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PART B

Response to submissions

9. Response to outstanding submissions

The MPA has worked with Hume City Council, DELWP¹, key agencies and landowners to resolve submissions during and after the public exhibition of the Amendment.

This submission responds to the Directions made by the Panel on 8 October 2015.

Appendix 1 to the Part A Submission comprises a table that sets out the position with respect to submissions as at 4 November 2015. Since circulation of the Part A Submission the MPA has continued to work with the various submitters whose matters were unresolved. These discussions have led to further resolution of various matters so that the matters that remain for resolution have been significantly refined. This is particularly of relevance to the issues raised by Hume City Council and DELWP.

An updated version of the table that responds to matters raised by submission has been provided to the Panel and the parties participating in the hearing. Additionally and in accordance with the Panel's directions, a table which identifies those matters which remain for resolution has been updated and provided to the Panel.

To the extent that there remain issues that the MPA has been unable to resolve, this submission outlines those issues and the approach adopted by the MPA in response.

Unresolved submissions have essentially been grouped into two categories according to whether they relate to the PSP or to the draft schedules to the various zoning and overlay provisions that are proposed to be inserted into or deleted from the planning scheme by the Amendment. It is acknowledged that issues that relate to the PSP may involve consequences for the DCP although it is noted that there are no unresolved issues which directly raise concerns with the DCP itself.

A summary of the key matters that remain in contention can be found at **Appendix 1** to this Submission.

9.1. C198 Submissions which relate to the Craigieburn North Employment Area Precinct Structure Plan

The MPA has summarised the outstanding submissions and identified the following issues:

- 9.1.1– Adequacy of background reports (Submissions 12a3, 12a4, 12a10, 12a11, 12a13 & 12a14).
- 9.1.2 – Adequacy of consultation (Submission 12a1).
- 9.1.3 – Amendment is premature (Submissions 10.1, 10.2, 10.3 & 18.6)
- 9.1.4 – Development opportunity (Submission 4.3)
- 9.1.5 – Alternate land use & development options (Submissions 12a6.1-5 inclusive & 12a7)
- 9.1.6 – Native vegetation (Submissions 11.2,18.8 & 18.9)
- 9.1.7 – Parkland, drainage and wetland allocation (Submission 5.1)

¹ Where reference is made throughout this Part B Submission to terms that were defined in the Part A Submission, those terms have the same meaning in both the Part A and Part B Submissions.

- 9.1.8 – Management of water flows (Submissions 18.11 & 18.12)
- 9.1.9 – Extent and management of conservation area (Submissions 10.4, 18.4, 18.10 & 11.62)
- 9.1.10 – Infrastructure implementation (Submission 12a5).
- 9.1.11 – Road bridge over the Merri Creek (Submissions 11.2 & 11.3).
- 9.1.12 – Zoning (Submissions 1.1, 3.1, 4.1, 4.2, 9.1, 9.4, 9.5, 10.5, 10.6, 11.65, 12a2, 12a6, 12a8, 12a9, 12a12, 12a15, 12a16 & 18.2).
- 9.1.13 – Restricted retail allocation (Submissions 9.2 & 9.3).
- 9.1.14 – Oversupply of industrial land (Submissions 1.1 & 12a2).
- 9.1.15 – Depreciation of assets (Submission 12a8)
- 9.1.16 – Oversupply of jobs (Submission 12a2).
- 9.1.17 – Land acquisition (Submissions 4.4, 10.8, 11.1, 11.74 & 18.5)

9.1.1 Adequacy of Background Reports (Submissions 12a3, 12a4, 12a10, 12a11, 12a13 & 12a14)

Issue One: The Restricted Retail Study²

Submissions 12a3 – Claudio Di Martino

Response

The submitter suggests that the Restricted Retail Study is flawed insofar as it is based on population forecasts that do not include age demographics. The submitter also questions the Restricted Retail Study insofar as it identifies a projected need for “low density retail/commercial land”.

The MPA is satisfied that the methodology adopted by SGS is best practice.

Furthermore, the MPA notes that the Study is described as “a high level assessment of retailing in this catchment at a formative stage in its development.”³ The report appropriately states that:

“More up to date analysis should be conducted as the broader catchment evolves, particularly if actual development yields begin to differ from the projected population scenarios outlined in this report.”⁴

Issue Two: The Valuation Report⁵ is incomplete as it has not valued each individual land holding nor has it factored in improvements.

Submission 12a4 & 12a14 – Claudio Di Martino

Response

² SGS *Restricted Retail Study – Craigieburn North Final Report* dated April 2015.

³ *ibid* at section 1.2 page 2.

⁴ *ibid*.

⁵ Charter Keck Cramer *Craigieburn North Precinct Development Contributions Plan (DCP) Land Assessments Valuation Report* dated 13 October 2014.

The submitter⁶ has raised concerns regarding the adequacy of the Valuation Report which stem from the proposition that the highest and best use for the land is a residential use rather than an employment use.

The Valuation Report has been prepared on the basis of instructions provided by the MPA. These instructions were not to value the land for other possible zonings. The purpose of the Valuation Report is to assess the fair market value of land within the PSP identified for DCP infrastructure projects including land for road widening and intersections. As the Valuation Report states⁷:

Improvements

Each holding is assessed having regard to the proposed zoning and the notional highest and best use per the PSP's Urban Structure Plans. This report relates to the assessment of the parent holdings within the precinct for the implementation of a DCP. Therefore, the values assessed relate to the underlying land values. Accordingly, improvements have been excluded from the assessments.

Highest and Best Use

In accordance with the Future Urban Structure Plan prepared by the MPA, the parent holdings are proposed to yield employment use (Industrial/Commercial). Therefore in assessing value, we have considered the highest and best use of the parent holdings as predominantly employment use/development land.

To the extent that the submitter expresses concern that the Valuation Report fails to make allowance for compensation where homes are to be absorbed by the construction of new road infrastructure, the MPA notes there is no proposal to acquire homes to facilitate roads for road construction. As will be explained at section 9.4.3, the DCP does take into account the area of land to be absorbed for DCP projects. Where landowners provide over the average as a percentage value, the additional area is given a site specific valuation to take into account the reduced developable area.

Issue Three: Further Studies are required to inform the PSP

Submission 12a10, 123a11 & 12a13– Claudio Di Martino

Response

The submitter⁸ considers that additional studies ought be commissioned by the MPA to determine the extent of the decline in demand for industrial land in the north, an economic planning report that reflects the landowners' perspectives and a report that addressed the "Human Economic Cost".

⁶ Mr Di Martino.

⁷ Charter Keck Cramer *op cit* at section 4 page 19.

⁸ Mr Di Martino.

The land allocation to industrial use in the Growth Corridor Plans and the Precinct Structure Plans that follow will ensure adequate land to service the metropolitan area for the next 40 years

The MPA is satisfied that the independent studies that were commissioned in order to inform the development of the PSP adequately address the subject matter of those various reports. The Growth Corridor Plans were themselves informed by a range of independent studies.

Further, the MPA's role as lead agency is carried out on behalf of the State Government and involves extensive consultation with all stakeholders.

9.1.2 Adequacy of Consultation (Submission 12a1)

Submission 12a1 – Claudio Di Martino

Issue: Adequacy of consultation with landowners

Response

The submitter suggests that there has been a failure by the MPA (and Hume City Council) to consult and engage with landowners concerning the desired zoning for the precinct.

The MPA acknowledges that some landowners do not support the proposed zoning for this precinct. However, the MPA does not accept that it has failed in its obligations to consult with and take into account the views of all stakeholders in preparing the amendment.

The MPA undertook direct meetings with landowners in October 2011, December 2012 and October 2013 during which landowners were invited to comment on the preparation of the Future Urban Structure Plan and the PSP. Additionally, MPA staff members regularly address matters raised by landowners whether in person, by telephone or via email.

9.1.3 Amendment is Premature (Submissions 10.1, 10.2, 10.3 & 18.6)

Submissions 10.1, 10.2 & 10.3 - Merri Creek Management Committee Inc
Submission 18.6 - Friends of Merri Creek Inc

Issue: The Amendment ought be delayed or abandoned pending completion of various reports

Response

The MPA contests the proposition that the Amendment ought be delayed or abandoned on the basis that various strategic documents are yet to be completed.

Similar if not identical submissions calling for the Amendment to be delayed were made to the Panel appointed in relation to Amendment C183 to the Whittlesea Planning Scheme (**C183 Panel**).

The Panel rejected those submissions noting that its task was to assess current policy rather than policy which may be introduced in the future.⁹ The Panel concluded that delaying the Amendment would not result in any additional public benefits.¹⁰

Insofar submissions suggests that the Amendment ought be delayed pending completion of a **CHMP**, a CHMP is not required at this point in the PSP process. It is the subdivision process that ordinarily triggers the need for a CHMP. The Targeted Cultural Values Assessment¹¹ provided sufficient guidance to inform the development of the PSP insofar as the location of the road bridge is concerned.

As the Panel will be aware, the costs associated with producing a CHMP are frequently extensive and the MPA is to be distinguished from development proponents which bear the burden of producing any necessary CHMP. The cost of producing a CHMP has been absorbed in the cost estimate for the bridge agreed as part of the Merri Creek Bridge costing conclave.

To the extent that the Precinct Structure Planning Guidelines suggest that a number of reports including an Aboriginal Cultural Heritage Assessment should be produced, the MPA considers the Cultural Values Assessment that has been undertaken appropriately informs the development of the PSP. The PSP guidelines were launched by the Minister for Planning in 2009 and are currently being revised so that they, amongst other things, reflect improvements introduced by the GAA / MPA over the course of the past 5 years. It has not been the practice of the GAA or the MPA over recent years to require a CHMP as part of an Amendment process.

The MPA understands that Moremac Property Group (**MPG**) has retained consultants to undertake work with a view to producing a CHMP and a Geotechnical Assessment which will further inform the final location of the road bridge on both sides of the creek. Based on discussions with MPG, it is expected that both the CHMP and the Geotechnical Assessment will be available prior to gazettal of the Amendment. Whilst it is understood that the CHMP will not be completed prior to this Panel hearing, it is expected that MPG will be in a position to provide further information to the Panel on these matters.

