

Planning and Environment Act 1987

Advisory Committee Report

Greater Dandenong Planning Permit Application
PLN16/0072
Bangholme Market

20 August 2018

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Advisory Committee Report pursuant to section 151 of the Act

Greater Dandenong Planning Permit Application PLN16/0072

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Con Tsotsoros, Chair



Kate Partenio, Member

Contents

	Page
1 Introduction.....	1
1.1 The subject land and surrounds	1
1.2 The Proposal	2
1.3 Background.....	5
1.4 Issues dealt with in this Report	5
1.5 Amendment VC148	6
2 Planning context	7
2.1 Policy framework.....	7
2.2 Legislation.....	13
2.3 Plan Melbourne 2017-2030.....	13
2.4 Greater Dandenong Green Wedge Management Plan	15
2.5 Planning scheme provisions	16
3 Key issues	18
3.1 Alignment with planning policy	18
3.2 Market use in the Green Wedge Zone	23
3.3 Landscape impact	27
3.4 Environmental impact	31
3.5 Flooding	32
3.6 Traffic and parking.....	33
3.7 Integrated decision making	34
3.8 Recommendation	35
3.9 Without prejudice draft permit.....	35

Appendix A Terms of Reference

Appendix B Document list

Appendix C Without prejudice draft planning permit

List of Tables

	Page
Table 1 Surrounding land	2
Table 2 Advertised and substituted proposals	3
Table 3 Purposes of the zones and overlays.....	17

List of Figures

	Page
Figure 1 The subject land	1
Figure 2 Advertised plan.....	4
Figure 3 Substituted plan and elevation	4
Figure 4 Subject site in context to the NEIC.....	14
Figure 5 Subject land zone and overlay	16
Figure 6 Photos from Mr Vernon's evidence	28
Figure 7 View looking northwest across Harwood Road and the subject land from Frankston-Dandenong Road about 90 metres south of Harwood Road.....	30

List of Abbreviations

the Act	<i>Planning and Environment Act 1987</i>
ESO	Environmental Significance Overlay
GRZ	General Residential Zone
GWM Plan	Green Wedge Management Plan
ha	hectare
NEIC	National Employment and Innovation Cluster
Plan Melbourne	<i>Plan Melbourne 2017-2050: Metropolitan Planning Strategy</i>
SPPF	State Planning Policy Framework
UGB	Urban Growth Boundary
VCAT	Victorian Civil and Administrative Tribunal

Note: Any number after a zone or overlay refers to the schedule number

Overview

Application	
Permit Application	Greater Dandenong Planning Permit Application PLN16/0072
Common name	Bangholme Market
Permit Applicant	Planisphere Planning & Urban Design
Responsible Authority	Greater Dandenong City Council
Subject land	84 Harwood Road, Bangholme, as shown at Figure 1
Proposal	Use and develop the subject land for a Market, Rural Industry, reduce car parking requirements in Clause 52.06 and alter access to a Road Zone 1, as detailed at 1.2
Zone and overlays	Green Wedge Zone (Clause 35.04) Environmental Significance Overlay Schedule 3 (Clause 42.01)
Relevant Scheme policies and provisions	Car parking (Clause 52.06) Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road (Clause 52.29)
Permit requirements	<div> A permit is required to: <div> <div>by Clause</div> <div>35.04-1</div> <div>35.04-1</div> <div>35.04-5</div> <div>42.01-2</div> <div>52.06-3</div> <div>52.29</div> </div> </div> <ul style="list-style-type: none"> - use land for a Market - use land for Rural Industry - construct or carry out buildings and works associated with a use in Section 2 of Clause 35.04-1 - construct a building or carry out works - reduce the number of car parking spaces required under Clause 52.06-5 - create or alter access to a road in a Road Zone, Category 1
Land description	The subject land is located within the Green Wedge Zone and comprises a rural allotment located on the northern side of Harwood Road, Bangholme. It is trapezium in shape with a frontage of 1789.6 metres to Harwood Road and a depth of 480.9 metres, yielding an overall site area of approximately 50 hectares. The land is relatively flat and bounded to the north, east and west by large rural blocks that are mostly used for cattle grazing and have minimal vegetation.
Objectors	Objections were received from: <ol style="list-style-type: none"> 1. A R & B J Hood 2. Defenders of the South East Green Wedge 3. Barry Ross 4. Melbourne Market Authority 5. Flexistrut Australia

Section 82¹ request for review	No P1792/2017 received by the Victorian Civil and Administrative Tribunal on 3 August 2017
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Committee process

The Committee	Con Tsotsoros (Chair) and Kate Partenio
Appointment	The Committee was appointed by the Minister for Planning under section 151 of the <i>Planning and Environment Act 1987</i> on 30 March 2018
Terms of Reference	See Appendix A
Directions Hearing	Planning Panels Victoria, 26 April 2018
Committee Hearing	Planning Panels Victoria, 16, 17 and 20 July 2018
Site inspections	Unaccompanied, 1 August 2018
Appearances	<p>The Minister for Planning as responsible authority represented by Hayley Presnell of the Department of Environment, Land, Water and Planning</p> <p>City of Greater Dandenong represented by Maria Marshall of Maddocks Lawyers</p> <p>Nick Tweedie SC and Tiphonie Acreman of Counsel, instructed by Norton Rose Fulbright, who called the following expert evidence:</p> <ul style="list-style-type: none"> - Planning from Sarah Horsfield of Urbis - Traffic engineering from Charmaine Dunstan of Traffix Group - Landscape architecture from Tim Vernon of CDA Design Group <p>VicRoads represented by Jeremy Beaver</p> <p>Defenders of the South East Green Wedge Inc. represented by Ian Munt of Counsel, who called the following expert evidence:</p> <ul style="list-style-type: none"> - Planning from Andrew Clarke of Matrix Planning Australia
Citation	Greater Dandenong CC [2018] PPV 16/0072
Date of this Report	20 August 2018

¹ Section 82 of the *Planning and Environment Act 1987*

Response to Terms of Reference	
Terms of Reference item	Where responded in report
14. The Advisory Committee may inform itself in any way it sees fit, and must consider all relevant matters, including but not limited to:	
a. Relevant provisions of the <i>Planning and Environment Act 1987</i> and the Greater Dandenong Planning Scheme, including any adopted plans, strategies or planning scheme amendments.	Chapter 2
b. The Greater Dandenong Green Wedge Management Plan, 2017.	Chapter 2 (2.4)
c. All relevant material prepared by or for the applicant or otherwise provided to the Advisory Committee, including any amended application material submitted.	All chapters
d. The views of the applicant and Greater Dandenong City Council.	Chapter 3
e. All submissions or objections provided to the Greater Dandenong City Council on planning permit application PLN16/0072 and all submissions or material provided to VCAT regarding proceeding P1792/2017.	Chapter 3
20. The Advisory Committee must produce a written report for the Minister for Planning, providing the following:	
a. An assessment of all relevant matters relating to the application for review and any amended application material submitted to the Advisory Committee.	Chapter 3
b. An assessment of submissions to the Advisory Committee.	Chapter 3
c. A recommendation as to whether a planning permit should be issued and the reasons for this recommendation.	Executive Summary and Chapter 3
d. A (without prejudice) draft planning permit including relevant conditions from Section 55 referral authorities.	Appendix C
e. Any other relevant matters raised during the Advisory Committee hearing.	Chapter 3
f. A list of persons who made submissions considered by the Advisory Committee.	Overview (Application)
g. A list of persons consulted or heard.	Overview (Committee process)

Executive summary

(i) Summary

The South East Green Wedge is one of Melbourne's 12 green wedges. Green wedge land is land described in a metropolitan fringe planning scheme outside Melbourne's Urban Growth Boundary.

The subject land, approximately 37 hectares in size, is in the South East Green Wedge (Green Wedge), in the Green Wedge Zone. The land is approximately 48 kilometres from Melbourne's Central City.

Greater Dandenong Planning Permit Application PLN16/0072 (the Permit Application), as advertised, sought to use and develop 84 Harwood Road, Bangholme (subject land) for a fresh produce market (market) and food sterilisation facility (rural industry).

Key issues raised in objections included safety related to use or storage of hazardous materials, environmental impacts, flooding, visual impact, traffic and inconsistency with planning policy.

Plans for the proposal were substituted before the Hearing to, among other changes, reduce the scale of the development, remove the food sterilisation facility and reduce parking spaces.

The Committee has considered issues raised in all submissions, expert witness statements and matters specified in its Terms of Reference. The Committee has reviewed the original advertised plans and substituted plans and has based its assessment on the latter.

The Committee considers that the proposal will result in a loss of considerable agricultural land from one of the larger properties in the Green Wedge.

In principle, the subject land can be used for a market subject to meeting relevant planning policy and provisions, although it is not a preferred use listed in the Green Wedge Policy. Significantly, the proposed development is contrary to the Green Wedge Policy vision of providing green spacious relief from surrounding urban development. The proposed development does not meet the siting and design guidelines in the Green Wedge Management Plan.

The proposal is considered to meet the objectives in Environmental Significance Overlay Schedule 3, on the basis that Melbourne Water, as the recipient of the Overlay had no objection to the application, either as advertised or as substituted. Drainage could be adequately managed through the permit conditions sought by Melbourne Water. Traffic and parking could also be adequately managed to minimise impacts to the environment, subject to the modification of draft condition 5 to include controls to manage the parking of large customer trucks.

The Committee considers that the net community benefit of protecting green spacious relief for present and future generations outweighs any benefit resulting from a wholesale market operating on the subject land.

As required by the Terms of Reference, the Committee has provided a (without prejudice) draft planning permit in Appendix C.

(ii) Recommendation

Based on the reasons set out in this Report, the Committee recommends that Greater Dandenong Planning Permit PLN16/0072 should not be granted.

1 Introduction

1.1 The subject land and surrounds

The Permit Application applies to 84 Harwood Road, Bangholme shown in Figure 1. The subject land is in the Green Wedge Zone and comprises a rural allotment located on the northern side of Harwood Road, Bangholme. It is trapezium in shape, with a frontage of 1789.6 metres to Harwood Road and a depth of 480.9 metres, comprising approximately 37 hectares.

The land is relatively flat and bounded to the north, east and west by large rural blocks that are mostly used for cattle grazing and have minimal vegetation. A small dam is in the eastern corner of the site, and there is a paddock with some derelict buildings in the south-western portion of the land. The Urban Growth Boundary (UGB) is located to the north of the subject land, on the northern side of Eumemmerring Creek and to the east, on the eastern side of Frankston-Dandenong Road.

Figure 1 The subject land



Source: VicPlan – Department of Environment, Land, Water and Planning

The subject land is surround by land outlined in Table 1.

Table 1 **Surrounding land**

Location	Surrounding land
To the north	Two rural properties adjoin the land.
To the east	Frankston-Dandenong Road (where it intersects with Harwood Road and Glasscocks Road). An easement reserve runs parallel to the entire eastern border.
To the north-east (and fronting Frankston-Dandenong Road)	A small residential dwelling with sparse low-level shrubbery and grass
To the further north-east	A developed area comprising various industrial warehouses located in the Industrial 1 Zone, consisting of large factories and warehouses with a range of industrial uses including food, sales, car repairs and furniture sales. The Willow Lodge Village is located approximately 1.6 kilometres to the north.
To the south	Harwood Road directly abuts the land. Electrical powerlines are located south of Harwood Road and run east-west. Properties south of Harwood Road are large rural blocks in the Green Wedge Zone with no significant vegetation or built form. The Bunurong Memorial Park is located further south (Public Use Zone).
To the west	A large rural block comprising grasslands abuts the land. This site also abuts Eastlink Freeway. The Melbourne Water Eastern Treatment Plant is located further to the west. The Environmental Significance Overlay applies to the treatment plant's surrounds.

1.2 The proposal

The applicant substituted plans in the permit application on 25 June. The plans comprised drawings A00-001 to 005, A01-001 to 006, A02-001 to 002 and A05-001 to 006. The advertised and substituted proposals are explained in Table 2.

The substitute plans propose the following building dimensions:

- Two market shed buildings: about 100 metres long, 40 metres wide and 10 metres tall (administration/cafe/toilets: 11 metres tall)
- Two warehouse buildings: about 90 metres long, 43 metres wide and 10 metres tall
- Flowers Building: about 96 metres long, 23 metres wide and 10 metres tall
- Two site services buildings: about 39 metres long, 15 metres wide and 6 metres tall
- Main administration building: about 50 metres long 12 metres wide and 8 metres tall.

Table 2 Advertised and substituted proposals

	Advertised	Substituted
Subject land area	369,764 square metres*	
Land use	Fresh produce market (Market) and food sterilisation facility (Rural Industry)	Land use Use the subject land for a fresh produce market (Market)
Development		
Total building area	32,740 square metres	19,529 square metres
Market sheds	Three (14,696 square metres)	Two (11,957 square metres)
Flower shed	1,359 square metres	2,169 square metres
Fish shed	1,359 square metres	Removed
Administration building	287 square metres	492 square metres
Warehouses	Three (8,877 square metres)	Two (5,918 square metres)
Sterilisation facility	5,000 square metres	Removed
Other development	Loading and unloading areas On-site waste management and recycling facility Market services and supplies building (581 square metres)	Loading and unloading areas On-site waste management and recycling facility
Total hard surface area	165,249 square metres (44.7%)	85,958 square metres (23.6%)
Parking, loading and unloading		
Parking spaces	660 car spaces including 149 oversized van spaces and eight spaces for vehicles servicing people with disabilities	420 parking spaces including 214 car spaces and 43 truck spaces and 120 loading bays
Bicycle spaces	20	No change specified
Shower facilities	2	No change specified
Access	- New crossover at Harwood Road, adjacent to the south-west corner of the subject land - Gatehouse at the end of the main entry with two queuing lanes in each direction	No change specified
Operating hours	5 days each week, 4am to 4pm	No change specified

* The advertised plans referred to the entire subject land but indicated that the development would only occupy 240,945 square metres of the 369,764 square metre site. However, as the subject land cannot be subdivided in the Green Wedge Zone, the Committee has applied the entire property area to the advertised proposal.

