirements as follows:

A Development Plan must include the following requirements to the satisfaction of the responsible authority.

It is not necessary for Section 4.0 to state *"to the satisfaction of the responsible authority"*, as the parent DPO Clause 43.04-2 (Requirement before a permit is granted) states the development plan must be prepared to the satisfaction of the responsible authority. Consistent with the Ministerial Guidelines on Form and Content, the Committee preferred version of the Schedule at Appendix C states:

A development plan must include the following requirements.

Both Council and the Proponent supported a requirement that one development plan would apply to the whole site in Section 4.0. The proposed text is:

There must be only one Development Plan for the whole of the land to which this schedule applies.

While not necessary, the Committee accepts this provides clarity on the site which contains two titles, and supports retaining this provision.

The exhibited DPO16 included the following provision:

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

Both Council and the Proponent supported removal of the waiver provision from Section 4.0. Council considered the statement contradicts the purpose of applying a DPO and which may open up the requirements to interpretation. The Committee agrees and has deleted the provision in its preferred version of the Schedule in Appendix C.

Indicative Concept Plan

The exhibited DPO16 requires that a development be generally in accordance with the Indicative Concept Plan (see Figure 2).

The Proponent described the Indicative Concept Plan as ‘very high level’. This is an accurate description. The plan only displays the location on an area of open space, the potential road layout and identifies the interface along the boundaries of the site.

While this approach may provide maximum flexibility for the Proponent it provides little comfort for the responsible authority about significant considerations for future development of the site.

The preceding Chapters have discussed a number of matters pertinent to the future development of the land which should be addressed in the Indicative Concept Plan. In summary these issues include:

- high value trees
- pedestrian links and networks.

The Committee’s preferred version of the Schedule includes this recommendation.

Appendix A: About the Government Land Standing Advisory Committee

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

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

The Committee currently consists of:

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

The Committee is assisted by Chris Brennan, Senior Project Officer in Planning Panels Victoria.

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

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

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

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

Appendix B: Document list

No.	Date	Description	Party
1	25 Jan 2023	Letter of referral	Minister for Planning
2	3 May	Letter from South East Water to Government Land Planning Service (GLPS) confirming no objection to Amendment	Government Land Planning Service (GLPS)
3	24 May	Directions hearing notice letter	Planning Panels Victoria (PPV)
4	7 Jun	Email regarding contamination directions	GLPS
5	8 Jun	Panel directions and version 1 timetable	PPV
6	15 Jun	Notification report	GLPS
7	19 Jun	Response from EPA regarding potential contamination	GLPS
8	28 Jun	Part A submission	MET Communities Pty Ltd (Proponent)
9	28 Jun	'Day 1' version of DPO Schedule 16 with tracked changes	Proponent
10	28 Jun	Expert witness report, Rachael Hofmann – Contamination	Proponent
11	4 Jul	Part B submission	Proponent
12	4 Jul	Tracked changed explanatory report, Amendment C240gdan	Proponent
13	6 Jul	Video presentation	N Deal
14	6 Jul	Updated submission	N Deal
15	6 Jul	Redacted petition	N Deal
16	6 Jul	Presentation slides	N Deal
17	6 July	Supplementary analysis – open space	N Deal
18	6 Jul	Submission	City of Greater Dandenong
19	7 Jul	Additional documentation for presentation	N Deal
20	7 Jul	Submission with newspaper archives	G Guest
21	7 Jul	Presentation additional slide	N Deal
22	7 Jul	Presentation slide note	N Deal
23	10 Jul	Further Committee directions	PPV
24	12 Jul	Without prejudice tracked changes to Day 1 Version of DPO16	Greater Dandenong City Council

No.	Date	Description	Party
25	14 Jul	Response to further directions	Proponent
26	14 Jul	Final clean version of DPO16	Proponent

Appendix C: Committee Preferred Development Plan Overlay Schedule 16

Committee insertions: blue

~~Committee deletions: red~~

--/---

Proposed C240gdan

SCHEDULE 16[insert new number] TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO16[insert new number]**.

INCLUSIONARY HOUSING PILOT – 30-40 ATHOL ROAD, NOBLE PARK

1.0

Objectives

--/---

Proposed C240gdan

~~None specified.~~

To achieve residential development that meets the needs of a diversity of households, including social housing, by delivering a range of lot sizes and dwelling types.

To facilitate a high quality landscape outcome that integrates with the overall layout and design of the site and recognises and protects existing significant vegetation, including high value trees.

To improve local accessibility and permeability throughout the site and connects with the surrounding area.

2.0

Requirement before a permit is granted

--/---

Proposed C240gdan

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority.

3.0

Conditions and requirements for permits

--/---

Proposed C240gdan

None specified.