The **Metropolitan Open Space Strategy (MOSS)** is an initiative of Plan Melbourne that allocates this task to the MPA. The scope and time lines for the preparation of the MOSS are now being reviewed by the MPA in the context of the “refresh” of Plan Melbourne announced by the Minister for Planning. Plan Melbourne is the overarching planning document which includes the open space strategy as one of its initiatives. In the absence of the MOSS having been completed, the open space provision in the Amendment is consistent with relevant PSP Guidelines¹² and the BCS and in this regard, is no different to other PSPs that have been prepared and gazetted.

⁹ Panel Report dated 28 October 2015 at Section 4.3.2 page 30 of 79.

¹⁰ At section 4.3.3 page 33 of 79.

¹¹ Background Report – Targeted Cultural Values Inspection of PSP 25.1 Craigieburn Employment Area North and PSP 25.2 English Street August 2013.

¹² In particular Element 5: Open Space and Natural Systems.

The Amendment provides a significant and perpetual regional open space corridor along the Merri Creek. The BCS facilitates funding for the enhancement of nationally significant conservation outcomes along the creek and for managed recreational access. Additionally, the urban interface to the Merri Creek is tightly regulated by the Amendment and will result in an allowance for the creation of a link between this part of the creek and the broader metropolitan and regional open space network.

Best Practice Stormwater Management is integral to the approach adopted by both the MPA and Melbourne Water in relation to the Amendment. Furthermore, the Victorian Planning Provisions reference Best Practice Stormwater Management.¹³ The Amendment provides appropriate safeguards for water quality management by ensuring that all subdivision applications will be referred to Melbourne Water. Through this process all relevant policies concerning water quality management will be implemented.

The policy that is currently known as **Melbourne's Water Future North** is a work in progress. The MPA is part of the Government working group developing water policy for Melbourne's North. Accordingly, the MPA's participation in the development of this policy will ensure consistency between the Amendment and emerging water policy.

The MPA is aware that DELWP is preparing a **GGF Masterplan** to guide investment planning for GGF conservation areas and in particular focusing on the program of wetland creation and enhancement over the life of the MSA program. The MPA understands that the Masterplan comprises of a package of information all of which has draft status and the majority of which is yet to be released for public consultation.

Putting aside the status of the various strategic documents referred to by the submitters, the MPA is confident that the Amendment has been informed by all necessary background reports.¹⁴ In addition, the MPA notes that there is whole of State Government support for the Amendment as is demonstrated by the fact that neither DELWP nor any government agency has felt it necessary to appear before the Panel. This was accepted by the C183 Panel.

9.1.4 Development Opportunity (Submission 4.3)

Submission 4.3 – Vincenzo and Rita Scarpino

Issue: Designation of land as GGF Conservation area fetters opportunity to commercially develop

Response

These submitters own property 25.1.1¹⁵ which is wholly located within the GGF conservation area. Given this, commercial development is not considered compatible with the requirement in the BCS for conservation areas within Melbourne's growth corridors to be protected and managed in

¹³ For example clause 19.03-2 Water Supply, Sewerage and Drainage and clause 19.03-3 Stormwater.

¹⁴ Refer to section 5 of the Part A Submission.

¹⁵ On the Land Use Budget Plan – PSP at page 40.

perpetuity. Conservation Area 34 relates to the threatened GGF, its habitat and the protective buffer zone that occurs along the Merri Creek corridor. The GGF Conservation Area Concept Plan¹⁶ provides certainty about land use within the GGF conservation corridor as is required by the Guidance Note issued in relation to the implementation of the BCS for Melbourne’s Growth Corridors.¹⁷

Additionally, the MPA notes that the Amendment proposes zoning and overlays which reflect the existing environmental conditions which would be relevant factors for consideration of any planning permit application currently made, such as the Land Subject to Inundation Overlay.

9.1.5 Alternative land use & development options (Submissions 12a6.1 - 5 inclusive & 12a7)

Submissions 12a6.1 - 5 inclusive & 12a7 - Claudio di Martino

Issue: Five alternate land use & developments

Response

The submitter has suggested five alternative development options for the precinct all of which use “...the fundamental rational approach of residential gravity development to underpin growth.”¹⁸

The Craigieburn North Employment Area was identified in *Growth Corridor Plans: Managing Melbourne’s growth*, approved by the Minister for Planning in 2012 for employment purposes. The MPA does not support the alternatives which, it is noted, would not achieve the strategic planning desires for the precinct or, in fact, for the corridor. Rather, if implemented they would introduce inconsistencies with the strategic planning for both the precinct and the corridor.

9.1.6 Native vegetation (Submissions 11.2, 18.8 & 18.9)

Submission 11.22 – Hume City Council
Submissions 18.8 & 18.9 – Friends of Merri Creek Inc

Issue One: Update Habitat Compensation Layer in relation to LP3 and LP4

Submission 11.22 – Hume City Council

Response

¹⁶ Refer to Figure 4 of the PSP at page 23.

¹⁷ Refer to *Guidance Note: “Implementing the Biodiversity Conservation Strategy for Melbourne’s Growth Corridors – Working Document,”* February 2015 at page 19.

¹⁸ At pages 13 to 15a) inclusive.

Whilst sympathetic to the issue that is being raised, the MPA is not in a position to facilitate a change to the Habitat Compensation Layer (**HCL**).

The HCL is a data layer administered by DELWP showing the location of native vegetation and threatened species habitat within the BCS area. The layer is used as the basis for calculating the habitat compensation fees to be paid to DELWP for the removal or deemed removal of native vegetation and habitat in the BCS area¹⁹. The Guidance note makes clear that approval is required from DELWP to exempt native vegetation and habitat proposed to be retained outside conservation areas from habitat conservation fees and specifies a number of criteria that must be met before DELWP will consider approving an exemption application.²⁰

The MPA understands that the areas of native vegetation in question do not meet the criteria specified in the Guidance note. It is also understood that DELWP is currently considering how to manage situations such as this.

Issue Two: Areas of existing native vegetation to be incorporated into conservation areas and/or open space.

Submission 18.8 – Friends of Merri Creek Inc

Response

Whilst the MPA acknowledges the importance of retention of native vegetation, it is considered that the Amendment achieves an appropriate balance between protection, enhancement and maintenance of existing native vegetation on the one hand and contributing to urban development objectives on the other hand. A premise of the GGF Conservation Area Concept Plan²¹ is to ensure that existing native vegetation was identified and retained as practicable.

Issue Three: Incorporation of an east/west habitat link into the precinct.

Submission 18.9 – Friends of Merri Creek Inc

Response

The MPA refers to and repeats its response to Issue Two and notes further that the BCS does not identify the need for an east/west habitat link as suggested by the submitter.

9.1.7 Parkland, Drainage & Wetland Allocation (Submission 5.1)

Submission 5.1 – N Messo, A Messo, F Messo, Y Messo, G Bayrak & A Bayrak

¹⁹ *Guidance note: Implementing the biodiversity Conservation Strategy for Melbourne's Growth Corridors, Working document, February 2015 at page 5.*

²⁰ *ibid* page 28.

²¹ Figure 4 of the PSP on page 23.

Issue: Unfair and excessive parkland, drainage & wetland allocation

Response

This submission relates to property 25.1.22²² of which the MPA acknowledges approximately one third of the area will be unavailable for development. This site possesses a number of attributes which recommended it for designation as open space. These attributes include the fact that it is located adjacent to a Melbourne Water asset, functions as a buffer to Conservation Area 27²³ which is adjacent and assists in distributing open space across the precinct.

The MPA notes that the landowners will be compensated by Melbourne Water for the acquisition of land associated with the Drainage Services Scheme. It is additionally noted that landowners who are not called upon by the Amendment to make a contribution of land towards the open space provision will be required to make a monetary contribution under clause 52.01 of the Hume Planning Scheme.

9.1.8 Management of water flows (Submissions 18.11 & 18.12)

Submissions 18.11 & 18.12 - Friends of Merri Creek Inc

Issue one: Utilise innovative methods to ensure that storm water flows are kept to pre-development levels and patterns

Submission 18.11 - Friends of Merri Creek Inc

Response

The PSP includes provisions relating to Integrated Water Management.²⁴

The MPA follows the lead of the drainage and water authorities with regard to management of water flows. The Amendment is reflective of current guidance from those authorities. The design of wetlands and retarding basin is based on the Development Services Scheme proposed by Melbourne Water.

The MPA is satisfied with the manner in which the amendment proposes to address these matters.

Issue Two: The Amendment ought aim to exceed current best practice storm water quality treatment

Submission 18.12 - Friends of Merri Creek Inc

Response

²² On the Land Use Budget Plan – PSP at page 40.

²³ Which is outside the PSP.

²⁴ Refer to pages 30 – 33 inclusive.

Requirement 33 requires development to meet at a minimum or exceed best practice storm water quality treatment standards. This Requirement will ensure that in the event that standards or guidelines are updated or changed, this will be addressed and implemented throughout the precinct.

9.1.9 Extent and Management of Conservation Area (Submissions 10.4, 18.4, 18.10 & 11.62)

Submission 10.4 – Merri Creek Management Committee Inc
 Submission 11.62 – Hume City Council
 Submissions 18.4 & 18.10 – Friends of Merri Creek Inc

Issue One: Extent of conservation area setback from the Merri Creek

Submission 10.4 – Merri Creek Management Committee Inc
 Submission 18.4 – Friends of Merri Creek Inc

Response

The GGF conservation area along the Merri Creek has been approved under the BCS. Under the BCS, the overall area provided by this conservation area cannot be reduced without both State and Commonwealth consent.