Figure 2 **Advertised plan**

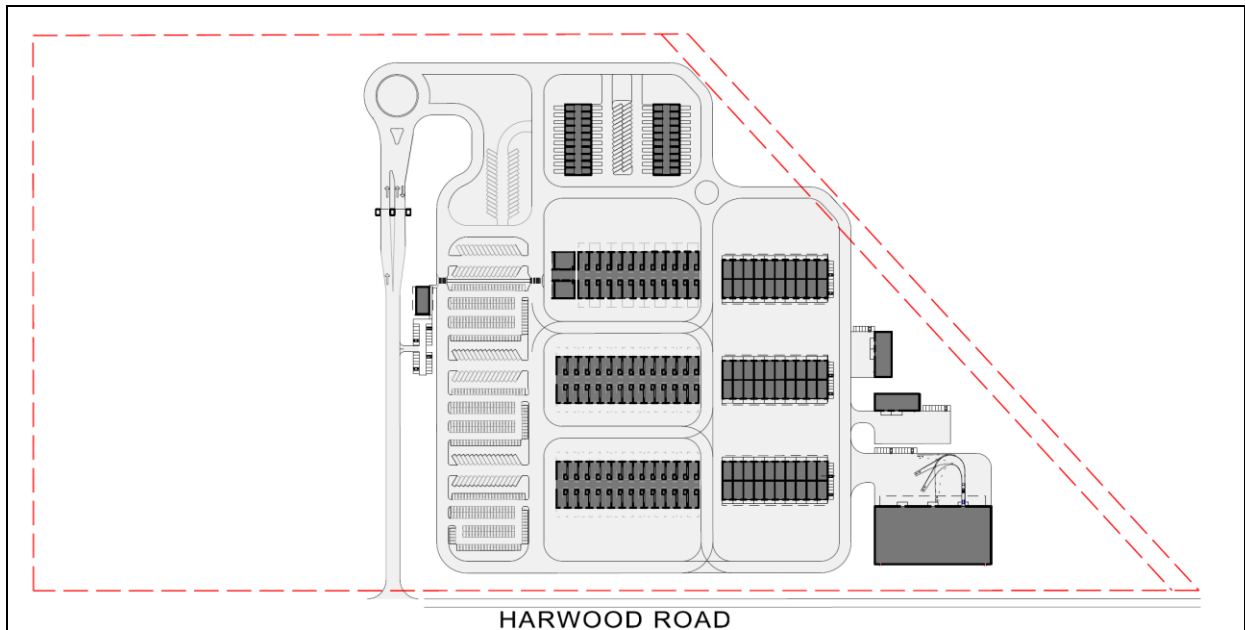
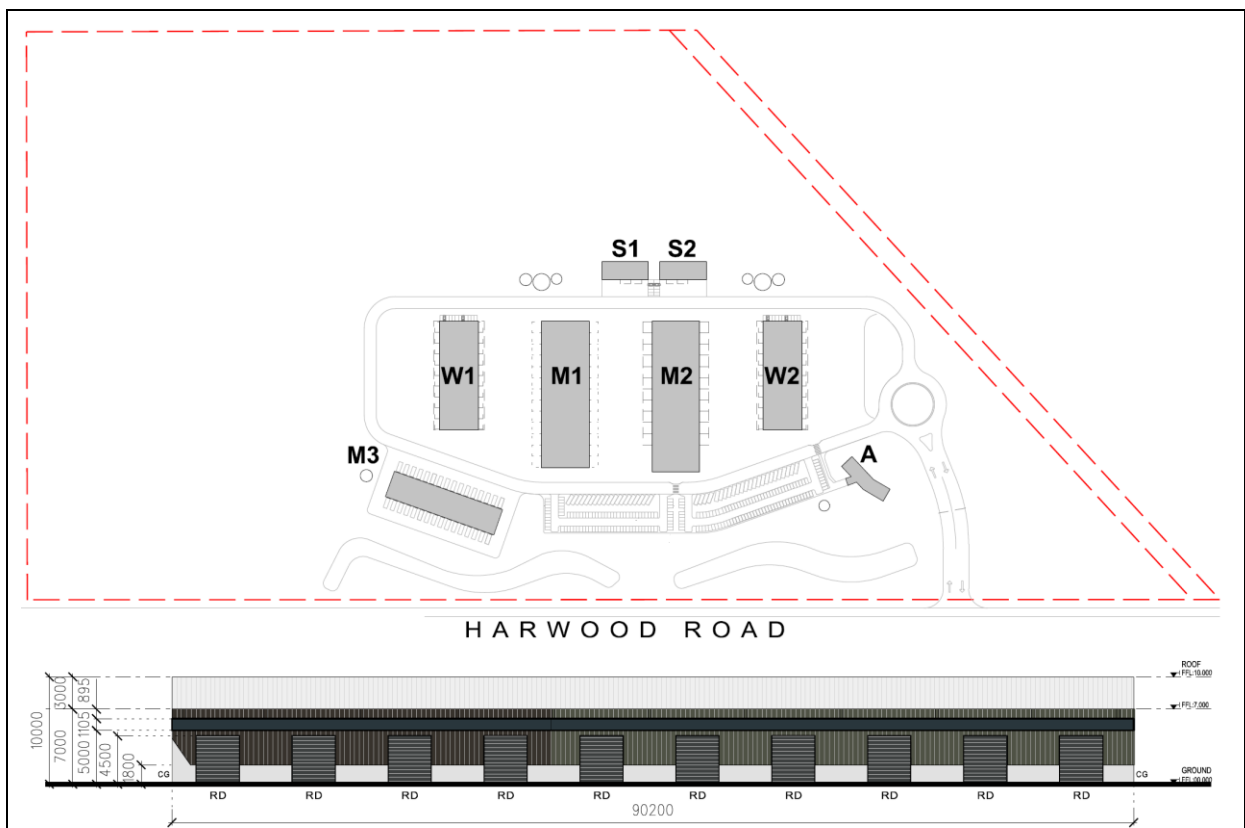


Figure 3 **Substituted plan and elevation**



1.3 Background

Council's Part A submission provided a chronology of events and most of these are replicated below.

5 February 2016	Council received an application for a planning permit (PLN16/0072) at 84 Harwood Road, Bangholme, for the use and development of the subject land for a market and rural industry and a reduction in car parking. Plans dated 15 January 2016 accompanied the application.
4 March 2016	Council requested further information from the permit applicant
24 May 2016	The permit applicant responded to Council's request for further information
	Notice of the permit application was given and four objections were received
14 July 2017	Council issued a Notice of Decision to Grant a Planning Permit (NOD) subject to 41 conditions
3 August 2017	Defenders of the South East Green Wedge Inc. filed an application for review with VCAT pursuant to section 82 of the Act against Council's decision to issue a NOD in respect of the Permit Application
10 August 2017	Key recommendations of the City of Greater Dandenong Green Wedge Management Plan (December 2014) were introduced into the Planning Scheme [Amendment C143]
9 October 2017	Norton Rose Fulbright on behalf of the planning permit applicant applied to transfer VCAT proceeding P1792/2017 (VCAT Proceeding) to the Major Cases List
12 October 2017	The Tribunal listed the VCAT proceeding for a two-day hearing commencing 8 February 2018
17 November 2017	A practice day hearing occurred
20 December 2017	A compulsory conference occurred
27 December 2017	The Minister for Planning decided to call in the VCAT Proceeding under clause 58(2)(a) of Schedule 1 to the <i>Victorian Civil and Administrative Tribunal Act 1998</i> , on the grounds that the proceeding raises a major issue of policy and the determination of the proceeding may have a substantial effect on the achievement or development of planning objectives
25 June 2018	The applicant applied to amend the plans comprising the permit application

1.4 Issues dealt with in this Report

The Committee considered all written submissions made in response to notice of the Permit Application, observations from site visits, evidence and other material presented to it during the Hearing.

The Committee has reviewed a large volume of material. The Committee has had to be selective in referring to the more relevant or determinative material in the Report. All

submissions and materials have been considered by the Committee in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

The issue of vandalism raised in a submission is not addressed in this report because it is not a planning consideration.

This Report meets the Committee's Terms of Reference set out in Appendix A and deals with the issues under the following headings:

- Planning context
- Key issues
 - Alignment with planning policy
 - Market use in the Green Wedge Zone
 - Landscape impact
 - Environmental impact
 - Flooding
 - Traffic and parking
 - Integrated decision making
 - Recommendation
 - Without prejudice draft permit.

1.5 Amendment VC148

Amendment VC148 was gazetted on 31 July 2018 and made considerable structural changes throughout the Victoria Planning Provisions and planning schemes. For clarity, this report refers to pre-Amendment VC148 clause numbers. The revised clauses should be considered before deciding on the planning permit.

2 Planning context

The Committee has considered whether the proposal is supported by the planning policy framework in the Greater Dandenong planning scheme.

2.1 Policy framework

State

Clauses

10 State Planning Policy Framework

► 10.01 Integrated decision making

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

11 Settlement

► 11.06 Metropolitan Melbourne

► 11.06-1 Jobs and investment

To create a city structure that drives productivity, attracts investment, supports innovation and creates jobs.

The land is located immediately adjoining the Dandenong National Employment Industrial Cluster (NEIC) to the south west

Strategies for NEIC's:

- Improve access to jobs across Melbourne and closer to where people live
- Facilitate investment in Melbourne's outer areas to increase local access to employment
- Protect agricultural land and support agricultural production.

11.06-3 Integrated transport

To provide an integrated transport system connecting people to jobs and services, and goods to market.

Strategies:

- Facilitate high-quality public transport access to job-rich areas
- Enable improved arterial road connections across Melbourne
- Encourage increased diversity and density of development along the Principal Public Transport Network
- Improve transport in Melbourne's outer suburbs by ensuring land use and transport planning are integrated
- Provide for increased density of development, particularly around transport nodes, to support the viability of services
- Improve the road network in growth areas and outer suburbs to ensure access to jobs and services
- Plan for and deliver public transport in outer suburban areas that is integrated with land use and development.

11.06-7 Green wedges

To protect the green wedges of Metropolitan Melbourne from inappropriate development.

Strategies:

- Ensure strategic planning and land management of each green wedge area to promote and encourage its key features and related values

- Support development in the green wedge that provides for environmental, economic and social benefits
- Consolidate new residential development within existing settlements and in locations where planned services are available and green wedge area values can be protected
- Plan and project major state infrastructure and resource assets that serve the wider Victorian community, such as airports and ports with their associated access corridors, water supply dams and water catchments and waste management and recycling facilities
- Protect important productive agricultural areas such as Werribee South, the Maribyrnong River flats, the Yarra Valley, Westernport and the Mornington Peninsula
- Support existing and potential agribusiness activities, forestry, food production and tourism
- Protect areas of environmental, landscape and scenic value such as biodiversity assets, national and state parks, Ramsar wetlands and coastal areas
- Protect significant resources of stone, sand and other mineral resources for extraction purposes
- Provide opportunities for renewable energy generation.

12 Environmental and landscape values

Planning is to help protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas.

▶ 12.01 Biodiversity

- ▶ To assist the protection and conservation of Victoria's biodiversity.

Strategies:

- Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity.

▶ 12.02-4 Landscapes

- ▶ To assist the protection of landscapes and significant open spaces that contribute to character, identity and sustainable environments.

Strategies:

- Improve the landscape qualities, open space linkages and environmental performance in green wedges and conservation areas and non-urban areas
- Recognise the natural landscape for its aesthetic value and as a fully functioning system
- Ensure natural key features are protected and enhanced.

13 Environmental risks

Planning should adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. Planning should identify and manage the potential for the environment, and environmental changes, to impact upon the economic, environmental or social well-being of society.

▶ 13.05 Bushfire

- ▶ To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

14 Natural resources management

Planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development.

▶ 14.01 Agriculture

- ▶ To protect productive farmland which is of strategic significance in the local or regional context.

Strategies:

- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.

In considering a proposal to subdivide or develop agricultural land, the following factors must be

considered:

- The desirability and impacts of removing the land from primary production, given its agricultural productivity.
- The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.

15 Built environment and heritage

Planning should ensure all new land use and development appropriately responds to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

► **15.03-2 Aboriginal Cultural Heritage**

- To ensure the protection and conservation of places of Aboriginal cultural heritage significance.

Strategies:

- Ensure that permit approvals align with recommendations of a Cultural Heritage Management Plan approved under the *Aboriginal Heritage Act 2006*.

17 Economic Development

Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

► **17.01 Business**

To encourage development which meet the communities' needs for retail, entertainment, office and other services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

► **17.01-2 Out-of-centre development**

To ensure that proposals or expansion of single use retail, commercial and recreational facilities outside activity centres are discouraged by giving preference to locations in or on the border of an activity centre

To ensure that out-of-centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal.

► **17.02 Industry**

► **17.02-1 Industrial development**

To ensure the availability of land for industry

Identify land for industrial development in urban growth areas where good access for employees, freight and road transport is available and appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses.

► **17.02-2 Design of industrial development**

To facilitate the sustainable development and operation of industry and research and development activity.