4.0

Requirements for development plan

--/---

Proposed C240gdan

~~A development plan must include the following requirements:~~

- ~~• The design outcome of the Development Plan is to be generally in accordance with the indicative concept plan (Figure 1).~~
- ~~• A range of lot sizes and dwelling types to provide housing diversity and cater for a variety of needs.~~
- ~~• The provision of areas of public open space throughout the site, with the giving location of these areas having appropriate regard to issues of safety and surveillance.~~
- ~~• The provision of new buildings that do not dominate the streetscape.~~
- ~~• Varying built form presentation throughout the site.~~
- ~~• The protection of neighbourhood character and off-site amenity.~~
- ~~• The retention of high quality existing vegetation and provision of new vegetation that is consistent with the surrounding landscape character.~~
- ~~• An internal vehicle and pedestrian network which improves the connectivity of the neighbourhood.~~
- ~~• Incorporation of sustainable design features to address water management, solar access and energy saving initiatives.~~

The development plan must be generally in accordance with the Indicative Concept Plan (Figure 1).

The development plan may not be developed in stages.

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

A Development Plan must include the following requirements ~~to the satisfaction of the responsible authority:~~

- The key attributes of the land, its context, the surrounding area and its relationship with existing and proposed uses on adjoining land.

- Analysis of how the layout pattern and proposed development responds to the existing site conditions and adjoining residential interfaces.
- Concept plans for the layout of the site which show:
 - The proposed site and lot orientation.
 - The proposed street network, road and laneway widths and areas of public parking.
 - ~~The proposed areas of public open space.~~
 - ~~Identification of all~~ All on and off-site vegetation, and whether the vegetation will be retained or removed.
 - The proposed areas of public open space.
 - A well-expressed and integrated internal open space network that has regard to the high value trees identified in the Indicative Concept Plan (Figure 1), is consistent with the park development standards set out in the *Greater Dandenong Open Space Strategy 2020-2030*, is clearly visible and can be easily accessed by residents and applies landscaping treatments to all areas of open space.
 - Staging of development (as relevant).
- ~~A landscape concept plan that identifies the overall landscaping scheme throughout the site.~~
- A Landscape Concept Plan including:
 - An arboricultural assessment of all on and off-site vegetation, including advice on the long term health and retention value of on-site vegetation.
 - Retention of high value trees, as shown on the Indicative Concept Plan (Figure 1).
 - Treatment of the public realm, having regard to the surrounding landscape character.
 - Lots adjacent to the new reserve must provide a positive interface to the public open space that enables safety and passive surveillance.
 - Vegetation to be retained, areas of new planting and planting themes and species.
 - Provision of indicative site cross sections showing the relationship of existing dwellings and new public open space (inclusive of landscape buffers to key interfaces as appropriate).
- ~~A traffic management report that assesses the proposed street network (vehicle and pedestrian) and car parking areas.~~
- A Transport Impact Report assessing the potential effects that the development may have on the surrounding road network detailing:
 - Performance objectives.
 - An existing conditions assessment.
 - Proposed vehicle access arrangements.
 - Traffic generation.
 - Base-case without the proposed development.
 - Post development analysis.
 - Mitigation treatments.
- An Integrated Traffic Management Plan that assesses the proposed street network (vehicle and pedestrian) including:
 - An existing conditions assessment.
 - The road layout and design including road reserve widths in accordance with Council's standards.
 - Impact on nearby intersections
 - The means of vehicle ingress and egress to and from the site.

- Provision of an internal road and pedestrian network that promotes safe and convenient movement to existing street networks and community uses.
- Location and access points for on-site car parking, ensuring that car parking is located in a way that does not dominate the street frontage.
- A pedestrian network plan and bicycle facilities plan.
- Access routes to public transport.
- The actions and responsibilities for ongoing implementation of the plan, including proposed funding arrangements.
- Options for reinstatement of Council's standard geometric cross section for the road reserve along the frontage with Rowlands Avenue, or alternative plans to meet the needs of the proposed site and surrounding area.
- Typologies for the proposed internal street network, road and laneway widths and areas of public parking, including proposed management of these areas
- ~~An arboricultural assessment of all on and off site vegetation, including advice on the long term health and retention value of on-site vegetation.~~
- A Stormwater Management Plan including:
 - Provisions to accommodate overland stormwater flows where development occurs on land that is liable to overland stormwater flooding.
 - A Drainage impact assessment to advise on the best options available to accommodate increased discharge from the anticipated residential development.
 - How the development will comply with best practice environmental management of urban stormwater and incorporate water sensitive urban design to assist on-site retention of stormwater.
 - Details of service infrastructure provision and stormwater management measures.
 - Construction and maintenance requirements for water sensitive urban design.
 - Should this land development be staged, a drainage scheme for the whole site.
- Details of how the proposal will demonstrate best practice Environmentally Sustainable Design principles.