Previous Panels have received submissions concerning the parameters of conservation areas that are derived from the BCS and have accepted submissions made by the MPA (and others) that a Panel is not at liberty to recommend changes to a conservation area absent the agreement of State and Commonwealth Governments. In relation to submissions made that the boundary of the GGF Conservation Area ought be reduced on the one hand and increased on the other, the Panel which considered Wyndham C175, C176 & C177 said this:

Accommodating changes to the approved Biodiversity Conservation Strategy

This Panel concurs with the C171 and C172 Panel that stated:

It is clear to the Panel that any changes to the GGF Conservation Areas (or more specifically the net loss of area of the conservation area) cannot occur without the agreement of DEPI and the Commonwealth Minister responsible for administering the EPBC Act. This is stated in the Commonwealth approval decision under the Melbourne Urban Growth Program Strategic Assessment on the 5 September 2013. The Panel also notes that under the BCS, 'DEPI may approve minor amendments to the quantum of a habitat compensation obligation resulting from changes to the retention and clearing of habitat from the precinct structure plan process'.²⁵

The MPA notes that both of the submitters that support augmenting the GGF Conservation Area participated in the process that has been undertaken over the past five years and which has culminated in the Approval for urban development provided in accordance with the EPBC Act.

²⁵ At page 69.

The submitters question the width of the GGF conservation corridor which varies between 200 metres and 100 metres. The MPA has consulted DELWP as to why the GGF conservation buffer varies in width. DELWP has advised that the wider corridors are provided in the vicinity of important populations of the GGF to provide space for creation of new wetlands and enhancement of existing wetlands to support the species. Narrower corridors are provided in intervening areas to enable individuals to move between populations. This is important for ensuring those populations remain sustainable. In other words, the GGF Conservation Area extends approximately 200 metres from the Merri Creek to accommodate two Metapopulation Nodes and approximately 100 metres from Merri Creek to accommodate the inter-nodal corridor.²⁶

The MPA notes that the BCS boundary has been refined to accommodate a more practical and developable area. In addition to achieving compliance with the requirement that there be no net loss of habitat for the GGF, the refinements resulted in an equitable outcome for land owners given that the extent of GGF conservation area encumbered land has remained consistent across individual land owners.

The C183 Panel considered submissions that expressed concern regarding the extent of the GGF conservation corridor width narrowing from 200 metres to approximately 100 metres.²⁷ The Panel said this:

“Both the MCMC and Friends of Merri Creek submissions expressed concern over the extent of the GGF conservation corridor narrowing from 200 metres width to around 100 metres in parts of the corridor along Merri Creek within the PSP precinct. They considered the extent of the conservation area corridor should be increased and should also include additional land to act as an open space buffer to the conservation area.”²⁸

Having considered these and other submissions, the Panel stated:

“The extent of the conservation corridor for GGF along Merri Creek within the English Street PSP precinct is accepted. This is because it is an area that has long been identified under conservation work such as the BCS and Sub-regional Species Strategy for GGF that has both Commonwealth and State Government approval.”²⁹

Issue Two: Open space delivery

Submission 18.10 – Friends of Merri Creek Inc

Response

The submitter harbours concerns relating to Requirement 52³⁰ concerning the “finishing” of local parks prior to their transfer to the Responsible Authority. The submission identifies a number of aspects of Requirement 52 which the submitter regards as being problematic if the local park adjoins

²⁶ *Inter-nodal Corridors* are conservation corridors which provide sufficient habitat to facilitate movement between Metapopulation nodes and space for “stepping stone” breeding wetlands to aid migration.

²⁷ Panel Report at Section 4.3.1 at page 29 of 79.

²⁸ *ibid* at pages 29 & 30.

²⁹ Panel Report at pages 30 and 31 of 79.

³⁰ PSP at page 39.

a conservation reserve. DELWP was a submitter to this Amendment and did not raise any concern on this basis.

The MPA is satisfied that the Amendment contains sufficient protection (via the PSP and the Incorporated Plan Overlay) to ensure that works in or near conservation areas do not compromise conservation values. In particular, the MPA draws to the attention of the Panel, the matters that are addressed in the notes to the GGF Conservation Area – Concept Plan³¹ and Requirement 17³².

In terms of the selection of tree species the MPA notes that this is a matter will be addressed through the Hume Planning Scheme. The PSP contains requirements concerning the establishment of open space which interfaces with, other things, conservation areas³³ which require that the open space integrate with the relevant environment constraints and features including retained trees.

Issue Three: Transfer of conservation land to a public authority during subdivision

Response

The MPA notes that the Amendment adopts the process outlined in the BCS.

The C183 Panel succinctly summarised:

The BCS identifies that all conservation areas will be zoned appropriately for conservation. To satisfy the requirements of the BCS and Sub-regional Species Strategy for the GGF the existing RCZ is proposed to be extended and reinforced by application of the IPO10 which includes the requirement for protection of the land in perpetuity via the agreement under Section 69 of the Conservation Forests and Lands Act 1987 (CF&L Act) or, where the landowner prefers, by transferring land to the Crown where an appropriate public land manager is available.

In the MPA's view, there is no basis for departing from the process outlined in the BCS.

9.1.10 Infrastructure Implementation (Submission 12a5)

Submission 12a5 – Claudio Di Martino

Issue: There are roads within the precinct which are unsafe and should be constructed immediately

Response

Whilst the MPA expresses no view as to the accuracy of the submitter's concerns regarding the safety of certain roads within the precinct, it notes that concerns of this nature ought be referred to VicRoads and Hume City Council as appropriate.

³¹ Refer to Figure 4 of the PSP at page 23.

³² Refer to PSP at page 25.

³³ Requirement 13 at page 21.

The Amendment will facilitate the construction and upgrade of a number of roads in order to support the planned urban development, but this will not be triggered until a subdivision application is being carried out.

9.1.11 Road Bridge over the Merri Creek (Submissions 11.2 & 11.3)

Submissions 11.2 & 11.3 - Hume City Council

Issue One: A Cultural Heritage Management Plan (CHMP) and Geotechnical Assessment ought be produced before the PSP is completed

Response

Hume City Council has suggested that the Amendment ought not be completed until such time as a CHMP and Geotechnical Assessment have been produced.

The MPA acknowledges that the current location of the road bridge over the Merri Creek is general in nature. However, the MPA considers that there are a number of factors which support the current general location of the bridge. These include the fact that the bridge is currently located in an area preferenced and endorsed by the Wurundjeri Tribe, the Registered Aboriginal Party.

Insofar as submissions suggest that the Amendment ought be delayed pending completed of a CHMP, the MPA refers to and repeats the submissions made at section 9.1.3 which, amongst other things, address the need for a CHMP.

To the extent that the concern over the bridge location arises from the potential for additional cost to be attracted above that which is allowed for in the DCP, the MPA notes that there are a number of factors which suggest that the prospect of additional costs being attracted is unlikely.

First, DELWP has advised that the buffer area shown to the south of the proposed bridge location on Plan 11 of the PSP will need to be removed as it includes land that is of strategic importance to the GGF. As a result, DELWP does not support the bridge being located in this area.

Second, preliminary work undertaken by the MPA suggests that in the event that it becomes necessary to relocate the bridge to the north, the length of the bridge is expected to be shorter than that presently allowed for in the DCP costings.

A copy of the preliminary work undertaken by the MPA in relation to potential bridge crossings can be found at Appendix 2 to this Submission.

Subsequent to this preliminary work, ESDP have commissioned SMEC to provide two sections based on the road bridge being located 30m north and 50m south of the current location.

A copy of the SMEC bridge sections can be found at Appendix 3 to this Submission.

In light of these matters, the MPA considers there is sufficient information available to inform the general location of the bridge and that it is reasonable to assume for the purposes of this hearing, that the DCP costings for the bridge are reasonable. In this regard, it is noted that the agreed cost

estimate for the bridge that emerged from the conclave includes an allowance for the costs associated with a CHMP and a Geotechnical Assessment. Notwithstanding this and in the event that the costs associated with any necessary relocation of the road bridge and consequential redesign exceed that allowed for in the DCP, then additional notification to affected parties will be provided.

For the foregoing reasons, the MPA considers that the Panel ought not be impeded in its consideration of the Amendment by the fact that the work that is presently being undertaken and which will, in time, result in the production of a CHMP and geotechnical assessment is not yet completed. It is noted that the work undertaken by MPG in this regard is above and beyond the investigation normally required for a PSP and DCP.

Additionally, the C183 Panel considered the same submissions made by Hume City Council concerning the bridge and said this:

The issues raised by Hume have been adequately addressed. The Panel was taken to various scenarios detailing that even if the bridge were to be relocated north and this would likely result in lesser costs as the length of the bridge crossing decreased. Mr Rymer provided solid evidence that the likelihood of the bridge moving was low. The MPA, City of Whittlesea and ESDP supported the bridge and its design as proposed in the DCP, with the adjusted cost derived from the conclave held prior to the Hearing. The Panel sees no reason to recommend a delay of the Amendment's gazettal until the outcomes of the geotechnical and CHMP studies are known as there is sufficient contingency contained within the DCP.³⁴

And later the Panel concluded this:

On the matter of the bridge, a significant amount of pre-design investigation has been undertaken. The Panel did not accept arguments from Hume that there were significant costs savings to be achieved by constructing the bridge to its ultimate capacity now. The Panel supports the bridge location as exhibited.³⁵

Issue Two: Information sought from the Registered Aboriginal Party

Response

The MPA has provided Hume City Council with a copy of the Targeted Cultural Values Assessment³⁶.

The MPA does not consider there is any merit in pursuing this issue. It refers to and relies upon the conclusions reached by the C183 Panel.

9.1.12 Zoning (Submissions 1.1, 3.1, 4.1, 4.2, 9.1, 9.4, 9.5, 10.5, 10.6, 11.65, 12a2, 12a6, 12a8, 12a9, 12a12, 12a15, 12a16, 18.2)

Submission 1.1 – Steven Mustica

³⁴ Panel Report at Section 5.5.2 page 41 & 42 of 79.

³⁵ Panel Report at Section 5.6 page 42 of 79.

³⁶ Background Report – Targeted Cultural Values Inspection of PSP 25.1 Craigieburn Employment Area North and PSP 25.2 English Street.