Local

Clauses

21 Municipal Strategic Statement

▶ 21.02 Municipal profile

▶ Clause 21.02 recognises that:

Greater Dandenong is a city that has at its doorstep the magnificent Dandenong Ranges and large areas of flora and fauna. Greater Dandenong has extensive areas of open space and includes several areas of significant ecological value, wetlands and remnant woodlands and grassland communities. The creeks and waterways that traverse the city, together with its many areas of historical, aboriginal and vegetative significance, afford the city a composition of diverse environments.

Greater Dandenong is a net provider of jobs, with a resident workforce of 53,000, and local businesses providing approximately 74,000 jobs.

Greater Dandenong businesses provide the third highest number of jobs in metropolitan Melbourne, with the employment sector largely orientated towards manufacturing occupations. Within the metropolitan Melbourne area, Greater Dandenong is ranked – in terms of job stock – first in wholesale trade. The extension of the Urban Growth Boundary by the State Government will facilitate further industrial development in Dandenong and some 25,000 new jobs, to maintain Greater Dandenong's pivotal role in the State economy.

▶ 21.02-2 Regional context

Identifies the majority of the Greater Dandenong Green Wedge is in private ownership. It includes many facilities and land uses of strategic importance to the surrounding region and to the wider metropolitan area, including:

- The Eastern Treatment Plant and related odour buffers;
- Areas of landscape and environmental significance;
- Areas with potential for waste-water recycling;
- Designated odour and safety buffers near the Dandenong South industrial area; and
- Locations with productive agricultural potential.

▶ 21.02-3 Land use

Industry ranges from small-scale light industries in older established areas, to newer, general industrial estate, with larger allotments and purpose-built factories. Key industries located in Greater Dandenong include advanced manufacturing in automotive, plastics and scientific equipment, as well as food processing and distribution and metal fabrication.

▶ 21.03 A vision for Greater Dandenong

Council's vision for Greater Dandenong is:

A city whose green wedge provides a green, spacious relief from the surrounding urban development and supports a range of activities including agriculture, water treatment, recreation, education, and rural living that are carefully located and designed to respect the important environmental, cultural heritage, water management, landscape, and amenity values and functions of the region.

In achieving the vision for the Municipality, the following directions are included:

- Economic wellbeing – strategies that facilitate employment and investment in the key economic areas of the municipality and stimulate its economic growth and wellbeing.
- Sustainable community – Strategies that facilitate employment and investment in Greater Dandenong's key economic areas and stimulate growth of industrial and business opportunities unique to the area and strategies that reinforce the green wedge 'break' in built form development.
- Sustainable environment – strategies to protect and reinforce the rural landscape in Greater Dandenong's Green Wedge and strategies that reinforce the Green Wedge Zone as a 'Green Space' between urban growth corridors.

► 21.04 Land use

► 21.04-3 Industrial

Strategies:

- Prevent the establishment of industrial activities in rural areas/green wedge except where they are directly related to or contribute to agricultural production.
- Discourage industries that rely on visits by heavy vehicles using roads through residential areas or activity centres.
- Encourage industry to adopt world best practice water sensitive urban design.
- Facilitate the application of a different land use zoning regime in areas where there is an identified interface conflict between industrial uses and residential areas.

► 21.04-4 Green wedge

Environmental issues – The Greater Dandenong Green Wedge is located between industrial and residential areas in the suburbs of south-eastern Melbourne. Current land practices have directly impacted upon water quality in the Dandenong Creek catchment and the lower Dandenong Creek catchment is considered to be in moderate to poor condition. There has also been a loss of significant vegetation and in particular River Red Gums.

An objective of 21.04-4 includes ensuring that new uses and development do not adversely impact on existing land uses or compromise the establishment of preferred land uses in the Green Wedge.

Strategies:

- the siting and design of new land uses and development provides adequate protection from the potential off-site impacts of the legitimate operations of the Eastern Treatment Plant and Dandenong South Industrial 2 Zone
- new use and development to not compromise the establishment of preferred or established land uses in the Green Wedge (such as agriculture, recreation, equestrian and sporting activities)
- encourage the establishment of niche and specialised agricultural activities and particularly those that support food security.

Economic issues – Land banking and speculation has been occurring in the Greater Dandenong Green Wedge. This has resulted in large areas of unused and rundown land and also land with low value uses occurring in the Green Wedge.

In 2011, approximately 1037ha of land, or 28% of the Green Wedge, was being used for agricultural purposes by approximately 32 businesses. Agriculture is a desirable industry for the Greater Dandenong Green Wedge as it contributes to the economic activity of the area. The Greater Dandenong Green Wedge provides an opportunity for agricultural activities to take place with easy access to consumers and suppliers in the region.

► 21.05 Built form

► 21.05-1 Urban design, character, streetscapes and landscapes

The Green Wedge landscape has the potential to be threatened by new development and built form which does not respond positively to the local characteristics of the area; and The siting and design of other built form elements such as fencing, car parking, signage, lighting and vegetation should also be considered as they can also compromise the character of the Green Wedge landscape.

► 21.05-4 Green Wedge

Objective 1. To ensure the open, landscape-dominated vistas throughout the Greater Dandenong Green Wedge are maintained and protected.

Strategies

- 1.1 Ensure new use and development has a low visual impact and respects the rural character of the surroundings.
- 1.2 New use and development proposals in the Green Wedge to provide a response to the

relevant objectives and guidelines as contained within the Siting and Design Guidelines of the Greater Dandenong Green Wedge Management Plan (Revised, January 2017).

Objective 2. To identify, protect and promote existing heritage values.

Strategies

2.1 Retain heritage protection for identified post-contact heritage sites.

► **21.06 Open space and natural environment**

► **21.06-3**

Protect and enhance the ecological values of the Green Wedge and improve connectivity.

The Strategic Open Space and connectivity Framework Plan – Green Wedge map provided on page 6 identifies Perry Road as having remnant vegetation.

► **21.07 Infrastructure and transport**

Facilitating economic growth requires a well planned and flexible transport system to accommodate, new, expanding and changing industries within Greater Dandenong and the wider region

22 Local planning policy

► **22.02 Green wedge local planning policy**

► **22.02-1**

The vision for the Green Wedge is:

The Greater Dandenong Green Wedge will provide a green spacious relief from surrounding urban development. It will support a range of activities – agriculture, water treatment, recreation, education, and rural living – that are carefully located and designed to respect the important environmental, cultural heritage, water management, landscape, and amenity values and functions of the region.

This policy is based on the vision, objectives and outcomes of the Greater Dandenong Green Wedge Management Plan (Revised, January 2017) which details a strategic approach to the management of the Greater Dandenong Green Wedge.

► **22.02-3 Policy**

Green Wedge Precincts must:

Demonstrate how the proposal responds to the Green wedge vision as detailed at Clause 22.02-1.

Demonstrate how the proposal responds to the Precinct objective and preferred land use for each precinct as detailed in Table 1 of this policy.

Respond to the Siting and Design Guidelines for buildings and works as detailed in the Greater Dandenong Green Wedge Management Plan (*Revised, January 2017*).

Show how the development will apply appropriate floodplain management measures where relevant.

Respond to any increased intrusion of through traffic on to local roads within the Green Wedge.

Map 1 of the provision identifies the Land as being within the Bangholme East Precinct.

Map 2 identifies the Land as being within an area of cultural sensitivity.

The precinct objective for the Bangholme East area is outlined in Table 1 seeks to ensure that new uses are compatible with the operations of the Eastern Treatment Plant and nearby industrial areas, and encourage agricultural and other rural uses.

Preferred land uses in the Bangholme East are agriculture and other rural uses, open space and recreation.

► **22.02-4 Urban design in activity and neighbourhood centres**

Requires the following Decision guidelines to be considered (as appropriate) in the consideration of use and development of the Land:

- The vision and local policy for the green wedge, and the precinct objective and preferred land uses for the site
- The capability of infrastructure, including roads and drainage
- The effects on environmental, heritage and landscape values internal and external to the precinct; and
- The effects on green wedge activities, the Eastern Treatment Plant and the Industrial 2 Zone.

57 Metropolitan Green Wedge Land**Purpose**

- To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values;
- To protect productive agricultural land from incompatible uses and development;
- To ensure that the scale of use is compatible with the non-urban character of metropolitan green wedge land;
- To encourage the location of urban activities in urban areas.

2.2 Legislation

Section 60(1) of the *Planning and Environment Act 1987* (the Act) states that before deciding on an application, a responsible authority must consider a range of factors including:

(e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development; and

(f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

(i) Part 3AA – Metropolitan green wedge protection

For the purposes of this Part, a metropolitan fringe planning scheme is a planning scheme applying to the municipal district of any of the following municipal councils—

...

(e) Greater Dandenong City Council;

...

46AC What is green wedge land?

For the purposes of this Part, green wedge land is land that is described in a metropolitan fringe planning scheme as being outside an urban growth boundary.

2.3 Plan Melbourne 2017-2030

Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Plan Melbourne) expresses the Government's policy and vision for metropolitan Melbourne to 2050. The strategy is referenced throughout the Greater Dandenong Planning Scheme Planning Policy Framework.

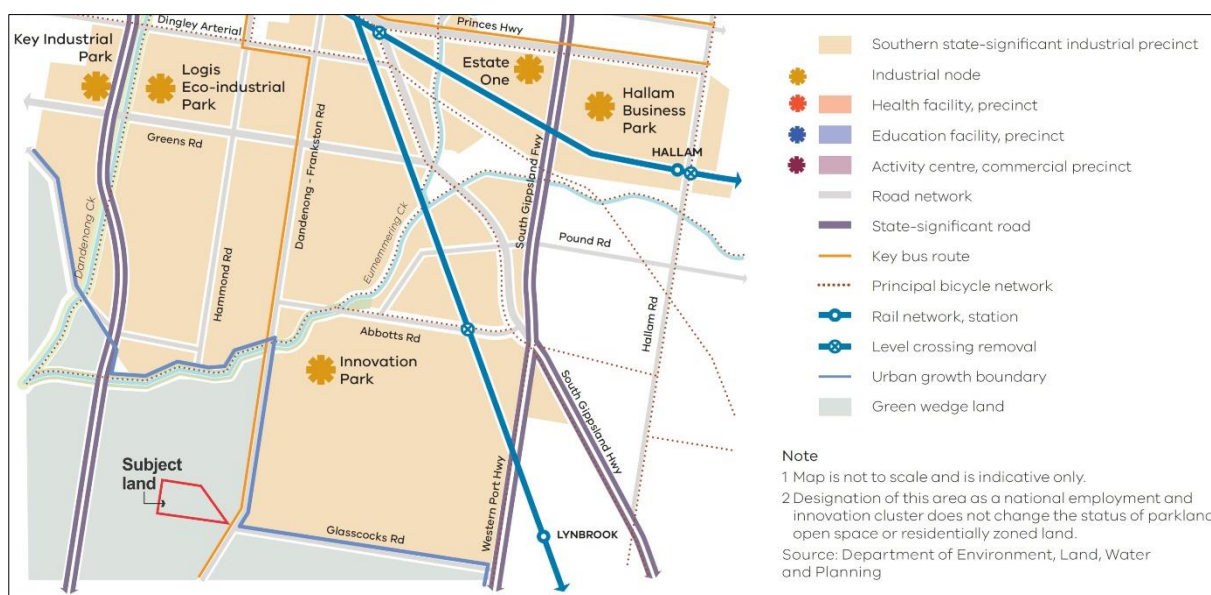
Plan Melbourne defines 12 green wedges spanning 17 municipalities. In 'Melbourne's key challenges and opportunities', Plan Melbourne states:

Melbourne's green wedges and peri-urban areas must be properly managed so that valued features and attributes are protected. A balance must be

maintained between the needs of the community, the economy and the environment.

The subject Land is in the South East Green Wedge in Melbourne's southern region and immediately adjoins the southern state significant industrial precinct. This is identified in Map 8 (Dandenong National Employment and Innovation Cluster) (NEIC). Figure 4 identifies the subject land in an extract from Map 8.

Figure 4 Subject site in context to the NEIC



Direction 1.4 seeks to support the productive use of land and resources in Melbourne's non-urban areas and states:

Melbourne's green wedges and peri-urban areas are immensely important to the state's economy, community and environment and support a wide range of non-urban land uses and activities. For instance, some of Victoria's most productive agricultural land is located within these areas. Other productive non-urban land uses include natural resource extraction, tourism, airports, sewage plants and waste and resource recovery operations.

These areas also accommodate businesses that need buffers from residential and incompatible land uses. Non-urban land uses in the green wedges and peri-urban areas should be carefully planned and managed to avoid irreversible land-use change and support their ongoing productivity.

Policy 4.5 seeks to plan for Melbourne's green wedges and peri-urban areas and provides considerable guidance to achieve this. Desired planning outcomes for green wedges include:

- protect and enhance environmental and biodiversity assets
- protect significant views, maintain non-urban breaks between urban areas, and conserve the cultural significance, tourism appeal and character of scenic rural landscapes
- avoid development in areas that are subject to high risk from bushfire or flooding and inundation

- protect agricultural land from incompatible uses, maintain farm size, promote the continuation of farming and provide a secure long-term future for productive and sustainable agriculture
- provide for the protection and management of sites of Aboriginal and post-European settlement cultural heritage to ensure that links with the past are preserved for present and future generations to appreciate.

In Policy 4.5.1, a Green Wedge Management Plan (GWM Plan) is one tool for protecting green wedge land. A GWM Plan is a council-adopted strategy that identifies a vision, objectives and actions for the sustainable use and development of each green wedge.