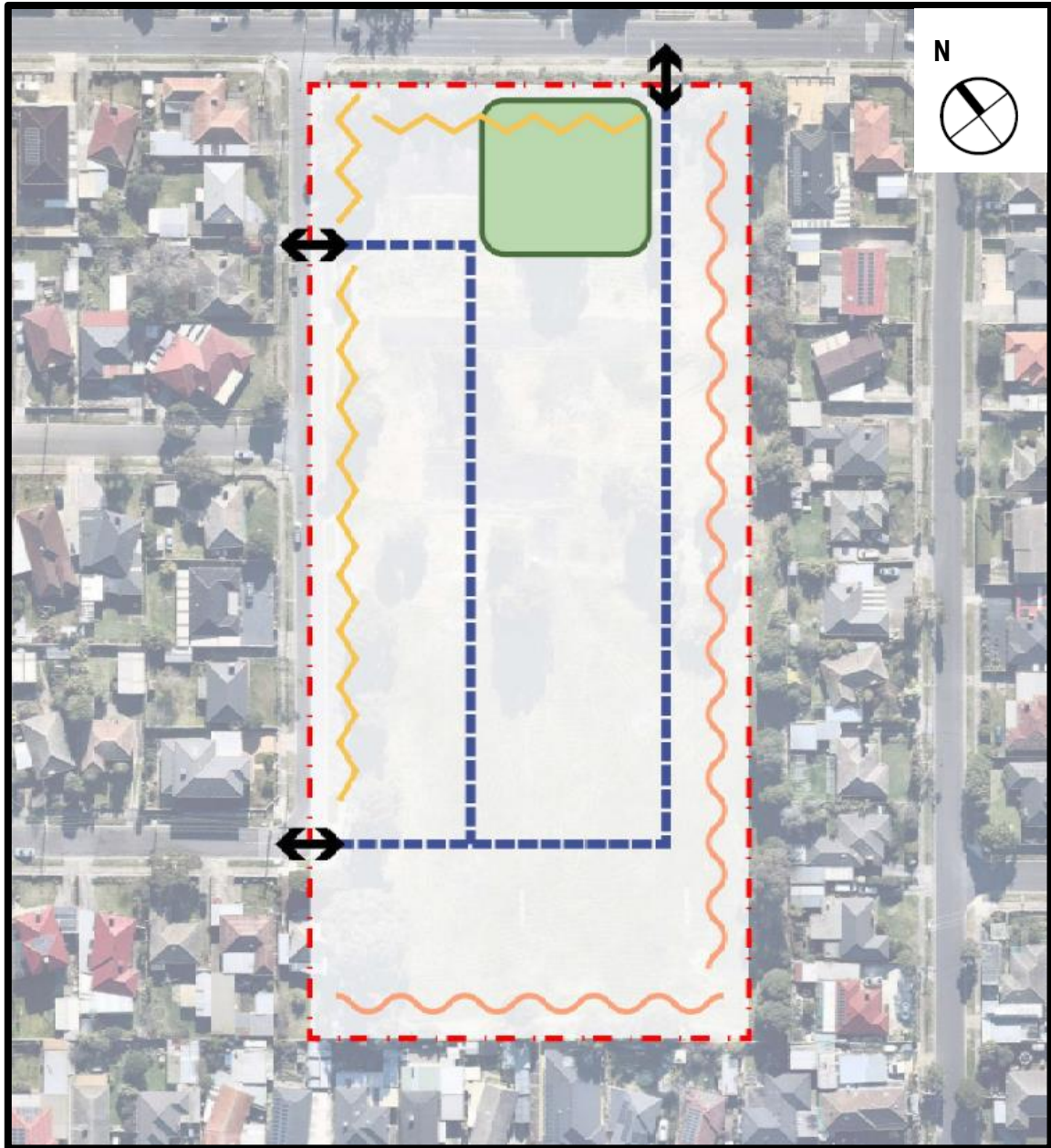
~~The responsible authority may waive the need to provide any of the information detailed above that is not relevant to a particular Development Plan or part of a Development Plan.~~

Figure 1 - Indicative Concept Plan

[Committee note:

Revise Indicative Concept Plan to show:

- *high value trees, as identified in the (Preliminary Arboricultural Assessment, Arbkey, August 2022)*
- *indicative pedestrian links to and from the site, and a note that the internal road network should accommodate pedestrian and cycling links, as identified in the 30-40 Athol Road, Noble Park: Transport Impact Assessment, One Mile Grid, September 2022.]*



LEGEND

-  SITE BOUNDARY
-  POTENTIAL ACCESS POINTS
-  POTENTIAL PUBLIC OPEN SPACE
-  NEIGHBOURHOOD INTERFACE
-  ROAD INTERFACE
-  POTENTIAL ROAD LAYOUT