Submission 3.1 – James Gevergizian
 Submission 4.1 & 4.2 – Vincenzo and Rita Scarpino
 Submissions 9.1, 9.4 & 9.5 – Merrifield Corporation Pty Ltd
 Submissions 10.5 & 10.6 – Merri Creek Management Committee Inc
 Submissions 12a2, 12a6, 12a8, 12a9, 12a12, 12a15, 12a16 – Claudio Di Martino
 Submission 18.2 – Friends of Merri Creek Inc

Issue One – Rural Conservation Zone

Response

A number of submissions raised issues concerning with the application of the RCZ for the GGF Conservation Area.³⁷

The MPA refers to and relies upon the C183 Panel considered the selection of the RCZ over land identified for conservation purposes in combination with (in that case) the IPO10 and said this:

3.4.2 Conservation areas

The proposal to extend the RCZ and apply the IPO10 over the area identified in the PSP as a conservation area (shown in the PSP as Plan 6 – *Native Vegetation Retention & Removal* and Figure 4 – *Growling Grass Frog Conservation Area Concept Plan*) is driven by the government approval of Conservation Area 34 under the BCS and Sub-regional Species Strategy for the GGF.

Conservation Area 34 is an area identified under the Sub-regional Species Strategy for the GGF as *Growling Grass Frog conservation, floodplain and open space*. These areas will be protected and managed primarily for the GGF in accordance with the requirements of the Sub-regional Species Strategy for the GGF, but will also include areas managed for floodplain and stormwater infrastructure as well as areas of open space for passive recreation.

The BCS identifies that all conservation areas will be zoned appropriately for conservation. To satisfy the requirements of the BCS and Sub-regional Species Strategy for the GGF the existing RCZ is proposed to be extended and reinforced by application of the IPO10 which includes the requirement for protection of the land in perpetuity via the agreement under Section 69 of the *Conservation Forests and Lands Act 1987* (CF&L Act) or, where the landowner prefers, by transferring land to the Crown where an appropriate public land manager is available.

The Panel is satisfied the choice of planning tools in terms of zones and overlays is considered appropriate. Under the VPPs there are few choices available to a planning authority with respect to conservation oriented zones for privately owned land. The RCZ is the only ‘off the shelf’ based conservation oriented zone available and it is noted it is one of the suite of rural based zones. There are no similar zones available for urban settings. For public land, the zone options include the Public Conservation and Resource Zone (PCRZ). However, in this case the conservation issue relates to privately owned land that in future may become publicly owned. Hence, the options available in this instance are either the RCZ itself or the use of specially drafted schedules to the Special Use Zone (SUZ).

³⁷ Submissions 10.5, 10.6 & 18.2

The key driver of the tool selection is the purpose of conservation of the threatened GGF along the Merri Creek. Identification of the GGF conservation area and its recognition in strategic work is complete and approved by both levels of government. ...

.....

3.5 Conclusions

The Panel concludes that the selection of zones and overlays to implement the English Street PSP are appropriate. The PSP and DCP are themselves the key documents guiding the future urban growth planning and biodiversity protection of the English Street PSP precinct. Their incorporated stature provides the clearest vision regarding the future of this precinct. The application of the various zones and overlays and their content merely reflects how that future will materialise and in this sense the Panel is satisfied with Amendment C183.³⁸

So far as the zoning of Laffan Reserve is concerned, it is noted that the MPA, DELWP and the C183 Panel all support the retention of the PPRZ over Laffan Reserve. Specifically the Panel said this:

The Panel supports the suggestion from DELWP that Laffan Reserve remain under the PPRZ. The Panel acknowledges that this is a matter for the Hume C198 Panel for the Craigieburn North employment PSP to formerly consider, but lends its support for this suggested change. The Panel considers retaining the reserve under the PPRZ despite it being included in the designation of Conservation Area 34 for protection of GGF and its habitat would not inappropriate.³⁹

Issue Two: Precinct should be zoned for residential land use

Response:

Two submitters express concern about the utilisation of industrial and commercial zones within the precinct and suggested that the land ought be zoned for residential land use or the Mixed Use Zone ought be applied.⁴⁰

The land within the Craigieburn North Employment Area PSP was nominated for industrial development within the North Growth Corridor Plan in 2011. The North Growth Corridor Plan considered a range of factors in nominating land for industrial employment including:

- (i) the future demand for various activities;
- (ii) the total amount of industrial land that needs to be set aside for future manufacturing, logistics and associated uses in order to provide for both local and metropolitan wide industrial requirements;
- (iii) the appropriate distribution of this industrial land supply between individual growth areas and between larger estates serving the metropolitan industrial land market and smaller estates serving more localised service trades needs; and
- (iv) specific land use criteria, such as access, proximity to sea and air ports, infrastructure and other planning requirements for future industrial development areas.

³⁸ Panel Report at Section 3.4.2 on pages 25 and 26 of 79.

³⁹ At Section 5.3.2 page 39 of 79.

⁴⁰ Submissions 1.1, 12a6, 12a9, 12a15 & 12a16.

To the extent that it is suggested that the proposed zoning is incompatible with the GGF conservation area, the MPA notes that the PSP requires all development abutting any conservation area to be in accordance with the GGF Conservation Area – Concept Plan and the GGF Conservation Area – Conservation Interface to the satisfaction of the secretary to DELWP⁴¹.

Further the MPA notes that there are precedents for locating industrially zoned land adjacent to conservation areas. A number of conservation areas have been permanently set aside in the western industrial node of Melbourne by the Minister for the Environment and continue to exist adjacent to industrial development.

There are numerous examples in the Laverton and Derrimut industrial areas. Two that are very prominent are the Laverton North Grassland Reserve, corner of Princess Freeway and Kororoit Creek Road and the Derrimut Grassland Reserve on the corner of Fitzgerald and Boundary Road. This broader industrial estate also has a number of creeks running through it that are environmentally sensitive

Issue Three: Extension of commercially zoned land to the south of the existing high voltage lines

Response

One submitter has suggested that the commercial zoning ought extend to all properties adjacent to the Hume Highway.⁴²

Land south of the existing power transmission easement is proposed to be zoned IN1Z. This zone facilitates a range of non-industrial land uses including restricted retail and office subject to obtaining a permit. Additionally it is noted that warehouse is a section one use within the I1Z.

Accordingly, the MPA considers the application of the IN1Z to the balance of the land south of the existing transmission easement will not compromise the ability of landowners to realise the future development potential of their properties.

Issue Four: Rezoning of the land within the GGF Conservation area to facilitate commercial enterprises

Response

The submitter's ⁴³ land is entirely contained within the GGF Conservation area and is therefore designated for conservation purposes.

The question of the appropriate zoning for the GGF Conservation area is not a matter over which the MPA has control. Whilst the MPA acknowledges that DELWP is investigating the possibility of introducing a SUZ over land the subject of the BCS, there is no suggestion that there will be a change to facilitate commercial enterprises. Fundamental to the GGF conservation area, is the fact that category 1 areas will be excluded from urban development and will be protected and managed for GGF conservation in perpetuity.⁴⁴

⁴¹ Refer to Requirement R17 of the PSP on page 25.

⁴² Submission 3.1.

⁴³ Submission 4.1.

⁴⁴ Sub-Regional Species Strategy for the Growling Grass Frog page 19.

The fact that DELWP has made no submission in relation to the proposed zoning of the GGF conservation corridor (other than one of implicit agreement) demonstrates the retention of the RCZ is supported by DELWP.

Issue Five: The zoning of land for commercial use is inconsistent with the strategic planning for the locality

Response

One submitter⁴⁵ has suggested that the inclusion of approximately 25% of the Net Developable Area of the precinct within a commercial zone is inconsistent with the State Planning Policy and the North Growth Corridor Plan (**NGCP**) which identify the land for industry.

The MPA contests this submission on a number of grounds which are addressed below.

In so doing, the MPA refers to and relies on both the written and oral evidence adduced before this Panel by Mr Hooper and Mr Szafraniec.

State Planning Policy and the North Growth Corridor Plan

State Planning Policy seeks the development of *Growth Area Framework Plans* that will, amongst other things, identify the long term pattern of urban growth and the location of broad urban development types.⁴⁶

The Growth Corridor Plans are high level integrated land use and transport plans that provide a strategy for the development of Melbourne's growth corridors over the coming decades. These plans will guide the delivery of key housing, employment and transport infrastructure in Melbourne's new suburbs and provide a clear strategy for the development of the growth corridors over the next 30 to 40 years.⁴⁷

The fact that the North Growth Corridor Plan (**NGCP**) designates all of the developable land within the Precinct as "industrial" does not prevent (and has not prevented) land within the precinct being zoned differently. The NGCP is not couched in the language of zoning but rather describes broad urban development types. In fact as Mr Hooper notes the NGCP "... does not define what zones should be applied ..." nor does it "...provide any guidance on the various uses and how they should be located within the Industrial or Business areas."⁴⁸

The most relevant background document that informed employment planning in Growth Corridors was prepared by Essential Economics Pty Ltd (Matt Lee). In this report,⁴⁹ the author discusses the principles that will guide employment planning in the growth areas and says this:

The GAA employment targets have been developed to ensure that a greater focus is placed on increasing local employment within the growth areas. This is in response to the current poor performance of existing growth areas in providing sufficient employment opportunities

⁴⁵ Merrifield Corporation Pty Ltd.

⁴⁶ Clause 11.02-3 at page 5 of 59.

⁴⁷ MPA website at <http://www.mpa.vic.gov.au/planning-activities/greenfields-planning/growth-corridor-plans/>

⁴⁸ Town Planning Evidence Statement prepared by Nick Hooper, November 2015 at section 5 page 11 of 17.