2.4 Greater Dandenong Green Wedge Management Plan

The Greater Dandenong GWM Plan is Council's strategy for the future of its portion of the South East Green Wedge and provides vision, objectives and actions for the future of the Green Wedge for the next 15-20 years. The vision set out in the GWMP has been incorporated into Clause 22.02.

Map 14 in the GWM Plan identifies the following:

- *the Land located within the Bangholme East Precinct with the preferred land use for this precinct being 'Agriculture, other rural uses, open space and recreation'; and*
- *the protection of existing ecological values is proposed along Perry Road;*
- *Map 6 of the plan shows possible habitat links and remnant vegetation along a portion of Perry Road, adjoining the Land to the north.*

Map 8 (Land Use Existing Conditions and Proposed Precinct 5) shows that the land is located within a precinct for 'Agriculture and nurseries'.

The GWM Plan describes the Bangholme East Precinct as follows:

The Bunurong Memorial Park is currently going through a master planning process with a vision to develop the site for a range of activities beyond normal memorial services including parks and gardens, a function centre, amphitheatre, and a food and beverage facility. These upgrades provide the opportunity to improve the economic role of the Green Wedge (with expected increases in employment) as well as significantly improve the quality of open space in the area.

Council noted that the Final Draft Technical Report: Land Use (Property Economics) which formed part of the basis for the preparation of the GWM Plan states:

Green Wedge economic activity consists of a variety of un-coordinated uses, however much of this activity would be unlikely to be possible in urban areas of the municipality due to the proximity of sensitive uses and land availability/cost constraints. The major activities of the Eastern Treatment Plant, Cornish College, cemeteries, places of worship and significant agribusinesses are the corner-stones of the Green Wedge economy. These uses drive the economic role of the Green Wedge, which can be summarised as providing opportunities for large scale agri-business, public utility and

institutional, recreational and community uses, often with adverse amenity impacts, large land requirements and significant buffer distances.²

Siting and design guidelines for built form in the green wedge area is provided at 7.36. These include:

- *Site and design buildings to protect and strengthen the rural character and overall sense of spaciousness of the Greater Dandenong Green Wedge.*
- *Ensure buildings are visually subordinate and set into the spacious, rural landscape.*
- *Maintain open views and vistas from roads and public spaces.*
- *Minimise building footprints and the visibility of outbuildings and storage areas.*

2.5 Planning scheme provisions

(i) Zone and overlay

The Green Wedge Zone and Environmental Significance Overlay Schedule 3 apply to the subject land, as shown in Figure 5. The subject land is identified by the red outline.

Figure 5 Subject land zone and overlay



The purposes for the Green Wedge Zone and Environmental Significance Overlay are shown in Table 3.

² Council submission p37.

Table 3 Purposes of the zones and overlays

Green Wedge Zone	Environmental Significance Overlay
Common purpose	
To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.	
Other purposes	
<ul style="list-style-type: none"> - To provide for the use of land for agriculture. - To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources. - To encourage use and development that is consistent with sustainable land management practices. - To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses. - To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes. - To protect and enhance the biodiversity of the area. 	<ul style="list-style-type: none"> - To identify areas where the development of land may be affected by environmental constraints. - To ensure that development is compatible with identified environmental values.

The land is also located within an area of Aboriginal Cultural Heritage Significance; and an area designated as a bushfire prone area.

(ii) Particular provisions

The Permit Application proposes to reduce the number of car parking spaces required by Clause 52.06 and alter access to Road Zone 1 which activates requirements in Clause 52.29.

3 Key issues

3.1 Alignment with planning policy

(i) The issues

Council's Part A Submission provided a very comprehensive overview of relevant State and local planning policies.

The issues are whether the proposal aligns with State and local planning policy, particularly green wedge policy, which seeks to:

- protect agricultural land
- support agricultural production
- achieve and environmental, economic and social benefits.

(ii) Evidence and submissions

Protect agricultural land

Ms Marshall, representing Council at the Hearing, described the proposal as *"seek(ing) permission to use a small part of the Land for a Market to support the existing agricultural uses in the south east region"*. She noted several state and local planning policies and Plan Melbourne which state the various uses for which Green Wedge Land can be used, including to support agriculture.

Council and the applicant, represented by Mr Tweedie SC at the Hearing, submitted that the land is not currently suitable for agricultural purposes. Ms Marshall referred to the Agricultural Feasibility report which notes that *"There is diversity in opinion regarding the value of South East Green Wedge land for agriculture"*. It states that *"Agricultural uses near urban areas can be sub-optimal, due to the potential for land use conflict...Farmland in Greater Dandenong is not considered to be of strategic significance..."*³

The applicant called planning evidence from Ms Horsfield of Urbis. Ms Horsfield referred to the report by Phillips Agribusiness which found the agricultural capability of the land to be 'average' and mostly suited to grazing.

Defenders of the South East Green Wedge Inc. called planning evidence from Mr Clarke of Matrix Planning Australia. Mr Clarke described the land to be *"...in productive agricultural use (cattle grazing)"*.

In response to a question from the Committee, the applicant submitted that it did not have plans for the balance of the land after the market was developed.

Mr Munt, representing Defenders of the South East Green Wedge Inc at the Hearing, submitted that there is no policy support for a local wholesale market either in State or local policy. He added that the loss of agricultural land in this area is not supported by policy and that consolidation of lots into a larger land holding could address issues of economies of scale.

³ Council Part B submission p6.

Mr Munt emphasised that planning policy seeks to retain agricultural land in green wedges and peri-urban area for productive use so it is not permanently lost. With the scale of development proposed he could not foresee how a permanent loss could be avoided.

Support agricultural production

Both Council and Mr Tweedie submitted that Clause 11.06-7 and Plan Melbourne seek to ensure adequate facilities to support agricultural production, and not just protecting agricultural land.

Mr Munt noted the State and local planning policies referenced in the GWM Plan and submitted *“The overwhelming emphasis is on the protection of agricultural production and avoidance of the loss of agricultural land”*.

Ms Horsfield stated that broader policy support exists for agricultural production on Green Wedge Zoned land. She stated, *“...Plan Melbourne and the SPPF provide very clear policy support for the use and development of land in green wedges that supports the productivity of the agricultural sector, and helps secure its long term future”*.

Mr Clarke disagreed with this proposition. He stated in his expert evidence that *“Whilst employment generation is a desirable outcome in the green wedge, such as in agriculture...the green wedge’s primary purpose is not as a generator of intense employment opportunities”*.

Environmental, economic and social benefits

Ms Horsfield considered economic benefits in her planning evidence and Tim Vernon of CDA Design Group considered environmental benefits in his landscape evidence. No expert evidence was presented to the Committee by any party in respect to social benefits.

Ms Horsfield considered that there are no sound policy reasons in the State and Local Policy frameworks preventing the land being used for a wholesale market for agricultural produce. She noted that positive benefits for the agricultural sector will result from the proposal, particularly in relation to economic and transport efficiencies.

Ms Horsfield considered that the market will deliver economic and environmental benefits to agricultural producers in the south-east region of Melbourne by enabling supply chain efficiencies to be realised. It would also strengthen the attractiveness of the region as a major food hub, providing further support to the agricultural sector. She, along with Council and Mr Tweedie, emphasised the benefits to local farmers, who would otherwise have to commute to and from the Melbourne Market at Epping. Ms Horsfield noted that around 30 growers and wholesalers have shown interest, through a survey conducted by the applicant, in selling or purchasing from the market. This group included four wholesalers located either to the west or north of Melbourne, as well as two growers in the Wandin East/Seville area.

Mr Clarke disagreed with Ms Horsfield. He stated there is no planning justification for the proposed market to be located on green wedge land. Instead, he considered that as the proposed market of this scale is similar in function to an urban distribution centre, it should be accommodated inside the UGB. Mr Munt provided historical context to green wedges and background to Melbourne’s planning strategies since 1967. He submitted:

The central theme that emerges from these State policies guiding planning for the use and development of land in Melbourne's green wedges is that green wedge land should be managed in order to allow uses that cannot, or ought not, to be allowed within the UGB.

Mr Clarke stated that the proposal conflicts with State and local policies and the Green Wedge Zone. He referred to the GWM Plan which states “*Expectations of urban development replacing existing uses are not the purpose of the Plan*”. He noted that the GWM Plan considers three potential scenarios for the green wedge, and that the preferred scenario is that:

...the area continues to provide relief from continuous development and, with investment for additional improvements, will also safeguard the values of the area including the protection of agricultural land and production, environmental and heritage assets, the Eastern Treatment Plant and the open landscape.

Ms Horsfield considered that the proposal is aligned with the Greater Dandenong Regional Food Strategy, which she referred to extensively in her expert evidence and at the Hearing, which supports Greater Geelong as a strategic food hub serving the south east of Melbourne.

Mr Munt submitted that the Food Strategy is not an incorporated document in the Planning Scheme and does not identify a need for a local wholesale market. He said that, while the market may provide an economic benefit, it should not outweigh the impacts on the South East Green Wedge.

Mr Clarke stated that the market did not have to be in the Green Wedge Zone to bring economic benefits. He added that the mass distribution of fresh produce to predominantly urban areas is urban activity and not a rural activity, which would be more commonly located in industrial areas. He stated:

Whilst the proposed market is a permitted use in the Green Wedge Zone that does not mean it is an acceptable outcome in the green wedge (refer Clause 31 of the planning scheme).

Mr Clarke considered the subject land's excellent access to the arterial road networks is not sufficient reason to establish a relatively intense urban use in the Green Wedge. If such a reason is supported, it would create an undesirable precedent for using green wedge land with good arterial road access.

Mr Munt noted that Ms Horsfield's evidence did not include an economic analysis about the economic impact of the proposal being approved. He said:

There is no suggestion that distance from markets or transportation costs are a barrier to agricultural production in the South East Green Wedge.

In relation to the environment, Mr Vernon concluded that from a landscape perspective, he formed the opinion that the landscape design response will produce a visual and environmental buffer to the Perry Road habitat link and the re-vegetation of the site will enhance the environmental values of the land.

(iii) Discussion

Protecting agricultural land

The Committee notes that the GWM Plan states in relation to Land Use for the Bangholme East Precinct: *“encourage rural uses, such as agriculture, particularly on the larger scale lots in this area, the existing 40ha for the Green Wedge should be retained”*. The subject land is about 37 hectares and one of the largest lots in the South East Green Wedge. The proposal would contradict this objective by removing the existing agricultural use on one of the largest lots in this part of the South East Green Wedge. While the proposal does not seek to subdivide the land, developing a market on a portion of the land would likely reduce the suitably-scaled agricultural lot into a substandard lot. (This is discussed further in Chapter 3.2).

The Phillips Report states that the agricultural capacity of the land is ‘average’ and mostly suitable to grazing. The report does not identify the subject land as ‘poor’ or ‘very poor’ therefore it is regarded as productive (but not highly productive) agricultural land.

The Phillips Report, while appended to Ms Horsfield’s expert witness statement, provides relevant background for the Committee but cannot be regarded as expert evidence or given weight as such.

Supporting agricultural production

There is considerable support for protecting agriculture and providing green spacious relief in South East Green Wedge. However, the Committee considers that there is no specific policy to support the significantly sized market proposed by the Permit Application.

While not planning policy or referenced in the Planning Scheme, the Committee notes that the Greater Dandenong Regional Food Strategy also does not identify the need for local wholesale market to support the growing Dandenong food hub.

The Committee was referred to Pillar C (Food Health and Access & Community) of the Food Strategy. The introductory paragraphs of Pillar C discuss the aim of striving *to create additional food supply solutions focussed on shorter supply chains*. It then sets out nine actions to achieve this and other aims and the Committee was referred to Actions 7 and 9.

Action 9 relates to the development of a demonstration farm, which is an action that would directly support agricultural use.

Action 7 supports initiatives to improve food access but limits this to improving food access for individuals, families and community groups. It references food hubs and food cooperatives, as mentioned by Ms Horsfield, but only in a function of acting as a base for health, education, employment and community strengthening activities.

The Committee finds Action 6b to be particularly relevant. Action 6 seeks to facilitate the creation of alternative, shorter and stronger local supply chains potentially through a Food Hub and programs. Action 6b states:

Food Hubs most often operate in a semi-commercial capacity – with stronger links to social service provides, emergency food programs and social enterprises than traditional wholesalers.

While Mr Tweedie advised that the proposed wholesale market would operate through a cooperative ownership model, there was no evidence that it would in any way meet the definition of a Food Hub as described by the Action 6 nor meet the needs of Action 7. It would also be very challenging to require this particular form of management through a planning permit and it is questionable whether it could or should be required by a section 173 agreement.

The Committee considers that policy seeking to support agriculture is a reference to directly encouraging agriculture to occur on the land and developing a demonstration farm is an example of how such support to agricultural production could be provided. The Committee does not consider that this policy is intended to support agriculture by using the land as retail premises.

Environmental, economic and social benefits

Clause 11 of the Planning Scheme includes an objective to protect Melbourne's green wedges from inappropriate development. Two relevant strategies of this objective are to:

- support development in the green wedge that provides for environmental, economic and social benefits
- promote and encourage the key features and related values of each green wedge area.

The GWM Plan provides greater insight into the key features and values of the relevant part of the South East Green Wedge. The GWM Plan informed the new provisions introduced into the Planning Scheme through Amendment C143. While the GWM Plan is not incorporated into the Planning Scheme, there is a direct relationship between its contents and what is sought through the planning policy framework. The Planning Policy Framework states that planning must have regard to Plan Melbourne. Plan Melbourne states in Direction 4.5:

As Melbourne grows, planning for Melbourne's green wedges and peri-urban areas is required to:

...