⁴⁹ *Growth Corridor Plans, Activity Centre and Employment Planning*, November 2011.

for local residents. As part of the preparation of new GCPs, the GAA is seeking to plan for more local employment opportunities in a wider variety of employment sectors, thus helping to sustain a more diversified and robust local economy.⁵⁰

Later the Essential Economics report states:

In preparing an employment provision model to assist the GAA in planning for employment land in the growth corridors, the following broad principles have been adopted as the basis for the analysis:

- 1 *Total employment provision will need to be at least the number of new households expected to be accommodated in each GCP region.*
- 2 *The pattern of employment delivery will need to reflect a sophisticated and diverse economy which reflects the GAA's aspirations for the new growth areas, where a variety of employment opportunities are provided at activity centres, in dedicated industrial and business parks, in major employing institutions, and other locations.*
- 3 *Employment locations need to be well dispersed across the urban area, so that residents have an opportunity to access local employment opportunities within the neighbourhood or sub-region, where possible.*
- 4 *Land areas will need to be identified for dedicated employment provision, in the form of industrial estates, transport hubs, business or corporate parks, and so on. A failure to identify sufficient land will mean that later opportunities to provide local employment will be constrained.*
- 5 *Provision for retail and other commercial land uses in activity centres will generate opportunities for employment in LTCs, MTCs and PTCs, where they can be accommodated in the centre network. Employment estimates for these centres form part of the calculation of employment opportunity across each of the GCP regions.*
- 6 *Some types of activities do not generate demand for commercial space, and include businesses that are run at home (eg local tax accountants) or from home (eg tradespeople or building contractors). Analysis of Census data can be undertaken to example the potential for employment in the GCP regions to be generated in residential areas.*
- 7 *In more established parts of Melbourne a significant amount of employment is generated in major institutions such as higher-order education and health facilities; the potential for these types of activities to be accommodated in the growth corridors needs to be examined as part of establishing a model to provide sufficient employment provision in new growth areas.*

According to the Essential Economics report, employment precincts were to be differentiated by light and heavy industrial uses, transport and storage businesses and semi commercial activities.⁵¹ To facilitate this, the Essential Economics report states that:

Employment land precincts will generally contain a mix of industrial land use zones and the Business 3 Zone, as these zones encourage the types of employment uses envisaged for these precincts. In some cases a more specific office zone (eg Business 2 Zone) might be

⁵⁰ At section 4 page xi.

⁵¹ At section 4 page xii.

*applied for a dedicated corporate business park. Alternatively, comprehensive development zones might be applied where more flexibility is warranted.*⁵²

It is apparent from this that the designation of the Precinct as “industrial” does not prevent the land being zoned other than INZ. To the contrary, the use of business (now commercial) zones was expressly contemplated.

To the extent that reliance is placed by the submitter on the fact that *Plan Melbourne* has identified the precinct as forming part of Melbourne’s future supply of “State significant industrial land”,⁵³ the MPA notes that this has not prevented at least one other Panel accepting that an alternative zoning to industrial could be applied to land identified as falling within the classification of “State significant industrial land”.

The Panel appointed to consider Amendment C96 to the Hobsons Bay planning scheme considered that the mapping in *Plan Melbourne* resulted from a general mapping of industrial zoned land rather than a consideration of the particular merits of the subject land for industry.⁵⁴

In terms of “Out of Centre” proposals, State Planning Policy accepts that this is permissible where it delivers a net community benefit to the community to be served by the proposal.⁵⁵ Whilst the MPA considers there a number of reasons why the land proposed to be commercially zoned land within the precinct ought not be considered to be out of centre, it also contests any proposition that the Amendment will not deliver net community benefit.

There are a number of examples of locations where land which was designated as “industrial” in a growth plan did not result in the application of one of the industrial zones. Mr Hooper addresses a number of these in his evidence.⁵⁶

Hume Planning Scheme

The MSS addresses the issue of bulky goods centres in the context of Activity Centres and Retailing.⁵⁷

The objective is to ensure that these centres are appropriately located throughout Hume to meet the needs of existing and growing communities. Although it is not suggested that the allowance of 25,000 sqm of “as of right” restricted retail which the Amendment allows for in Commercial Precinct A will, of itself, facilitate a “regional scale specialised bulky goods based activity centre”, it is noted that the planning scheme does contemplate this type of land use where it can be demonstrated that it is not appropriate to locate in existing and planned Activity Centres.⁵⁸

As the evidence of Mr Szafraniec notes:⁵⁹

Restricted retailing in out of centre locations

⁵² At section 5 page xv.

⁵³ Echelon Planning evidence statement at section 7.3, [69] page 21.

⁵⁴ Hobsons Bay C96 Panel report at section 3.2.3 at 25 of 65.

⁵⁵ Clause 17.01-2 page 1 of 5.

⁵⁶ At section 7.0 page 13 of 17.

⁵⁷ Clause 21.07 Objective 4.

⁵⁸ *ibid.*

⁵⁹ Expert Evidence Statement prepared by Julian Szafraniec, November 2015 at section 2.4 page 7.

However, there can be a net benefit to the community in directing some forms of restricted retailing into ‘out of centre’ locations, or into specialised restricted retailing centres.

The land take of bulky goods can be extensive and job density low. This activity is often not well suited for vibrant mixed use centres that focus on high density urban forms including food and convenience retailing, personal and business services, high/medium density housing and public transport activation.

If large scale and low density bulky goods in particular are directed to specialised centres, land in core activity centres is released for higher density and higher value land uses.

For this reason the SGS report, in line with the Hume Retail Strategy, has made a clear distinction between unmet demand for high and low density restricted retailing (See Table 3 below). High density restricted retailing should be directed toward identified town centres and low density restricted retailing directed into potentially one or two specialised centres.

Table 3 Distribution of Residual Unmet Demand by 2051

Centre	Residual unmet demand (sqm)	Recommended Number of Centres	Floorspace per centre
Activity Centre Bulky Goods (High Density)	29,200 to 35,000	1	29,200 to 35,000
Low Density Bulky Goods	47,800 to 60,900	1 or 2	47,800 to 60,900 in one centre <u>OR</u> 23,900 to 30,500 each across two centres

In a growth area context, a supply of land in a secondary location for the development of an employment precinct which could include some provision for restricted retail will assist orderly development. This will be achieved by ensuring that retailing, including restricted retailing, does not force out important community facilities such as health and education facilities by consuming all of the cheap land surrounding a town centre core.

Additionally and in terms of forward land supply for activity centre development the planning scheme includes support for business zoned land in multiple ownerships so as to avoid monopoly retail conditions.⁶⁰

Zoning

⁶⁰ Clause 21.07 Objective 5.

The submitter contends that Commercial Areas A & B ought be zoned IN1Z as is proposed for the balance of the precinct.

Although the submitter concentrates attention on the second purpose of the C2Z⁶¹, the MPA considers that the third purpose is of particular relevance to the application of the zone to the areas within the precinct which abut sensitive uses, being the GGF conservation area and the English Street residential precinct.

As the (amended) Vision for the precinct states:

The northern part of the CNEA responds to the environmental significance of the Merri Creek and anticipates the need to develop a sensitive interface with the creek environs and the adjacent residential precinct. This will be achieved by encouraging the development of a contemporary business park that includes adaptable commercial floorspace suitable for modern manufacturing and technology based industries with high quality landscaping and built form standards. This area has been marked as Precinct A and B on the plans. The location of the Precinct A abutting the Hume Freeway provides an opportunity to establish some higher order large floor plate restricted retail development which can take advantage of the high exposure to passing traffic along the Hume Freeway and Donnybrook Road with direct connections to Melbourne. Precinct B provides an opportunity to establish the location for a commercial environment suitable for higher amenity office and 21st century manufacturing. Linear trails, passive parks and a convenience centre will provide interesting recreation places for future employees as well as protecting existing significant trees.

Aside from the 25,000sqm of “as of right” restricted retail, the effect of the Applied Zones will be to make restricted retail a permit required use just as is the situation in land zoned IN1Z.

To the extent that there are a number of uses listed in the C2Z that Mr Hooper recommends ought be made section 2 or 3 uses,⁶² the MPA accepts this advice as being consistent with the Vision for the precinct and in particular, the commercially zoned area.

Contrary to the assertion made on behalf of the submitter⁶³ and as Mr Hooper addressed in his evidence, the proposed rezoning at Folkestone Employment Area does not support the assertion that land designated for “industrial” purposes must be utilized for industrial purposes rather than retail activity.

The introduction of the new commercial zones recognised that the concept of industrial land use was changing to involve a greater coupling with business. The C2Z implements this recognition. As is illustrated by a number of examples⁶⁴ successful and innovative industrial businesses are increasingly integrating with complementary retail land uses. This facilitates the breaking down of supply chains from design to development to sales.

Commercial zoning will not undermine or dilute hierarchy of planned activity centres

⁶¹ Echelon Planning evidence statement at section 5.1, [49] page 13.

⁶² Town Planning Evidence Statement prepared by Nick Hooper, November 2015 at section 5 page 11 of 17.

⁶³ Deep End evidence at section 3.8 [88] page 18.

⁶⁴ Bayside Business Employment Area, Dandenong South and the Cremorne/ Church Street.

There are a number of physical, locational and commercial factors which will operate to prevent the commercially zoned land within the precinct adversely affecting the existing or planned activity centres, including those in which the submitter has a vested interest.

Access issues

It is acknowledged that achieving the necessary access to the commercially zoned land is likely to be a long term project that will be dependent on a number of factors that “are in play”.

The MPA accepts that the precinct will only come into play when the access improvements associated with the bridge over the Merri Creek and access to and over the Hume Freeway are delivered. The reality is that while the Merri Creek crossing is DCP funded, Brookville Drive (which is also DCP funded) will be delivered from the south. No developer has as yet been identified which is willing to construct the southern sections of Brookville Drive to the PSP standard. This will, in turn, impact on the timing of the development of the northern part of the precinct.

Logically the existing supply of serviced C2Z land to the south of the precinct (Amaroo Business Park) would achieve development before the precinct.

The crossing of and connection onto the Hume Freeway will join the list of connections to be developed by VicRoads in order to complete the development of the North Growth Corridor. Land for the interchange ramps has been set aside by VicRoads. Although the physical infrastructure may not presently be funded, it will be reserved as an option for when it is needed in the future. It should be noted that there are a number of projects requiring access onto the Hume Freeway which will rightly compete with the precinct interchange for priority and funding during the next 10 years of development.

As Mr Hooper states:

“I do not think either of these uses would be likely to commence in the short term given that access to the Hume Freeway would be likely to be constrained for some time. ... Without convenient access from the Hume Freeway, I do not expect Restricted Retail users to seek to set up in Commercial Precinct A in the short term. Therefore I think it will be unlikely to undermine the activity centre hierarchy.”⁶⁵

Existing supply of surrounding C2Z land is comparatively well advanced and will achieve development before the precinct

The existing supply of serviced C2Z land to the south of the precinct (Amaroo Business Park) will achieve development before the precinct.

As far as the submitter is concerned, the MPA understands the supply of serviced and developable land at the Merrifield Town Centre is on track to commence development from 2017-19.

The development of the future Principal Town Centre will begin to emerge in Lockerbie over the next 6-8 years following the construction of the Gunns Gully Road interchange with the Hume Freeway.

Small scale with fragmented ownership

⁶⁵ Town Planning Evidence Statement prepared by Nick Hooper, November 2015 at section 8 page 15 of 17.

The precinct sits within a very large cluster of employment opportunities which stretch many kilometres along the Hume Freeway and across Donnybrook Road. When viewed in the context of the employment corridor contemplated by the NGCP, the commercially zoned land is a comparatively small offer which will play its role in delivering employment diversity as is sought by the NGCP.

Additionally, it is noted that the commercially zoned land makes up less than 2 % of the Net Developable land for the precinct.

The fragmented nature of the land holding within the precinct suggests that development will be slowed and is to be compared and contrasted with precincts such as the Merrifield Town Centre and other areas in which the submitter has an interest.

Net community benefit

The Amendment does deliver net community benefit as it balances the need for future employment opportunities with the protection of areas of environmental significance and the amenity of future adjacent residential communities.

The Amendment responds to the locational attributes of the northern section of the precinct. This is consistent with State Planning Policy.⁶⁶

Further, the commercial zoning will, in the longer term, provide for a variety of employment uses which will be located in close proximity to a number of residential precincts which include (at full development) English Street, Lockerbie, Donnybrook/Woodstock, Wollert and Merrifield to the west.

The Amendment will make provision for land which has a degree of flexibility to develop for a variety of employment uses in close proximity to, as noted above, a number of residential precincts. Maintaining a long term supply of land is crucial to maintaining Victoria's competitiveness as a location for investment. This point is reinforced in the submission from the Department of Economic Development, Jobs, Transport and Resources.⁶⁷

The submission made by the Department of Economic Development, Jobs, Transport and Resources is indicative of the fact that the Amendment reflects a whole of government position. The fact that the agency responsible for ensuring industrial land supply is satisfied with the outcomes of the Amendment is a matter of considerable weight which cannot be overlooked.

In addition to the micro level aspect of net community benefit, the corridor will ultimately behave in a subregional fashion meaning that it will compete with other regions for trade and commerce. The precinct will ultimately add to the critical mass of the North Growth Corridor as the regional economic and employment cluster of the North. In the very long term, the North Corridor Plan makes provision for a substantial amount of employment land which includes the Beveridge Intermodal Freight Terminal. Having regard to this, an allocation of 25,000 sqm of restricted retail cannot undermine the achievement of the strategic objectives of the North Corridor Plan.

For these reasons and for the reasons advanced in evidence by Mr Hooper and Mr Szafraniec, the MPA considers the submission to be inaccurate.

⁶⁶ Clause 11.02-3 Structure Planning.

⁶⁷ Submission 23.

Rather than being inconsistent with the strategic zoning for the locality, the component of commercially zoned land responds appropriately to its strategic, locational and physical context.

And the commercially zoned land will not undermine the hierarchy of planned centres because the PSP is ultimately a long term plan which will come in behind other more advanced plans and relies on the delivery of improved infrastructure for access. It cannot develop out of sequence to other precincts in the corridor.

For the foregoing reasons the MPA is confident that the zoning of land for commercial use is in fact consistent with the strategic planning for the locality.

Issue Six: The Flood Zone Overlay ought be deleted

Response

The submitters⁶⁸ contend that the FZO is no longer of relevance given the changing nature of the surrounding neighbourhood.

The MPA does not accept this submission.

The FZO has been applied in response to the latest Melbourne Water Stormwater Flood Modelling which has been recently updated. The changing urban conditions will result in increased stormwater flows. The latest modelling and the drainage scheme in the PSP reflects the need to accommodate these flows within the creek corridor with the incorporation of assets planned for this capacity of flows.

9.1.13 Restricted Retail Allocation (Submissions 9.2 & 9.3)

Submissions 9.2 & 9.3 – Merrifield Corporation Pty Ltd

Issue: The zoning of land for commercial use is inconsistent with the retail hierarchy for the region

Response

One submitter⁶⁹ asserts that the proposed rezoning is inconsistent with the retail hierarchy for the region.

The MPA contests this submission and in so doing relies upon its response to the submission made at section 9.1.11 to the extent that it is of relevance to the question of the retail hierarchy.

It also refers to and relies on both the written and oral evidence adduced before this Panel by Mr Hooper and Mr Szafraniec.

Additionally, it makes the following submissions in response.

⁶⁸ Vincenzo and Rita Scarpino.

⁶⁹ Merrifield Corporation Pty Ltd.

Much of the submitter's evidence⁷⁰ is devoted to a critique of the report prepared by SGS *Restricted Retail Study – Craigieburn North Final Report April 2015 (SGS report)*. Mr Szafraniec has responded to that criticism.

Importantly, however, there is essentially agreement over the forecasted total potential local demand for large format retailing.⁷¹ It is noted that the 25,000sqm of proposed commercially zoned land would comprise just 15 to 17% of the totals forecasted by Mr Lee.

The evidence differs as to the appropriate supply locations to accommodate that demand with Mr Lee expressing the view that his client's land at Merrifield MTC together with the Lockerbie PTC are the most suitable locations for large format retailing to establish.⁷² Additionally, Mr Lee takes umbrage at the suggestion in the SGS report that the Merrifield MTC is the most appropriate location for higher density restricted retail retailing.⁷³

There is no dispute that Merrifield MTC and Lockerbie PTC each has strategic planning support for restricted retail near their town centres. This, however, does not prevent there being strategic support for establishing some restricted retail in the precinct.

To the extent that it is suggested that the SGS report was designed to support the establishment of a 'regional bulky goods centre' at the precinct,⁷⁴ this is inaccurate as Mr Szafraniec has made clear in his evidence. The purpose of the SGS report is expressly addressed in the report itself.⁷⁵ On any sensible reading of the report, it is apparent that the analysis was not focussed on any one of the potential locations identified in the study area.

In any case, 25,000sqm of "as of right" restricted retail does not approach the area of land required to accommodate something like a DFO.⁷⁶

The designation of an area within the precinct for restricted retail is an acknowledgement that restricted retail does locate in employment precincts as a commercial use and a higher density employer. The PSP is guiding development to the northern quarter of the precinct as the preferred location where it can take advantage of highway exposure and assist in facilitating a sensitive interface with the adjacent creek environs and residential precinct.

Whilst the precinct is not in a designated activity centre, the MPA challenges the assertion that this is a basis for rejecting the commercial zoning out of hand.

The precinct enjoys a number of attributes which make it an appropriate location for commercial land use including that it is closer to Donnybrook station than either Lockerbie or Merrifield and the

⁷⁰ Deep End witness statement prepared by Matt Lee dated 4 November 2015.

⁷¹ Deep End witness statement prepared by Matt Lee dated 4 November 2015 at section 3.6. [75] at page 16.

⁷² Deep End witness statement prepared by Matt Lee dated 4 November 2015 at section 3.9, [109] at page 22.

⁷³ Deep End witness statement prepared by Matt Lee dated 4 November 2015 at section 3.9. [110] at page 22.

⁷⁴ Deep End witness statement prepared by Matt Lee dated 4 November 2015 at section 3.3, [50] at page 13.

⁷⁵ Refer to section 1.2 at page 2.

⁷⁶ For example the Moorabbin Airport DFO occupies a floor space of almost 45,000sqm and Essendon Fields DFO occupies approximately 60,000sqm.

connections, when built, across the Merri Creek onto and across the Hume Freeway will provide access to a range of jobs and services for future residents of English Street, Lockerbie and Donnybrook/Woodstock from the east.

Again and as noted earlier in this submission, the timing of development within the precinct will be significantly behind that of the Merrifield MTC and the Lockerbie PTC.

It is submitted that the distinction⁷⁷ that is sought to be made on behalf of the submitter between established suburbs and new growth areas in order to address the existence of regional bulky goods centres is simplistic. Whilst the supply of land in growth areas might not be scarce today this is a short term analysis that fails to recognise that Melbourne's land supply is not infinite. The varying demand cycles in growth areas makes it important to plan today and to protect the ultimate desired land use outcome. This means ensuring that land use in activity centres prioritises higher order functions, be they retail or non retail.

Contrary to the implied assertion made on behalf of the submitter,⁷⁸ agglomeration and integration are not limited to a consideration of other retail uses only. Large format retail aligns better both in form and product with commercial and industrial uses.

As noted by Mr Szafraneic, the function of industrial land is structurally changing and is becoming more advanced and highly skilled. Increasingly there is recognition of the synergies that can be created by increasing integration with commercial and office uses. The Growth Corridor Plans acknowledge this development.⁷⁹

For the foregoing reasons the MPA is confident that the zoning of land for commercial use is in fact consistent with the retail hierarchy for the region.

9.1.14 Oversupply of Industrial land (Submissions 1.1 & 12a2)

Submission 1.1 – Steven Mustica

Submission 12a2 – Claudio Di Martino

Issue: Amendment will result in an oversupply of industrial land

Response

The MPA refutes the assertion that the Amendment will result in a glut of industrial land.

The designation of the precinct for employment land is designed to establish a framework for the development of a new employment precinct which will facilitate the growth of 8,200 jobs in the north growth corridor.⁸⁰

As noted earlier, the PSP was nominated for industrial development in the corridor plan in order to satisfy a number of identified factors.

⁷⁷ Deep End witness statement prepared by Matt Lee dated 4 November 2015 at section 3.3, [54] at page 14.

⁷⁸ Deep End witness statement prepared by Matt Lee dated 4 November 2015 at section 3.8, [98] at page 21.

⁷⁹ At section 3.3.4 Industrial Land Supply pages 24 & 25.

⁸⁰ Explanatory report at page (appears to be) 6 under the heading "Economic Effects".

It is estimated that employment in manufacturing, logistics and related businesses located on industrial land will account for 40 to 45% of total future employment in the growth areas. It is therefore important to take a long term view in determining how much land should be set aside for future industrial use, particularly as this growth area is likely to have a population of up to 330,000 people.