- *protect and manage the value of green wedges consistent with green wedge management plans.*

Green spacious relief is a key feature and related value instilled throughout the GWM Plan. The proposed built form's inability to achieve this relief (see Chapter 3.3) therefore conflicts with State planning policy. While the proposed landscaping has capacity to align with another GWM Plan to ensure that the buildings are visually subordinate to the rural landscape, it does not set them into the spacious rural landscape. The proposed landscaping would further block spacious outlooks from various important vantage points. There was no evidence that the Perry Road habitat link needs supporting by additional landscaping.

The proposed development can be reasonably regarded as inappropriate development, discouraged from locating in the green wedge by State planning policy.

The Committee considers that there is insufficient economic evidence to accurately quantify loss of agricultural activity on the subject land or its impact on the broader region.

3.1.2 Conclusions

The Committee concludes:

- The proposal will potentially remove all or a substantial part of one of the largest properties in the Bangholme East precinct of the South East Green Wedge from productive agricultural use.
- There is insufficient economic evidence to accurately quantify the impact of the loss of agriculture on the subject land.
- There is no specific planning policy support for a proposal of this scale and nature.
- There is no policy support in the Bangholme East precinct to use the land as retail premises although the Committee recognises that part of the retail use may support agricultural activities in the green wedge.
- The proposals conflicts with green-wedge related planning policy by not achieving a key feature and related value sought through Green Wedge Zone and the GWM Plan – green spacious relief.

3.2 Market use in the Green Wedge Zone

(i) The issue

Clause 22.02-3 states that all use and development proposals in the Green Wedge need to demonstrate how they respond to the Precinct objective and preferred land use for each precinct detailed in Table 1 of the policy.

The advertised Permit Application proposed to use the subject land for Market and Rural industry. The Application and supporting plans were revised before the Hearing to:

- remove the proposed sterilisation facility
- no longer propose to use the land for Rural industry.

The Green Wedge Zone requires a permit to use land for a market. The issue is whether using the subject land for a wholesale market of this scale in the Green Wedge Zone is acceptable.

(ii) Evidence and submissions

In submissions and evidence, there was considerable discussion about the characterisation of the proposed land use and its suitability for the subject land.

How to characterise the use

Council noted that Clause 22.02-3 Table 1 sets out the preferred land uses in the Bangholme East precinct as agriculture and other rural uses, open space and low scale community, institutional, recreational and tourism related uses.

Ms Horsfield stated that the proposal is an appropriate use in the Green Wedge Zone because it can be characterised as a rural use because it is an outlet for farmers to sell their products. She explained that it is consistent with land use and development outcomes for green wedge areas in Council's Green Wedge Management Plan (GWM Plan), and particularly the Bangholme East precinct.

Ms Horsfield noted the market would be strictly for wholesale trade with no access for the public and with a co-op management structure comprising local growers and producers. She added the sterilisation facilities were removed from the substituted plans. She considered the storage of goods in the two proposed warehouses to be ancillary to the market use.

Mr Tweedie submitted that 'market' is an acceptable characterisation of the proposed use. He explained that a market 'nests' within the retail group in the Planning Scheme. Mr Tweedie considered that *"This proposal supports and complements agricultural uses by providing a market for agricultural producers to sell their product"*.⁴ He noted the efficiencies that would exist in locating the market close to where the agriculture is produced.

Mr Clarke characterised the proposal as a 'distribution centre' for food production which he considered to be an urban use; not a rural use. One reason for reaching this conclusion was the fact that the State government had located the Melbourne Wholesale Market at Epping eight kilometres inside the Urban Growth Boundary. He added that *"there would appear no reason why a fresh produce wholesale distribution centre could not locate in the metropolitan area"*. Mr Munt, representing the Defenders of the Green Wedge, submitted that land within the UGB is a more appropriate location for the proposal.

Suitability

Mr Munt submitted that agricultural production and resource extraction land uses cannot locate within the UGB because they are non-urban uses incompatible with urban uses. He considered that uses that ought not be allowed outside the UGB are those that are urban in nature and serve Melbourne directly, and that require buffers due to their adverse impacts on other urban uses.

Similarly, Mr Clarke stated that planning policy provides for some exceptional urban uses outside the UGB such as airfields, wastewater treatment plants, tip sites, power generation activities and quarries, this is because they cannot be located in urban areas.

Ms Horsfield considered that the Bangholme East precinct has diverse land uses including agriculture, residential hobby farms and rural industries, which would make it suitable for the proposal. Ms Horsfield stated:

The Bangholme East precinct sits at the eastern edge of the Greater Dandenong Green Wedge, essentially at the transition point to the state significant industrial precincts of Dandenong South that occupy land to the north and east. Three of the four precinct boundaries are defined by major metropolitan and regional arterials, being Eastlink, Thompsons Road and Frankston-Dandenong Road, all of which carry significant volumes of industrial related traffic serving the neighbouring Dandenong South employment precinct. The Eastern Treatment Plant also borders the precinct to the immediate west.

Ms Horsfield considered that the location of the land near the Melbourne Water Eastern Treatment Plant and IN2Z, and associated road infrastructure, makes the land ideally located

⁴ Applicant submission p9.

for use as a market. She stated that the proposal supports the purposes and decision guidelines of the Green Wedge Zone because:

- *The VPP definition of market does not impose restrictions on the operating characteristics, scale or intensity of a market use ...*
- *... markets can comfortably exist in both urban and non urban locations ... it is not helpful to attempt to characterise them as either urban or urban related activities by virtue of their scale or intensity.*
- *The core purposes of the Green Wedge Zone include “to provide for the use of land for agriculture” ...The proposal represents a use that directly supports and services the agricultural industry, by establishing a market place for the trade of agricultural produce...*
- *...the use is directly connected to agricultural uses and will directly benefit local agricultural producers...*
- *The site’s location on the doorstep of two major metropolitan arterials makes it a highly suitable location for a wholesale market...*
- *...the proposed form of the development is not incompatible with the mixed character and built form typology of existing urban form in the surrounding area, which includes large scale rural sheds, rural industry uses, residential development, and quite substantial industrial building forms to the immediate east and northern edge of the precinct.*
- *The productive capacity of the current rural enterprise on the land has been assessed as low...*
- *The potential for future expansion of the use is possible, however any such proposal would need to be assessed on its merits.*
- *...the siting and design impacts of the proposal on the surrounding landscape...will ensure there are limited visual impacts on viewlines from surrounding major roads and public vistas.*

(iii) Discussion

A market can be considered on land in the Green Wedge Zone because it is specified in Section 2 (permit required) of that zone. For a market, the Green Wedge Zone does not specify a maximum floor area and does not differentiate between wholesale or retail.

The Committee agrees with Council and the applicant that a market use is proposed for the subject land. Clause 73 includes a market as a retail premises. The Committee acknowledges that the proposed land use and development will have very similar characteristics to a distribution centre such as those found on the eastern side of Frankston-Dandenong Road, however, this is not a determinative factor in itself.

Concern exists regarding the scale and nature of the proposal. A market can vary in scale from a local community market through to the Melbourne wholesale market in Epping.

The Committee disagrees that Plan Melbourne, the GWM Plan and Green Wedge Zone support a large-scale wholesale market in this location, even if it has potential to support rural agricultural activity. The Green Wedge Zone includes seven clearly articulated purposes. Collectively, they focus on the agricultural use of land itself; not a retail premises which supports agriculture. Other land uses sought to be recognised, protected and

conserved on green wedge land are environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources. The Committee considers that there is no specific policy support for the proposal in this location.

The applicant argued that the proposed use would by virtue of its land take, setbacks and landscaping, be anomalous in an Industrial 1 Zone because it requires a rural setting. The Committee does not accept this proposition. So long as reasonable supply chains from grower to market can be ensured, there is scope for markets involving larger scale distribution to be suitably located in industrial areas.

Potentially, this use in an Industrial 1 Zone would not need the amount of land being consumed by this proposal. The subject land is about 37 hectares and cannot be subdivided because the Green Wedge Zone specifies a minimum 40-hectare subdivision lot size. The landscaping is being provided to screen the buildings along with the large setbacks to soften the impact of the development.

Regarding the minimum lot size specified in the Green Wedge Zone, the Committee notes that the proposed use and associated landscaping occupy less than half of the 37-hectare site. No proposal was given for the use of the remainder of the site. While the remainder of the land could conceivably remain in productive agricultural use in accordance with the primary purpose of the zone, the Committee considers this unlikely to continue into the long term future. The alternatives are that half the land is left unproductive or that pressure is brought to bear to expand the retail use on the land. A split outcome for the site relative to the purposes of the zone is undesirable.

The Committee accepts that a market of a certain scale and nature may be suitable in the Green Wedge Zone, especially where it has a demonstrated direct connection with local agriculture and a built form presentation that aligns with broader policies for that particular green wedge.

While the Committee accepts that not all purposes of the Green Wedge Zone need to be met for a proposal to warrant approval, this particular proposal does not appear to suitably meet any of the zone's purposes. This arises in part because of the proposed wholesale market's scale, extent of non-permeable surfaces, and wholesale distribution role.

The degree of visual impact of the proposal shows that a conflict exists with green wedge planning policy, and the Committee considers that this is contrary to the Green Wedge Policy vision of providing green spacious relief from surrounding urban development.

(iv) Conclusion

The Committee concludes:

- A market, including a wholesale market, is a use which can be considered in the Green Wedge Zone.
- The market proposed in the advertised and substituted plans:
 - does not suitably meet the purposes of the Green Wedge Zone
- will not protect, conserve or enhance the character of the open rural and scenic non-urban landscape.

3.3 Landscape impact

(i) The issues

Clause 22.02-3 states that it is policy that all use and development proposals in the Green Wedge need to demonstrate how the proposal:

- responds to the Green wedge vision as detailed at Clause 22.02-1
- respond to the Siting and Design Guidelines for buildings and works as detailed in the GWM Plan.

The issues are whether the proposed development:

- will be consistent with the character sought for the Green Wedge Zone
- will result in an unacceptable visual impact on the green wedge landscape.

(ii) Evidence and submissions

Mr Vernon noted that the extent to which buildings would be visible will depend on the location they are viewed from and the surrounding vegetation. He noted that Harwood Road comprises the following:

- *A gravel road surface with a straight road alignment through flat topography*
- *The review land occurs at the eastern end of Harwood Road near the intersection with Dandenong-Frankston Road.*
- *Minimal built form exists along the road and is limited to some single-level residential dwellings to the south and west of the review land.*
- *Vegetation, comprising native species along the northern side of the road and is generally limited to the western section near Fernside Drive.*
- *Vegetation within the private realm is limited around existing dwellings and comprises both exotic and native planting.*
- *Properties addressing the street are generally defined with a low post and wire rural fence.*
- *Overhead power lines exist along the south side of the road.*
- *No kerbs or footpaths occur along the road.*

The Perry Road future road easement consists of an unmade road easement with large River Red Gum trees and exhibits some understorey infestation by Gorse and Blackberry shrubs.

Mr Vernon stated that when the land is viewed from Fernside Drive (adjacent to Eastlink), approximately 1.1 kilometres to the west, existing buildings are already within the field of view. He considered that the proposal will integrate well with the existing character due to the existence of vegetation.

Mr Vernon added that, from vantage points along Dandenong-Frankston Road, to the east of the land, existing buildings are already within the field of view. Photos 6 and 8 from his expert witness statement which show these views are reproduced in Figure 6 of this report.

Figure 6 **Photos from Mr Vernon's evidence**

Mr Vernon stated that the proposed perimeter setbacks will contain a large quantity of varied size canopy trees (ranging in height between 8-25 metres), *"...that will produce a significant re-vegetation regime that will produce a comprehensively vegetated appearance and ensure low visual impact of the proposed built form that is respectful of the existing rural landscape character"*.

An at-grade car park, with a setback of a minimum of 55 metres from Harwood Road, has been sited in the generally southern area of the review land. However, through proposed planting around the car park, canopy trees and mounding along the site frontage, Mr Vernon considered there will be a generally vegetated setting with significant screening.

Mr Vernon stated that the proposal will be compatible with its visual context and will have a vegetated appearance that integrates with the existing character.

Mr Clarke noted that key issues for built form in the green wedge include:

- Loss of 'openness' across the Green Wedge landscape over time, with the construction of new buildings, large sheds and fences
- Increasingly 'urban' appearance of the Green Wedge, including *"large areas of hard/paved surfaces and road infrastructure, high/solid fences, exotic vegetation, small setbacks and continuance of built form along or near the front boundary"*.
- Built form that can be visually dominating, and flat topography makes buildings visible from a distance.

Ms Horsfield considered the proposal to be consistent with the Siting and Design Guidelines at Section 7.5 of the GWM Plan. Mr Clarke disagreed because most buildings exceed the recommended maximum height of 8 metres, and the building site coverage is 5.3 per cent, which is high by rural standards. The total area of impervious surfaces is stated on the development plans to be 23 per cent and, in his opinion, the area of impervious surfaces should be considerably less than 20 per cent in a green wedge area.

(iii) Discussion

The subject land currently reflects the Green Wedge Policy vision of green spacious relief and supports rural living with the presence of open pasture, a residence and some outbuildings. The Committee notes that none of the expert witnesses provided a clear definition of what 'spacious' relief meant.