9.1.15 Depreciation of Assets (Submission 12a8)

Submission 12a8 – Claudio Di Martino

Issue: PSP has resulted in a depreciation of existing land assets

Response

There is no evidence to substantiate the assertion made that “[T]he current planning for this PSP has depreciated existing land assets.”

In the absence of any cogent, testable and independent evidence the MPA refutes the claim.

9.1.16 Oversupply of Jobs (Submission 12a12)

Submission 12a12 – Claudio Di Martino

Issue: PSP has resulted in a depreciation of existing land assets

Response

The number of jobs created in the PSP (8,200) is consistent with the goal set out in the Growth Corridor Plans to create one job per household across the North Growth Corridor. In addition to the creation of employment land, there are significant areas of residential development driving the demand for additional jobs.

9.1.17 Land Acquisition (Submissions 4.4, 10.8, 11.1, 11.74 & 18.5)

Submission 4.4 – Vincenzo and Rita Scarpino

Submission 10.8 – Merri Creek Management Committee Inc

Submissions 11.1 & 11.74 - Hume City Council

Submission 18.5 – Friends of Merri Creek Inc

Issue: The land in the conservation area and open space corridor ought be acquired by a public authority

Response

The MPA has implemented the area required for the GGF conservation area as required by the Commonwealth government approval of the BCS in September 2013. The PSP reflects the area (with minor refinements to the boundary as approved) that is required to meet the Federal obligations set out in the BCS.

The GGF Strategy points out that *'Category 1 GGF corridor will be excluded from development and will be protected and managed for GGF conservation in perpetuity. The final boundaries of these habitat areas may change slightly to deal with local site conditions during the precinct structure planning process. Any variations must not reduce the total area of the GGF corridor within the relevant precinct or have any detrimental effect on the functioning of the corridor for the GGF and must be to the satisfaction of DEPI [DELWP].'*

This Amendment, including the agreed realignment, does not fully encumber a landowner that is not already fully encumbered by the Growling Grass Frog Conservation Area. The realignment has resulted in no change in area to each property that is covered by the GGF corridor. The full background to this is provided within the background report by Ecology Australia.⁸¹

It is not within MPA's jurisdiction to address the acquisition of this land as it currently cannot be implemented as part of this Amendment. This is a matter within the jurisdiction of the Commonwealth government. The Amendment provides for both public and private delivery of conservation outcomes consistent with the current scheme for vegetation offsets in Victoria. Any necessary acquisition of land for conservation areas will be considered in the context of the overall delivery of conservation outcomes in the growth areas.

9.2. C198 Submissions which relate to the proposed schedules to the zoning and overlays

The MPA has summarised the outstanding submissions and identified the following issues:

- 9.2.1. – UGZ (Submissions 10.7 & 18.3)
- 9.2.2. – ESO (Submission 11.63)

9.2.1 UGZ8 (Submission 11.63)

Submission 11.63 – Hume City Council

Issue: Clause 4.6 ought be amended to require an Environmental Site Assessment to be submitted as part of the information required for the subdivision permit

Response

The MPA in part agrees.

It notes that the conventional approach is to prevent the commencement of a sensitive use or building and works that would facilitate a sensitive use until the environmental assessment is completed. There is no reason to prevent permits from being issued in the meantime.

⁸¹ *Growling Grass Frog Habitat Assessment and Mapping: PSP 25.1 and 25.2, Craigieburn* dated 9 August 2013

9.2.2. ESO2 & 10 (Submission 10.7 & 18.3)

Submission 10.7 – Merri Creek Management Committee Inc

Submission 18.3 – friends of Merri Creek Inc

Issue: Deletion of ESO2 & ESO10

Response

The ESO2 was created to manage rural development of the land in the context of ongoing farming activities in the absence of a strategic plan.

The Amendment plans for a fully developed urban area with a dedicated conservation area along the Merri Creek that is currently subject to the ESO2. Therefore the development of the creek for conservation outcomes implements the objectives of the ESO2. The specific provisions in the PSP, with which the Incorporated Plan Overlay requires compliance, are the end point of the ESO2 in that they will deliver precisely the type of development the ESO2 always envisioned. In the MPA's view, the controls in the Amendment are stricter than those in the ESO2 in relation to allowable use and development of land along the creek.

The C183 Panel recommended that the ESO3 (Merri Creek and Environs) could be deleted but the contents will be brought out in the text of the PSP and inserted into the RCZ1.⁸² The MPA is accepting of this approach and intends to adopt it in the context of the ESO2.

Insofar as ESO10 is concerned, the exhibited Amendment proposes the deletion of ESO10 within the amendment area.

Further to the changes presented to the C183 Panel, MPA will change the Amendment to retain ESO10 and apply it to the same land covered by the RCZ that is, the conservation area. One change is proposed to be made to ESO10, being the removal of the exemption for the removal of non-native vegetation as described in the tracked changed version of ESO Schedule 10.

This approach was supported and recommended by the C183 Panel.

9.3. C198 Submissions which are considered capable of resolution outside the Panel process

The MPA has identified submissions which, although not yet resolved, are considered by the relevant parties to be capable of resolution. In broad terms this status can be accorded to a large number of the submissions made by Hume City Council, all of the submissions made by DELWP other than those that are already resolved and one submission made by Melbourne water with the balance having been resolved.

9.3.1– Hume City Council Submissions (11.4, 11.5, 11.9, 11.12, 11.13, 11.18, 11.24, 11.25, 11.31, 11.38, 11.41, 11.43, 11.44, 11.54, 11.60, 11.68 & 11.73)

9.2.2 – DELWP Submissions (22.4, 22.5, 22.8 - 22.12, 22.16 – 22.18)

⁸² Refer to Panel Report page 28 of 79.

9.2.3 – Melbourne Water Submission (7A.1)

9.3.1 Hume City Council

At a meeting on 29 October 2015 The MPA and Hume City Council discussed and agreed that there was a consensus of view on a large number of matters in principle.

Notwithstanding this, Hume remained unsatisfied without confirmation of the “agreed” changes shown visually. The MPA explained that it was neither feasible nor practical to prepare a full suite of new images before or even during the Panel process. The process is iterative both prior to and during the Panel hearing and may result in further changes again based on the Panel recommendations.

Therefore, it has been agreed that the submissions marked BLUE in the updated Submissions Table could all be considered resolved if, after the Panel recommendations are available, the MPA provides to Council any wording that is not already provided in the Appendices to the Part A Submission and / or plans and images that relate specifically to the Hume City Council submissions in order to allow Council to review and to confirm their agreement.

The MPA notes that these matters for ‘sign off’ by Council should be limited to the matters raised in the submission only, unless it is a minor editing point.

In this regard the MPA refers to the email received from Hume City Council which appears at **Appendix 4**.

9.3.2 9.2.2 DELWP

On 11 and 12 November 2015 the MPA received confirmation from DELWP that all submissions that were not already marked resolved were capable of resolution by discussions that will take place outside of the Panel process.

In this regard the MPA refers to the emails received from DELWP which appears at **Appendix 5**.

9.3.3 Melbourne Water

Issue: There is a locational conflict between a VicRoads off ramp and a Melbourne Water drainage infrastructure

Response

The MPA considers this matter is capable of resolution by discussions between the two agencies facilitated by the MPA. In this regard, the MPA advises that there has already been one meeting between the relevant parties at which there was in principle agreement reached to work together to identify a solution.

The MPA refers to the emails that appear at **Appendix 6**.

9.4. Responses to the Panel Directions

The Panel has made a number of directions concerning the matters to be addressed in the Part B Submission.⁸³ This section of this Submission responds to those orders to the extent that there remain matters to be addressed.

9.4.1 Details of other current permit applications applicable

The MPA has sought advice from Hume City Council and received the information that appears at **Appendix 7** to this Submission.

The MPA does not consider this information to be relevant to the Amendment.

The MPA does, however, note that as recently as 9 November 2015 Hume City Council approved the Merrifield Major Town Development Co-ordination Plan (**DCOP**). An excerpt from the Minutes of the relevant Council meeting describes the following as the key features of the DCOP:

- Four main overlapping precincts, identified as West Village (predominantly residential), City Centre (predominantly commercial/mixed use with residential at appropriate peripheries), City North (commercial/mixed use) and Parks (residential and commercial integrated with parkland).
- A distinct retail core which will be the primary retail precinct of the centre. It is a 30ha precinct which can accommodate over 64,000m² of retail floor space, which is larger than the current provision in either Broadmeadows or Craigieburn.
- A 'City Heart' at the confluence of Aitken Boulevard and Merrifield Boulevard where higher density residential, commercial development, civic uses and public transport interchange and open space will converge providing a sense of place and identity to the centre.
- The northern interface designed to integrate and promote the development of the Merrifield Park as a State scale sports and leisure hub as indicated in the State Government growth corridor plan.
- A linear park along the existing drainage reserve that traverses the site.
- The proposed E14/Aitken Boulevard arterial road extended and designed to support Bus Rapid Transit services.

The Minutes also note that:

Figure 16 on page 46 of the DCOP provides a summation of the proposed layout of the overall site and its key features. It is noted that 35 hectares of land adjoining the eastern boundary of the site have been included within the DCOP. This land is part of the Merrifield Employment Precinct and its inclusion within the subject DCOP ensures that the two sites are able to be well integrated.

⁸³ On 8 October 2015 at [10].

9.4.2 A strategic justification for the selection of the RCZ to be applied in the Growling Grass Frog Area⁸⁴

The MPA provides the following information in response to the Panel's direction.

Suitability of the zone

Should the land remain in the Urban Growth Zone (UGZ), the Rural Conservation Zone (RCZ) would be applied to this land. This zone is the right strategic pick for land whose primary purpose is to be conservation.

While the word 'rural' in the title of the zone and the default subdivision sizes and as-of-right building setbacks reflect rural standards, the zone can be easily adapted to a conservation area in a semi or non-rural setting as:

- the subdivision size can be varied without restriction
- a permit can still be issued for buildings within the as-of-right setbacks
- the majority of the purposes listed in the zone are generic in relation to land use
- the purposes in the zone focus on conserving the conservation values regardless of the specific use
- the purpose of the zone does not contain the word rural
- no as-of-right uses are particularly rural in nature
- the zone is, in effect, a 'Conservation Zone' with a default setting of rural subdivision and buildings standards - once these default standards are varied any 'rural' character can be transformed to suit the context.