The GWM Plan identifies that a key issue and constraint in relation to built form is the *"loss of 'openness' across the Green Wedge landscape over time. The construction of new buildings, large sheds and high, solid fences can obstruct views of the landscape and detract from the openness of the Green Wedge"*

The GWM Plan seeks to ensure that buildings are visually subordinate and set into the spacious, rural landscape, maintaining open views and vistas from roads and public spaces. It also seeks to ensure that car parking areas and loading areas are set back and screened to reduce impacts from the road and adjoining properties.⁵

The Committee was not provided with any perspectives of the substituted plans, although perspectives of the original plans were tabled at the request of the Committee. The Committee was also not provided with any urban design evidence.

The proposed buildings occupying some 19,592 square metres and up to 11 metres in height will be the most significant set of buildings in the Bangholme East Precinct. They respond more directly to the buildings within the adjacent industrial area on the east side of Frankston Dandenong Road and the industrial land to the northwest both within the UGB.

The landscape plan seeks to ameliorate the impact of the buildings by screening with landscaping. Landscaped mounds are used to screen car parking areas in accordance with the GWM Plan, whilst substantial planting of trees is used to screen or provide filtered views to the buildings. The extent to which the landscaping will screen trucks within the site was not described.

The Committee disagrees with Mr Vernon that the proposal will represent an incremental change. Mr Vernon's photos 6 and 8 are taken just north of Perry Road and show the industrial buildings located approximately two kilometres to the northwest within an industrial precinct north of Eumemmerring Creek.

By comparison, Figure 7 shows the existing view to the northwest across the site from a viewpoint on Frankston-Dandenong Road 90 metres south of Harwood Road, where the proposed buildings will be less than 450 metres away. This is a vantage point raised at the Hearing but not identified by Mr Vernon. The Committee considers this view to be significant because it is the south approach to Harwood Road where motorists would continue to appreciate the full extent of the green spacious relief offered by the Green Wedge Zone. As one travels to the north past Harwood Road and Perry Road, the start of the UGB is upon you with the industrial precinct immediately to the east and to the west you start to get the presently more distant view to the industrial precinct to the north of Eumemmerring Creek. As a property abutting the UGB, the Committee considers that

⁵ GWM Plan pages 103 and 104.

motorists, cyclists and pedestrians travelling along Frankston-Dandenong Road would be deprived of the view towards kilometres of green spacious relief for an unreasonable extent.

Green spacious relief is especially important in this relatively narrow part of the South East Green Wedge.

Mr Vernon identified viewpoints from the land on the south of Harwood Road and noted that the three 50-metre gaps between the buildings will provide some visual relief. However, the Committee notes that one must be standing directly in line with each gap to appreciate it and, in one instance, this is bookended by a maintenance building. Trucks will also be parked within these spaces during trading hours. From most viewpoints the buildings will appear as a solid, albeit somewhat articulated, mass. From the view in Figure 7, the building will read as approximately 200 to 250 metres wide.

Figure 7 View looking northwest across Harwood Road and the subject land from Frankston-Dandenong Road about 90 metres south of Harwood Road



Source: www.google.com.au/maps

Mr Tweedie noted that you would not see a development with this extent of landscaping in the adjacent industrial zone. However, the extent of proposed planting intended to screen the buildings, will itself further adversely impact on the spacious relief currently offered by the existing agricultural use.

The landscaping and amount of land needed to accommodate it would not be needed for a market in the Industrial 1 Zone east of Frankston-Dandenong Road. However, the Committee is considering the suitability of the subject land and not alternative sites.

The extent of hard surface is another impact on the landscape. The maximum 20 per cent hard surface in the GWM Plan is a guideline which may vary depending on different circumstances. In this circumstance, the Committee considers the accumulation of 85,958 square metres of hard surface area in the one location, representing 23 per cent of the total property area, to be an unacceptable outcome. The Committee agrees with Mr Clarke that a reduced hard surface area, substantially less than the 20 per cent guideline, may result in a more acceptable site presentation.

(iv) Conclusions

The Committee concludes:

- The proposal is contrary to the Green Wedge Policy vision of providing green spacious relief from surrounding urban development.

- The proposed landscaping intended to soften the impact of the large buildings will further adversely impact the extent of spacious relief by visually enclosing a greater extent of land.
- Accumulating 85,958 square metres of hard surface area in the one location would result in an unacceptable site presentation.
- The proposal does not adequately address the design and siting decision guidelines in the GWM Plan.

3.4 Environmental impact

(i) Background

The subject land is approximately 950 metres from the Eastern Treatment Plant operated by Melbourne Water and within the Environmental Significance Overlay Schedule 3 (ESO3) area. The ESO3 seeks to:

- *ensure that the use and development of land around the Eastern Treatment Plant is compatible with the Plant's operation*
- *regulate the establishment and siting of odour-sensitive uses so that the impact of any odour from the Eastern Treatment Plant is minimised*
- *exclude uses that require the presence of a large number of people over an extended period of time.*

Melbourne Water is a determining statutory referral authority, under section 55 of the Act, for a permit application regarding land with an ESO3.

(ii) The issue

The issue is whether the proposal will meet the ESO3 objectives.

(iii) Evidence and submissions

Council's Part A Submission explained that the advertised proposal would accommodate 700 attendees each day, comprising 300 staff and 400 trade customers between 6am and 10am. There would be 100 attendees during other operating hours between 4am to 4pm.

The substituted plans proposed a limit of 350 staff and customers between 6am to 10am and 50 staff during other operating hours.

Council referred the original and revised proposals to Melbourne Water and it did not object to either version.

(iv) Discussion

The ESO3 objectives seek to protect the on-going operation of the Eastern Treatment Plant by ensuring that the proposed uses in the area are compatible with its operations, are not odour-sensitive and do not require the presence of a large number of people over an extended period of time.

ESO3 does not define what is meant by 'large number of people' and 'extend period of time'. The Committee considers the proposed 50 people over 12-hours and 350 people over four hours, five days each week to be a large number of people over an extended period of time.

While 350 people present between 6am to 10am are only likely to be there over a short period of time, 50 staff would be there for an extended period of time.

A considerable proportion of the market's operation would be within buildings, however, each building's loading doors would be open periodically throughout the day. The Committee considers that the proposal can meet the first two ESO3 objectives. It does this while acknowledging that the Environmental Significance Overlay controls development and does not enable a schedule to regulate land use.

In assessing the extent to which the large number of attendees may impact the acceptability of the proposal, the Committee has applied considerable weight to Melbourne Water's response. As the primary beneficiary of ESO3 and a determining referral authority, Melbourne Water did not object to the proposed number or intensification of people over the proposed operating hours.

(v) Conclusion

The Committee concludes that the proposal can, generally, meet the ESO3 objectives.

3.5 Flooding

(i) The issue

Clause 22.02-3 states that it is policy that all use and development proposals in the Green Wedge need to show how floodplain management measures will be applied where relevant. The issue is whether potential flooding can be adequately managed.

(ii) Evidence and submissions

A submitter was concerned that 124 Fernside Drive, Bangholme, is susceptible to flooding. Council advised that both the original and revised proposals were referred to Melbourne Water. Melbourne Water responded that it did not object to the proposal subject to including the following permit conditions, should a permit issue:

Prior to the development plans being endorsed and the commencement of works, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's condition relating to the drainage strategy. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD).

Prior to the development plans being endorsed and the commencement of works, a drainage strategy must be prepared, detailing how the development will safely convey overland flows, and demonstrating that the buildings meet Melbourne Water's minimum floor level requirements. The drainage strategy will be subject to Melbourne Water review and approval.

Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.⁶

⁶ Council Part B submission p23.

The applicant submitted that any changes to overland flows that may result from earthworks will be encompassed in the modelling for the stormwater management plan required as a permit condition.

(iii) Discussion and conclusion

The Committee concludes that the permit conditions sought by Melbourne Water are achievable and can adequately manage potential flooding.

3.6 Traffic and parking

(i) The issue

Clause 22.02-3 states that it is policy that all use and development proposals in the Green Wedge need to respond to any increased intrusion of through traffic onto local roads in the Green Wedge. The issues are whether the proposed development:

- will provide adequate parking
- will create unacceptable traffic movements.

(ii) Evidence and submissions

The applicant called evidence from Charmaine Dunstan of Traffix Group. Ms Dunstan gave evidence that the proposed market will generate approximately 726 vehicle trips per day. Access to the site is located approximately 210 metres from Frankston-Dandenong Road and no traffic is expected to be generated to the west of this point.

Ms Dunstan noted that Harwood Road should be constructed to a rural standard to a point just west of the proposed site entry and that the intersection of Harwood Road/Frankston-Dandenong Road/Glasscocks Road should be signalised to cater for the proposed traffic generated by the development. This was supported by both Council and VicRoads, with VicRoads expressing no objection to the application to alter access to a Road Zone 1.

In relation to parking, Ms Dunstan noted that the standard statutory requirement is based on the site area resulting in a requirement for 29,581 spaces. Given that the attendance at the site is proposed to be limited to 350 people at any one time she considered that number to be excessive. She found that the proposed provision of 420 spaces, comprising 214 car spaces, 43 oversized van/small truck spaces and 163 loading bays located at loading docks, to be appropriate. She noted that surveys at the Epping wholesale market indicated approximately one third of vehicles were commercial vehicles.

Ms Dunstan noted that she assumed that customers would be able to park large trucks at the loading docks. She agreed with a suggestion from the Committee that a condition on the permit could be included to ensure that the management of parking allowed for this to occur.

Mr Tweedie submitted a revision to condition 5 of the permit to address this matter. With some minor edits this condition was accepted by all parties.

(iii) Discussion

The Committee considers that the proposed signalisation of the Harwood Road/Frankston-Dandenong Road/Glasscocks Road intersection and the construction of Harwood Road from the signalised intersection to just west of the site entry will ameliorate traffic impacts.

A reduction of the standard parking is supported. The provision of parking at a higher number than the proposed attendance levels will provide some flexibility with the parking arrangements and help to ensure that parking can be contained within the site.

The proposed permit conditions, as amended, will further assist in minimising traffic and parking impacts.

(iv) Conclusions

The Committee concludes:

- The traffic and parking impacts can be adequately managed to minimise impacts to the environment, subject to the modification of condition 5 to include controls to manage the parking of large customer trucks.

3.7 Integrated decision making**(i) Background**

Council and applicant submitted that there will be economic benefits and that the environment will benefit from the strong landscape treatment improving habitat.

In its Part A Submission, Council highlighted the following part of Clause 10.01:

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However in bushfire affected areas, planning authorities and responsible authorities must prioritise the protection of human life over all other policy considerations.

The Act also requires a responsible authority to consider social, economic and environmental effects.

(ii) The issue

The issue is whether the proposal will result in a net community benefit.

(iii) Discussion

The Committee does not see conflicting objectives between planning policies which seek to drive productivity, attract investment, support innovation and create jobs and policies which seek to appropriately manage Melbourne's green wedges – in this instance, the South East Green Wedge. The co-existence of the two is reflected in the Green Wedge Zone purpose which seeks to recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.

The Committee notes that the absence of strategic policy support for a wholesale market in the Green Wedge is striking.

While there is policy for economic development and jobs in the green wedges, it must be considered within the context of other green wedge policy. The Committee has no doubt that the proposal in its advertised or substituted form would result in some economic benefit, however, it would be at the cost of not achieving significant green wedge policy.

The Committee considers that the benefits of a wholesale market to support agriculture in the region have been overstated. Economic evidence was limited to potential, but unquantified, transport cost savings to farmers delivering products to the market. A metropolitan wholesale market already exists to support farmers from all parts of Victoria. The economic evidence would have benefited from applying a defined catchment and quantifying how the market would support agricultural activity in the Green Wedge.

Based on available information, the claimed benefits are not sufficient to warrant the adverse impact on the landscape.

The Municipal Strategic Statement provides a clear vision for the Green Wedge of providing green spacious relief. The Committee has placed considerable weight on policy which seeks to achieve green spacious relief. This is especially important because the South East Green Wedge is relatively narrow compared to others in Melbourne, and the Bangholme East precinct is one of the narrowest part of this green wedge. As one of the first sites on a major road directly opposite the Urban Growth Zone, the subject land is particularly important for achieving green spacious relief.

The proposal's scale, accumulation of large buildings in a single location and hard surfacing of 23 per cent of its property area would permanently remove a substantial component of one of the larger properties in the South East Green Wedge from future agricultural activity. It would effectively divide the property into two distinct sections without a formal subdivision.

(iv) Conclusion

On balance, the Committee is unable to conclude that the proposed use on the subject land will provide a net community benefit.

3.8 Recommendation

Based on the reasons set out in this Report, the Committee recommends that Greater Dandenong Planning Permit PLN16/0072 should not be granted.

3.9 Without prejudice draft permit

The Committee convened a 'without prejudice' discussion at the end of the Hearing. Mr Tweedie provided a tracked changed version of the permit conditions sought by the applicant. There were several additional changes discussed and accepted by all parties, including deleting conditions which duplicated other conditions and changes to Condition 5 suggested by the Committee. There were three outstanding issues:

- Condition 11 – limitation of use

- Condition 26 – use of the term ‘detrimental’ versus ‘unreasonable’
- Condition 38 – Permit expiry dates.

Condition 11

There was a request to modify the condition to limit the type of products available to be sold at the market. The Committee has included words to limit the sale to primary produce reflecting the aim to support agricultural production.

Condition 26

There was a request to change detrimental to unreasonable. The Committee notes that ‘detrimental’ is standard wording for this type of condition and does not support the request.

Condition 38

The applicant sought to double the permit expiry dates. Council did not support this request on the basis that there was already an ability to apply to vary the dates prior to expiry. The Committee supports Council.

As required by the Terms of Reference, the Committee has provided a ‘without prejudice’ draft planning permit in Appendix C, with tracked changes. The Committee considers that these revised permit conditions are an improvement to those included in the draft permit at the time of Council’s notice of decision.

Appendix A Terms of Reference

Bangholme Market Advisory Committee

Version: March 2018

Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to report on an application for review of Greater Dandenong City Council's (council) decision to issue a notice of decision to approve Planning Permit PLN16/0072 for the use and development of the land for a market, rural industry, reduction in car parking requirements and alteration of access to a Road Zone Category 1 (VCAT ref P1792/2017).

Name

1. The Advisory Committee is to be known as the 'Bangholme Market Advisory Committee'.
2. The Advisory Committee is to have members with the following skills:
 - a. statutory and strategic planning
 - b. understanding of green wedge provisions and policy
 - c. traffic management.

Purpose

3. The purpose of the Advisory Committee is to advise the Minister for Planning on whether a planning permit should be issued for the proposal and if so, what would be the appropriate conditions for the permit.

Background

4. In February 2017, Greater Dandenong City Council received an application for a planning permit (PLN16/0072) at 84 Hardwood Road, Bangholme, proposing the use and development of the land for a market, rural industry, reduction in car parking requirements and alteration of access to a Road Zone Category 1.
5. The proposal includes the use of a fresh produce wholesale market, including a food sterilization facility which forms the rural industry use. The development includes three produce market sheds, three warehouse buildings, flower, fish and plant sheds, sterilisation facility and administrative buildings.
6. Notice of the proposal was given and four objections were received.
7. Greater Dandenong City Council issued a Notice of Decision to Grant a permit on 7 July 2017.
8. An appeal to VCAT was lodged on 3 August 2017 by an objector, seeking a review of the decision of the responsible authority to grant a permit.
9. On 9 October 2017, Norton Rose Fulbright Australia, on behalf of the permit applicant, submitted a request to VCAT to transfer the proceeding to the major cases list. On 13

October 2017, VCAT agreed, with the hearing scheduled for two days starting on 8 February 2018.

10. The Practice Day hearing occurred on 17 November 2017 and Compulsory Conference on 20 December 2017.
11. The Minister for Planning subsequently decided on 27 December 2017 to call in the proceeding from VCAT under clause 58(2)(a) of Schedule 1 to the Victorian Civil and Administrative Tribunal Act 1998, on the grounds that the proceeding raises a major issue of policy and the determination of the proceeding may have a substantial effect on the achievement or development of planning objectives.

Method

12. The Advisory Committee will write to the parties to the VCAT proceedings inviting them to present their submissions to the Advisory Committee.
13. The Advisory Committee is to have regard to VCAT proceedings completed prior to the appointment of the Advisory Committee.
14. The Advisory Committee may inform itself in any way it sees fit, and must consider all relevant matters, including but not limited to:
 - a. Relevant provisions of the *Planning and Environment Act 1987* and the Greater Dandenong Planning Scheme, including any adopted plans, strategies or planning scheme amendments.
 - b. The Greater Dandenong Green Wedge Management Plan, 2017.
 - c. All relevant material prepared by or for the applicant or otherwise provided to the Advisory Committee, including any amended application material submitted.
 - d. The views of the applicant and Greater Dandenong City Council.
 - e. All submissions or objections provided to the Greater Dandenong City Council on planning permit application PLN16/0072 and all submissions or material provided to VCAT regarding proceeding P1792/2017.
15. The Advisory Committee is not expected to carry out any additional public notification or referral, but may do so if it considers it to be appropriate.
 - a. The Advisory Committee may request comments from relevant parties to any amended application material submitted during the hearing.
16. All parties to VCAT proceeding P1792/2017 must be provided with notice of the Advisory Committee hearing and be given the opportunity to be heard.
17. The Advisory Committee may conduct hearings, workshops or other meetings as necessary.
18. The Advisory Committee may limit the time of parties appearing before it and may prohibit or regulate cross-examination.
19. The Advisory Committee is expected to carry out a public hearing as soon as practicable.

Outcomes

20. The Advisory Committee must produce a written report for the Minister for Planning, providing the following:
 - a. An assessment of all relevant matters relating to the application for review and any amended application material submitted to the Advisory Committee.
 - b. An assessment of submissions to the Advisory Committee.
 - c. A recommendation as to whether a planning permit should be issued and the reasons for this recommendation.
 - d. A (without prejudice) draft planning permit including relevant conditions from Section 55 referral authorities.
 - e. Any other relevant matters raised during the Advisory Committee hearing.
 - f. A list of persons who made submissions considered by the Advisory Committee.
 - g. A list of persons consulted or heard.

Submissions are public documents

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

Timing

23. The Advisory Committee is required to hold a directions hearing within 10 business days of the notification of its appointment and a public hearing no later than 20 business days from the directions hearing.
24. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 20 business days from the completion of its hearings.

Fee

25. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
26. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning.

HON RICHARD WYNNE MP
Minister for Planning

Date: 30/3/18

Appendix B Document list

No	Description	Presented by
19 April 2018		
1	Letter – Inviting VicRoads to present at the Hearing	Committee
1 June 2018		
2	Letter – Request for additional time for bushfire risk assessment	Linda Choi, Norton Rose Fulbright
19 June 2018		
3	Report – Bushfire Hazard Assessment, Brett Lane & Associates	Ms Choi
25 June 2018		
4	Dandenong Fresh Produce Market amended plans	Ms Choi
5 July 2018		
5	Letter – Response to queries from Council in email dated 4 July 2018	Ms Choi
9 July 2018		
6	Council's Part A Submission	Council
7	Expert Witness Report – Sarah Horsfield of Urbis	Ms Choi
8	Expert Witness Report – Charmaine Dunstan of Traffix Group	Ms Choi
9	Expert Witness Report – Tim Vernon of CDA Designs Group	Ms Choi
10	Expert Witness Report – Andrew Clarke of Matrix Planning	Mr Clarke
12 July 2018		
11	Draft Planning Permit (MS Word version at time of decision)	Simone Jackson, Maddocks
13 July 2018		
12	Draft Planning Permit (MS Word version with tracked changes responded to amended plans)	Ms Jackson
16 July 2018		
13	Submission – Department of Environment, Land, Water and Planning	Ms Presnell
14	Council's Part B Submission	Council
15	Folder of Council's documents	Council
17 July 2018		
16	Digital images of application plans	Mr Tweedie
17	Functional layout plan for the Harwood Road/Frankston Dandenong	Mr Tweedie
18	3T8 Traffic Impact Assessment dated 18 November 2016	Mr Tweedie

No	Description	Presented by
19	Greater Dandenong Regional Food Strategy – pages 13 & 43-47 only	Mr Munt
20	Letter to Council from Melbourne Water dated 9 July 2018	Ms Marshall
21	Council minutes of 26 June 2017	Ms Marshall
22	Submission on behalf of the Applicant	Mr Tweedie
23	Letter from Mornington Peninsula Shire dated 1 December 2017	Mr Tweedie
24	VCAT decisions: <i>Tauman v Wyndham CC</i> [2005] VCAT 2444, <i>Gance v Monash CC</i> [2010] VCAT 388, <i>Highpoint Commercial Property Group Pty Ltd v Maribyrnong CC</i> [2009] VCAT 16	Mr Tweedie
20 July 2018		
25	<i>Hammon Royce Corporation Pty Ltd v Mornington Peninsula SC</i> [2006] VCAT 863	Mr Tweedie
26	<i>Empire State Holdings Pty Ltd v Kingston CC</i> (Corrected) [2017] VCAT 506	Mr Tweedie
27	<i>Ross v Frankston CC</i> [2017] VCAT 274	Mr Tweedie
28	<i>Hao Yang Australia Pty Ltd v Mornington Peninsula SC</i> [2018] VCAT 1028	Mr Tweedie
29	VicRoads Submission	Mr Beaver
30	Plan – ‘Likely Design’ of the intersection of Frankston-Dandenong Road/Glasscocks Road, Harwood Road, undated	Mr Beaver
31	Clause 75.11 Retail Premises Group nesting table	Mr Tweedie
32	Submission – Defenders of the South East Green Wedge Inc	Mr Munt
33	<i>Francis v Melton CC</i> [2013] VCAT 838	Mr Munt
34	Amended version of Document 14	Mr Tweedie
35	DCPO Schedule 3 and DCPO3 map	Ms Marshall

Appendix C Without prejudice draft planning permit

Committee Version of Documents

Tracked Added

~~Tracked Deleted~~

The conditions have been renumbered to reflect additions and deletions.

PLANNING PERMIT

Permit No.:	PLN16/0072
Planning Scheme:	Greater Dandenong Planning Scheme
Responsible Authority:	Greater Dandenong City Council
ADDRESS OF THE LAND:	84 Harwood Road BANGHOLME VIC 3175 (Lot 54 TP 780695 Por 54 Vol 8069 Fol 871)
THE PERMIT ALLOWS:	Use and development of the land for a market and rural industry, car parking reduction and alteration of access to a road in a RDZ1

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the development starts, two (2) copies of amended plans drawn to scale and dimensioned must be submitted to the Responsible Authority for approval. No buildings or works must be commenced until the plans have been approved and endorsed by the Responsible Authority. The endorsed copy of the plans forms part of this permit. The plans must be in accordance with the [revised plans prepared by The Office for Collective Design drawings A00-001 to 005, A01-001 to 006, A02-001 to 002, A05-001 to 006 \(all dated 13 June 2018 except A00-004 dated 25 June 2018 and A05-006 dated 19 June 2018\)](#) ~~plans submitted with the application~~, but modified to show:
 - 1.1. [The design of all access roads to Council standards.](#)
 - 1.2. [Amended layout of internal road network clearly identifying areas where commercial vehicle manoeuvring and pedestrian movements are anticipated. These areas must be separated as far as practicable in accordance with AS2890.2.](#)
 - 1.3. A pedestrian path network for the entire proposal that clearly delineates the pedestrian connections between buildings and car park zones to facilitate a safer and easier pedestrian connection from the middle or southern end of the car parks to the proposed sheds. [This must include wayfinding signage to enable use of the various types of parking available.](#)
 - 1.4. A roof/ shade structure or awing to be provided at the main building entry ~~es~~y to be connected to the pedestrian path network.
 - 1.5. The incorporation of native species, shade trees throughout the car park zones (minimum of one canopy tree within a plant island per 10 spaces); the periphery of the internal road network as well as the main accessway and property interfaces.

- 1.6. A minimum of twenty (20) bicycle spaces including nine (9) secure employee bays, plus two associated bicycle shower facilities must be provided.
- 1.7. Contour lines of the proposed property at minimum 200mm intervals to AHD.
- 1.8. Surface level of the proposed service road and car park to AHD.
- 1.9. The minimum finished floor level of the proposed buildings.
- 1.10. All requirements as outlined at conditions 2, 3, 4, [5](#), ~~36~~[35](#) and 37.

All to the satisfaction of the Responsible Authority.

2. Prior to the endorsement of plans under condition 1, an acoustic assessment detailing how the proposed uses will comply with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 must be submitted and approved by the Responsible Authority.
- ~~3. Prior to the endorsement of plans under condition 1, a stormwater drainage plan as to how the stormwater runoff from the site is to be accommodated must be submitted to the Responsible Authority for approval. This stormwater drainage plan will have to be supported with drainage calculations to the satisfaction of Council. The applicant is also requested to demonstrate that flood risk to the site and adjoining properties is not increased by the proposed development.~~
3. Prior to the endorsement of plans under Condition 1, a landscape plan must be submitted to the Responsible Authority for approval. When approved, the plan will be endorsed and will then form part of the permit.

The landscape plan [generally in accordance with the landscape Concept Plan prepared by CDA Design Group Pty Ltd dated 9 July 2018](#) must be drawn to scale with dimensions and two (2) copies must be provided. The landscaping plan must be prepared by a suitably qualified person and must show:

- 3.1. The site at a scale of 1:100/200, including site boundaries, existing and proposed buildings, neighbouring buildings; car parking; access and exit points; indicative topography and spot levels at the site corners; existing and proposed vegetation; nature strip trees; easements; and landscape setbacks.
- 3.2. Details of the proposed layout type and height of any fencing.
- 3.3. All screening; structures; loading bays and refuse collection locations.
- 3.4. Legend of all plant types, surface, materials and landscape items to be used including the total areas of garden and lawn.
- 3.5. A plant schedule giving a description of botanical name; common name; mature height and spread; pot size; purchase height (if a tree) and individual plant quantities.

- 3.6. All landscaping must be native species and the proposed screening to the north east must encourage habitat connectivity.
- 3.7. All landscaping within the southern setback of the lot must include the planting of trees and other vegetation that will grow in height to suitably screen the ten (10) metre high buildings from Harwood Road.

3.8 Any changes required by the approved Bushfire Management Plan.

All to the satisfaction of the Responsible Authority.

4. Prior to the endorsement of plans under condition 1, the submission of a comprehensive Sustainability Management Plan (SMP), prepared by a suitably qualified professional to the satisfaction of the responsible authority. This applies to the overall site and all proposed buildings within the subject site.

The SMP is to provide a detailed assessment of the proposed design. This includes information about proposed design features in relation to their application, specification (where confirmed) and overall benefit to the environment and occupants.

The SMP is to address the 10 key sustainable building categories including:

- Energy Efficiency
- Indoor Environmental Quality
- Water Resources
- Stormwater Management
- Transport
- Construction Materials
- Waste Management
- Urban Ecology
- Ongoing Building and Site Management
- Innovation.

The SMP must also:

- Identify relevant sustainability targets or performance standards;
- Document the means by which the appropriate target or performance will be achieved;
- Identify the different areas of responsibility and provide a schedule for implementation, ongoing management, maintenance and monitoring; and
- Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.