The zone also allows for land to be retained in private ownership and used and developed in a continuing manner based on existing use rights and the rights available under the zone without the grant of a permit. There is no positive obligation on the land owner to implement conservation outcomes unless they undertake development that would significantly impact on conservation values such as urban development.

The conservation values and integrated land use planning

Conservation of the Merri and Kalkallo Creeks and their environs are critical to protecting conservation values in this part of Australia and Victoria. The conservation designation here results from Commonwealth and Victorian governments legislating for the protection of the Growling Grass Frog in its own habitat. The legislation recognises the intrinsic value of the species and its value within the broader value of a diverse natural environment sustaining both animal and human life. The Merri and Kalkallo Creeks contain the conservation values suitable for hosting the Growling Grass Frog.

⁸⁴ Refer to paragraph 10g of the Panel's directions.

The preservation of these values is a strategic outcome best implemented through placing conservation as a primary consideration in any decision about development and use of these lands. The 'Rural Conservation Zone' is the best fit zone for this purpose and is in keeping with conventional practice in the application of the Victoria Planning Provisions.

Notably the conservation land is planned to integrate drainage and recreational functions. Providing these multiple uses on the conservation land avoids setting aside additional scarce urban land, thus incrementally reducing pressure to increase Melbourne's urban footprint.

9.4.3 Properties wholly affected by the application of RCZ⁸⁵

The MPA refers to the Table found at **Appendix 8**.

The Table demonstrates that where conservation has been designated as the primary use land falls into four broad categories:

1. Land which is partially designated for conservation but mostly designated for urban development being 220, 230, 270, 275 & 290 Brookville Drive and 30 & 40 Kinloch Court.
2. Land designation with a primary use of conservation that is public open space including Laffan Reserve and a long stretch of the bank of Merri Creek being 670 Donnybrook Road owned by Hume City Council.
3. Privately owned land that is currently wholly affected by the RCZ or Farming Zone that will remain wholly affected by the RCZ or Rural Zone being 700, 714 and 720 Donnybrook Road.

Impacts on categories 1, 2 & 3

The amendment bestows a reasonable level of urban development rights on the first category. The development rights of the second and third category are not appreciably changed by this amendment. Neither of these categories is discussed further here.

4. Privately owned land that is currently zoned UGZ but which this amendment proposed to be entirely or, close to entirely, affected by the RCZ being 295, 310 & 315 Brookville Drive.

Impacts in category 4

On the whole there is no real reduction in development rights attached to these properties as a result of the Amendment. The land is currently zoned either Urban Growth Zone Part A or Rural Conservation Zone. Urban Growth Zone Part A essentially mimics the Farming Zone in terms of allowable uses and restriction on subdivision, buildings and works. The zone aims to maintain the regime of development rights that were in place before the land was brought within the broader urban area. The aim of the zoning is to protect the ability to effectively plan for future urban and related development. The zone does not impart a 'promise' or guarantee of full urban development rights.

Where UGZ land is rezoned to RCZ some further restriction applies by virtue of a more limited range of uses being available. For example Dwelling (one only on a lot), Primary Produce Sales, Rural

⁸⁵ Refer to paragraph 10h of the Panel's directions.

Industry (with exclusions) & Rural Store. However these restrictions are rural uses and the impact is only to require a permit for such uses as opposed to them being as-of-right. The subdivision and building and works provisions are much the same.

The true impact of the amendment on these lands is the Commonwealth Approval under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* as implemented by the provisions of the precinct structure plan. For land in the RCZ, the precinct structure plan is empowered by the Incorporated Plan Overlay (IPO). It is the requirement under the IPO to accord with the incorporated precinct structure plan only when a permit is required that requires consideration of conservation values. Ongoing use of the land as per its current status is not considered to have a significant impact on the conservation value.

Particular issues relevant to the category four properties are:

315 Brookville Drive

98% of this property is within a known flooding area as represented by the Land Subject to Inundation Overlay (LSIO) in the planning scheme maps. It is comprised almost entirely of the Kalkallo Creek and its banks. This amendment does not propose to change the LSIO that affects this land. In essence this land was never developable to any degree given the volume of water that needs to flow over it. There will be little if any change to the development rights attached to this land.

295 Brookville Drive

19% of this property is flood prone as represented by the LSIO on planning scheme maps. The land is currently 100% within the UGZ Part A. The Amendment proposes to rezone 12% of the land to UGZ8 for urban development while rezoning the remainder to RCZ.

The conservation zoning on this land simply reflects a recognition that this particular land has characteristics worthy of protection and is unsuitable for intensive urban development as noted earlier.

310 Brookville Drive

88% of this property is currently within the UGZ Part A and 12% within the RCZ. 21% of the property is flood prone (LSIO) and 10% affected by an Environmental Significance Overlay. There is some overlap between the RCZ, LSIO and ESO as they affect the property. The Amendment proposes to zone 100% of the property RCZ.

Again the conservation zoning on this land is an outcome of the application of relevant legislation & approvals to protect conservation values for the benefit of the community by restricting development rights on the land.

While the distribution of development rights is unequal for this landowner when compared to the development rights bestowed on other landowners in the precinct, it remains fair. The conservation designation is the result of the particular characteristics of the land and its ability to best sustain the Growling Grass Frog species. Any attempt to 'evenly' distribute development rights between parties in the precinct would be to distort the physical reality of the location of important conservation values and compromise the desired conservation outcome.

9.4.4 Clarification concerning the Public Land Equalisation Method⁸⁶

The MPA provides the following information in response to the Panel’s direction.

Net Developable Area

Net Developable Area (NDA) is land within a precinct available for development.

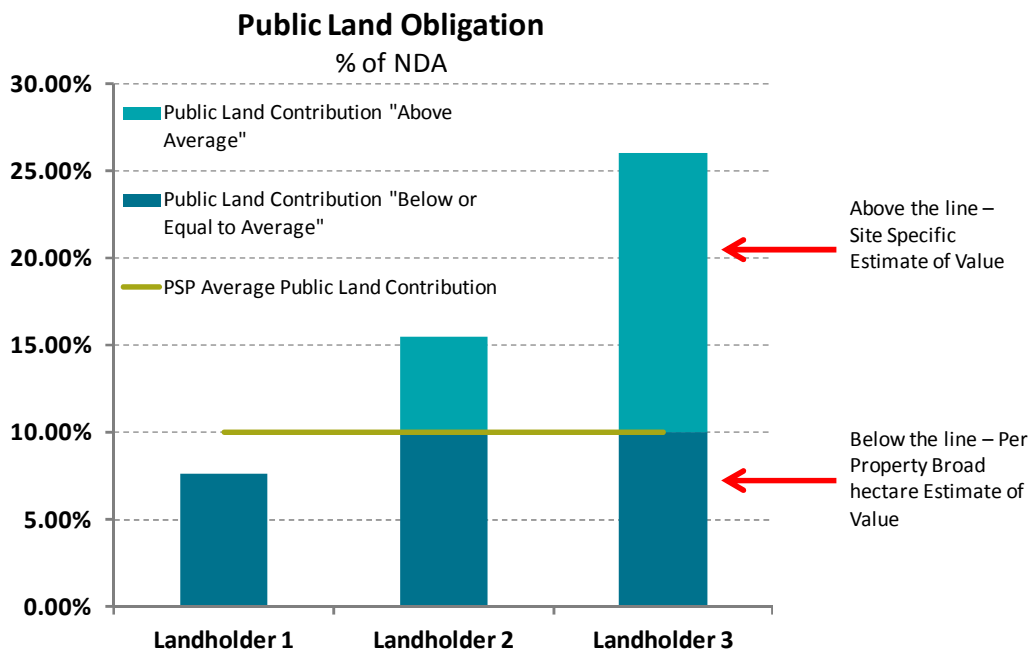
NDA excludes service open space (previously referred to as encumbered land), arterial roads, railway corridors, schools and community facilities and public open space. NDA includes lots, local streets and connector streets and is expressed in terms of hectare units (Net Developable Hectares / NDHa).

How the Public Land Equalisation Method is calculated

The total public land identified in the DCP is expressed as a percentage against NDA for the precinct. The average is calculated against NDA for consistency with Clause 52.01 of the planning scheme and the unit of measurement for DCP rates in growth areas.

The public land (identified in the DCP) within each property is also expressed as a percentage against that property’s NDA.

Public land contributions imposed on a property that are less than or equal to the precinct average have an estimate of value using a per property broad hectare method. Any component of public land contributions that exceeds the precinct average has an estimate of value using a site specific method. The site specific valuation is prepared by an independent valuations expert. This information recognises the loss of development potential for the land in question. An example appears below.



⁸⁶ Refer to paragraph 10i of the Panel’s directions.

Section 3.2.3 in the DCP

The Craigieburn North Employment Area DCP that was exhibited includes an inconsistency between the text and Table 8 found at section 3.2.3. The text referred to an average obligation of 4.2% NDA in the text whereas Table 8 refers to the average obligation of 4.4%. The Table is correct.

Additionally, the fourth and fifth columns of Table 8 are duplicates of one another which is an error.

Both of these issues will be addressed and adjusted for as necessary in the final version of the DCP.

As discussed in the submission table, there are some other small discrepancies identified in the Land Use Budget which will be checked and resolved before the DCP is finalised. Further, any recommendations from the Panel, together with the MPA's suggested changes to the Future Urban Structure, will result in changes to the Net Developable Area which will need to be accounted for in any DCP to be finalised.

PART C

Summary of Submission

10. Summary

Review of the submissions made reveals support for the Craigieburn North Employment Area PSP across State and Government and all associated key agencies. The fact that none of these parties has chosen to appear before the Panel is indicative of the fact that this Amendment represents a “whole of government” response.

The MPA is appreciative of the high level of cooperation it has received from affected parties and stakeholders.

For the reasons articulated in this Submission the MPA does not consider any of the submissions that have been made present an obstacle to adoption and gazettal of the Amendment.

The MPA commends the Amendment to the Panel.

Submissions in Reply will be made to the Panel in due course.

Joanne Lardner

Barrister

For and on behalf of the Metropolitan Planning Authority

16 November 2015