All to the satisfaction of the Responsible Authority.

5. Prior the endorsement of plans under condition 1, a Traffic and Parking Management Plan (TPMP) must be submitted to and approved by the Responsible Authority. The use must not commence until the plan has been approved and endorsed by the

Responsible Authority. The TPMP must address the management of traffic and parking associated with the approved use and development and must:

- 5.1. Identify all loading bays on the application plans.
 - 5.2. Identify how safety (particularly vulnerable road users such as pedestrians, cyclist and motorcyclists) and obstruction to other on-site/on-street traffic is to be managed during commercial vehicle reversing manoeuvres.
 - 5.3. Identify the largest commercial vehicle to access the subject site in accordance with Table 2.1 to AS 2890.2, or other suitable documentation.
 - 5.4. Identify the peak number of commercial vehicles that will access the subject site.
 - 5.5. Identify measures to prevent site bound commercial vehicles queuing on arrival along the public access road.
 - 5.6. Identify preferred locations for parking of larger customer commercial vehicles.
6. Prior to the commencement of the development hereby approved, the owner must submit a Construction Management Plan to the Responsible Authority for approval. When approved, the Plan will be endorsed and then form part of the Permit.
- The Construction Management Plan must include details on how the construction will be undertaken so it has minimal impact on the environment and surrounding area. Details to be provided in the Plan must include (but not limited to):
- 6.1. Details pertaining to the access and parking of staff, visitors and construction workers to the site, with the provision of a drop-off zone and emergency service access to the site;
 - 6.2. Details as to how traffic and pedestrian safety and amenity will be controlled within the vicinity of the site and its surrounds;
 - 6.3. Measures to minimise and control noise, vibrations and dust from construction works;
 - 6.4. Measures to minimise the impact of construction vehicles arriving at and departing from the land; and
 - 6.5. Measures to minimise the creation of conditions likely to be a nuisance.
- All to the satisfaction of the Responsible Authority.
7. Prior to the occupation of the approved development, the owner/ permit holder must prepare and have approved in writing by the Responsible Authority a Waste Management Plan (WMP) for the site with respect to the collection and disposal of waste and recyclables associated with the proposed uses on the site to the satisfaction of the Responsible Authority. The WMP must provide for the following:

- 7.1. The collection of waste associated with the uses on the land, including the provision of bulk waste collection bins or approved alternative, recycling bins, the storage of other refuse and solid wastes in bins or receptacles within suitable screened and accessible areas to the satisfaction of the Responsible Authority. Commercial waste bins being placed or allow to remain not in view of the public, and receptacles not emitting any adverse odours.
- 7.2. Designation of methods of collection including the need to provide for private services or utilisation of council services.
- 7.3. Appropriate areas of bin storage on site and areas of waste bin storage on collection days.
- 7.4. Details of best practice waste management once operating.

Once approved, the WMP must be complied with to the satisfaction of the Responsible Authority and must not be varied except with the written approval of the Responsible Authority.

8. Prior to the use commencing ~~the full length of Harwood Road must be upgraded to a "Rural Road" in accordance with the Council Standard SD 014~~ Harwood Road between the site entrance and Frankston Dandenong Road must be upgraded to a "Rural Road" at the cost of the permit holder in accordance with the Council Standard SD 014 to the satisfaction of the Responsible Authority.
- ~~9. The intersection of Frankston Dandenong & Harwood Roads must to be constructed in accordance with the requirement of Vic Roads Condition 35 and meeting or exceeding the requirements of the intersection design as detailed by the Dandenong South Industrial Area Extension – Development Contributions Plan to the satisfaction of the Responsible Authority and Vic Roads.~~
9. The use of the market must only operate between the hours of:
 - 4am to 4pm 5 days per week

Unless with the written consent of the Responsible Authority.
10. No more than ~~350~~700 persons may be on the site at any one time, unless with the written consent of the Responsible Authority.
11. The market must be used only for the purposes of wholesale of primary produce ~~purposes only~~ and must not be open or accessible to the general public to the satisfaction of the Responsible Authority.
12. The use and development approved must be carried out and constructed in accordance with the recommendations of the approved Acoustic Assessment, to the satisfaction of the Responsible Authority.

13. The connection of the internal drainage infrastructure to the Local Point of Discharge (LPD) must be to the satisfaction of the Responsible Authority, prior to the issue of land upgrade Approval.

Collected stormwater must be retained onsite and discharged into the drainage system at pre development peak discharge rates as stated in the LPD approval letter. Approval of drainage plan including any retention system within the property boundary is required.

14. Access to the site and any associated roadwork must be constructed, prior to the commencement of use all to the satisfaction of the Responsible Authority.

~~Note all existing vehicle crossings will need to be removed and reinstate with kerb in accordance with Council Standards.~~

15. Prior to the occupation of the building approved by this permit, an appropriate stormwater discharge arrangement from the site must be designed and constructed to the satisfaction of the Responsible Authority. When required, fees for plan checking and supervision must be paid to the Responsible Authority.

16. The layout of the site and size, design, location and use of the buildings and works permitted must always be in accordance with the endorsed plans, unless with the written consent of the Responsible Authority.

17. Once the development has started, it must be continued and completed in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.

~~19. Once the use has commenced the continued use of the premises for the permitted purpose must be to the satisfaction of the Responsible Authority.~~

~~20. The use as shown on the endorsed plan/s must not be altered unless with the written consent of the Responsible Authority.~~

~~21. The building hereby approved must not be occupied until all buildings and works and the conditions of this permit have been complied with, unless with the written consent of the Responsible Authority.~~

18. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay(s) and must not disrupt the circulation and parking of vehicles on the land.

19. The use hereby approved must not commence and the subject site must not be occupied for that use until all buildings and works and conditions of this permit have been complied with, unless with the written consent of the Responsible Authority.

20. Unless with the prior written consent on the responsible authority, ~~No~~ external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar.

21. The car parking area must be lit if in use during hours of darkness, and all lights must be designed, fitted with suitable baffles and located to prevent any adverse effect on adjoining land and must not be considered excessive for the area, all to the satisfaction of the Responsible Authority.
22. Before the occupation of the building hereby approved, the area(s) set-aside for the parking of vehicles, and access lanes, as shown on the endorsed plans must be:
 - 22.1. Constructed in accordance with the endorsed plan/s and in accordance with Clause 52.06.
 - 22.2. Properly formed to such levels that they can be used in accordance with the plans.
 - 22.3. Surfaced with an all-weather sealcoat.
 - 22.4. Drained to the legal point of discharge.
 - 22.5. Line-marked to indicate each car space and all access lanes.
 - 22.6. Provided with wheel stops to the front of each car parking space designed to meet Australian Standards AS2890.1 – 2004, Parking facilities, Part 1: Off-street car parking.To the satisfaction of the Responsible Authority.
23. Car spaces, access lanes and driveways must be maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.
24. Prior to the occupation of the buildings hereby permitted, all landscaping as shown on the endorsed plans, including trees, shrubs and lawn, shall be planted and thereafter maintained, to the satisfaction of the Responsible Authority.
25. Noise emitted from the premises must not exceed the permissible noise levels determined in accordance with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
26. The amenity of the area must not be detrimentally eaffected by the use or development on the land, through the:
 - 26.1. Transport of materials, goods or commodities to or from the land;
 - 26.2. Appearance of any buildings, works or materials;
 - 26.3. Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - 26.4. Presence of vermin;

26.5. Adverse behaviour of ~~persons~~~~patrons to or from~~ on the premises.

To the satisfaction of the responsible authority.

27. Bins or other receptacles for any form of rubbish or refuse may not be placed or allowed to remain in the view of the public, and no odour shall be emitted from any such receptacle to the satisfaction of the Responsible Authority.
28. All wastes must be disposed of to the satisfaction of the Responsible Authority and no liquid waste or polluted waters shall be discharged into a sewer or stormwater drainage system.
29. Waste storage and collection must be carried out in accordance with the approved Waste Management Plan.
30. The site shall be kept in a neat and tidy condition at all times, to the satisfaction of the Responsible Authority.

VicRoads:

31. Unless otherwise agreed in writing by VicRoads, before the commencement of the permitted use, the following roadworks must be completed, at no costs to and to the satisfaction of the Roads Corporation (VicRoads):
 - 31.1. Intersection upgrade including the installation of traffic signals at the Frankston Dandenong Road – Hardwood Road – Glasscocks Road intersection, generally in accordance with '3T8' prepared functional layout plan Z2251, Issue E dated 30.03.17.
32. Unless otherwise agreed in writing by VicRoads, prior to the commencement of road works, the permit applicant is to submit to VicRoads, a public lighting plan and Traffic Signal Layout Plan that is consistent with the approved functional layout plan for the upgraded Frankston Dandenong Road – Hardwood Road – Glasscocks Road intersection. The public lighting plan and Traffic Signal Layout Plan are to be to the satisfaction of VicRoads and the Responsible Authority.
33. Before the commencement of the permitted use, land determined to be vested as road or reserve in accordance with the approved detailed design plans for which the Roads Corporation is to be responsible, must be vested in the name of the ROADS CORPORATION.

Melbourne Water:

34. Prior to the development plans being endorsed and the commencement of works, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's condition relating to the drainage strategy. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD).

35. Prior to the development plans being endorsed and the commencement of works, a drainage strategy must be prepared, detailing how the development will safely convey overland flows, and demonstrating that the buildings meet Melbourne Water's minimum floor level requirements. The drainage strategy will be subject to Melbourne Water review and approval.
36. Pollution and sediment laden runoff ~~must~~^{shall} not be discharged directly or indirectly into Melbourne Water's drains or waterways.

CFA:

37. Before the development starts, a Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. The plan must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority:

37.1. Defendable space

Show an area of defendable space for a distance of 35 metres around any proposed building/or to the property boundary, whichever is lesser. Vegetation (and other flammable materials) are to be modified and managed in accordance with the following requirements:

- Fencing shall be of a non-combustible type.
- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within three metres of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed five square metres in area and must be separated by at least five metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

37.2. Construction standards

Nominate a minimum Bushfire Attack level of BAL 12.5 for the construction and design of all buildings.

37.3. Water supply

Show effective water supply for fire fighting purposes for each building which meets the following requirements:

- Is stored in an above ground water tank constructed of concrete or metal.
- All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
- Incorporate a ball or gate valve (British Standard Pipe (BSP) 65 mm) and coupling (64 mm CFA 3 thread per inch male fitting).
- The outlets of the water tank must be within four metres of the accessway and be unobstructed.
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.

Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

38. This permit will expire if:

38.1. The development does not start within two (2) years of the date of this permit,
or

38.2. The development is not completed within four (4) years of the date of this permit.

38.3. The use does not start within one (1) year of the completion of the development,
or

38.4. The use is discontinued for a period of two (2) years.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Notes:

- ~~A Building Approval is required prior to the commencement of the approved development. This planning permit does not constitute any building approval.~~
- ~~A Vehicle Crossing Permit must be obtained from Council for all vehicular crossings prior to construction of the crossings. You may be required to apply for a Asset Protection Permit from Council's engineering services. Queries regarding engineering requirements can be directed to Council's general phone number on 8571 1000.~~
- ~~Approval of any retention system within the property boundary is required by the relevant building surveyor.~~
- ~~Before commencement of the development occurs, the applicant should contact the City of Greater Dandenong's Civil Development and Design Unit regarding legal point of discharge, new crossings, building over easements, etc.~~
- ~~No buildings or works shall be constructed over any easement without the written consent of the relevant authorities.~~

- ~~Any works undertaken within the road reservation and easements will require the developer to obtain a Civil Works Permit from Council.~~
- ~~This permit has been granted on the basis that consent to build over any easement will be obtained from the relevant authority. If consent is not able to be obtained, the development plan will be required to be amended.~~
- ~~All food storage, preparation and handling areas to be constructed to the Australian Standards for fit out of Class 1 food premises and to permit registration under the Food Act.~~
- ~~Except where no permit is required under the provisions of the Planning Scheme, no sign, flashing or intermittent lights, bunting or advertising device may be erected or displayed on the land without the permission of the Responsible Authority.~~
- ~~Prior to the erection of any additional advertising signs on the land, consultation should be made with officers of the Town Planning Department to determine the relevant Planning Scheme Controls and required approvals sought. (NB: Places Victoria may need to be consulted in regard to proposed future signage for the site).~~
- ~~The property is identified to be subject to flooding in major rain events. An application for Report and Consent for Flooding is required. Infrastructure Planning is to be contacted to confirm the minimum finished floor level (FFL) of the proposed development.~~
- ~~If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 134847.~~
- ~~The preparation of the detailed engineering design and the construction and completion of all work must be undertaken in a manner consistent with current VicRoads' policy, procedures and standards and at no cost to VicRoads. In order to meet VicRoads' requirements for these tasks the applicant will be required to comply with the requirements documented as "Standard Requirements – Externally Funded Projects" and any other requirements considered necessary depending on the nature of the work.~~
- ~~It should be noted that functional layout plans may need to be amended to accommodate changes that arise during the detailed design stage; in response to the road safety audit; in relation to services and their relocation; vegetation; drainage; treatment of hazards within clear zones and other matters.~~
- ~~No work must be commenced in, on, under or over the road reserve without having first obtained all necessary approvals under the Road Management Act 2004, the Road Safety Act 1986 and any other relevant acts or regulations created under those Acts.~~

End of Permit Conditions

Under Division 1A of Part 4 of the *Planning and Environment Act 1987*, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

Date issued:

Signature for the responsible authority:
