

PSP 25.2

English Street

Precinct Structure Plan

C183

Amendment to the Whittlesea Planning Scheme

Panel Hearing
Commencing 31 August 2015
Heard at Melbourne

August 2015

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PART B

Response to submissions

9 Response to outstanding submissions

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

Appendix 1 to the Part A Submission comprises a table that sets out the position with respect to submissions as at 24 August 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.

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. In addition, the Panel and participating parties have been provided with a copy of communications received from submitters with whom the MPA has successfully negotiated a resolution to an issue or issues. Evidence of the submitter's "sign off" is provided in that bundle of communications.

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 been grouped into three categories according to whether they relate to the PSP, the DCP or the draft schedules to the various zoning and overlay provisions that are proposed to be inserted into the planning scheme by the Amendment. It is acknowledged that issues that relate to the PSP may involve consequences for the DCP.

A summary of the key matters that remain in contention can be found at Appendix 12 to this Submission.

9.1 C183 Submissions which relate to the English Street Precinct Structure Plan

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

- 9.1.1. – Road bridge over the Merri Creek (Submissions HCC2, HCC5, HCC7 & ESDP27)
- 9.1.2. – Setback from Merri Creek (Submissions GP1, MCMC5 & FMC10)
- 9.1.3. – Amendment is premature (Submissions MCMC1-4 inclusive)
- 9.1.4. – Extent of medium density housing (Submission ESDP41)
- 9.1.5. – Extent and integrity of conservation area and biodiversity sites (Submissions FMC1-5 inclusive, FMC10-14 inclusive)
- 9.1.6. – Retention of native vegetation (Submissions FMC15 & 16)
- 9.1.7. – PSP objectives (Submissions FMC17-22 inclusive)

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.

9.1.1 Road Bridge over the Merri Creek (Submissions HCC2, HCC5, HCC7 & ESDP27)

- Submissions HCC2, HCC5 & HCC7 – Hume City Council
- Submission ESDP27 – English Street Development Partners Pty Ltd

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.²

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 preferred and endorsed by the Wurundjeri Tribe, the Registered Aboriginal Party.

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 Assessment³ 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.

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 English Street Development Partners Pty Ltd (ESDP) 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. Based on discussions with ESDP, it is expected that both the CHMP and the Geotechnical Assessment will be available prior to gazettal of the Amendment. It is also likely these reports will be available prior to the Panel hearing in relation to Hume C198. Whilst it is understood that the CHMP will not be completed prior to this Panel

² HCC2.

³ Background Report – Targeted Cultural Values Inspection of PSP 25.1 Craigieburn Employment Area North and PSP 25.2 English Street August 2013.

hearing, it is expected that ESDP will be in a position to provide further information to the Panel on these matters.

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 advised⁴ 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 13 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 14 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. There is an opportunity for submissions concerning this scenario to be ventilated before the Panel appointed to consider Amendment C198 to the Hume Planning Scheme and the relevant parties have expressly reserved their rights in this regard.⁵

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 ESDP in this regard is above and beyond the investigation normally required for a PSP and DCP.

Issue Two: The area delineated as “affected land” on Plan 11 to the PSP requires refinement.

Response

⁴ Submission D22.

⁵ Refer to Clause 11 of the Consent Orders which are appended to the Panel Directions dated 4 August 2015.

Hume City Council and ESDP have made submissions concerning the format of Plan 11 to the PSP.⁶

The area shown as “affected land” within the “project buffer” in Plan 11 of the PSP was included in order to facilitate any minor relocation of the point at which the road crossed the Merri Creek. The buffer provides for movement of up to 75 metres both north and south of the proposed bridge location.

As noted earlier⁷, recent advice received from DELWP has highlighted the existence of a constraint which the MPA understands would prevent the road bridge being relocated south of its current location.

In order to address this development and the submissions made by Hume City Council and ESDP, the MPA considers it appropriate to amend Plan 11 so as to:

- delete reference to “affected land” in the legend
- delete the area shown on the plan as being south of the Merri Creek bridge and within the project buffer
- retain the area north of the Merri Creek bridge at 75 metres and describe it as the “project buffer area”

The MPA considers that amending Plan 11 in this manner provides a sufficient level of information that will guide future urban development in relation to the Merri Creek crossing. The MPA also notes that the need for a CHMP arises from the Aboriginal Heritage Act 2007 and Regulations rather than from Plan 11 itself.

9.1.2 Setback from Merri Creek (Submissions GP1, MCMC5 & FMC10)

- Submission GP1 – George Petrovski
- Submission MCMC5 – Merri Creek Management Committee Inc
- Submission FMC19 – Friends of the Merri Creek Inc

Issue: Extent of conservation area setback from the Merri Creek

Response

Submissions made in relation to this issue varied with one submission⁸ concerned that the buffer was too generous and other submissions⁹ suggesting that the buffer ought to be enlarged so as to consistently adopt a width of 200 metres from the Merri Creek.

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.

⁶ HCC5&7 and ESDP27.

⁷ Refer to section 9.1.1 of this submission.

⁸ GP1.

⁹ MCMC5 & FMC10.

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'.¹⁰

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.¹¹

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 Nodes¹² and approximately 100 metres from Merri Creek to accommodate the inter-nodal corridor.¹³

The MPA notes that the BCS boundary has been refined to accommodate a more practical and developable area.¹⁴ 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 MPA in consultation with DELWP have taken steps to refine the conservation area in an equitable manner so as to maximise development opportunities having regard to the BCS. To the

¹⁰ At page 69.

¹¹ Refer to Appendix 5 to the Part A Submission.

¹² Refer to Section 4.3.7 of the Part A Submission.

¹³ *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.

¹⁴ Refer to Appendix 9 to the Part A Submission.

extent that further changes are sought, the MPA notes that these are not matters that this Panel can resolve.

9.1.3 Amendment is premature (Submissions MCMC1-4 inclusive)

- Submissions MCMC1-4 inclusive – Merri Creek Management Committee 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.

Insofar as the submission suggests that the Amendment ought be delayed pending completion of a **CHMP**, the MPA refers to and repeats the submissions made at section 9.1.1 of this submission.

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 Guidelines¹⁵ and the BCS and in this regard, is no different to other PSPs that have been prepared and gazetted.

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 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.¹⁶ 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.

¹⁵ In particular Element 5: Open Space and Natural Systems.

¹⁶ For example clause 19.03-2 Water Supply, Sewerage and Drainage and clause 19.03-3 Stormwater.

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 submitter, the MPA is confident that the Amendment has been informed by all necessary background reports.¹⁷ 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.

9.1.4 Extent of medium density housing (Submission ESDP41)

- Submission ESDP41 – English Street Development Partners Pty Ltd

Issue: Extent of medium density housing provision

Response

The MPA acknowledges that there is an inconsistency between Plan 4 of the PSP and Appendix 1 to the DCP in so far as the medium density provision for property 25.2-6 is concerned. The shadowing on Plan 4 which delineates “potential medium density residential” would appear, when scaled, to be less than the five hectares specified in Appendix 1 to the DCP. The intention is that the PSP include provision for five hectares and accordingly, Plan 4 will require amendment to ensure consistency with Appendix 1.

The proportion of potential medium density housing identified on property 25.2-6 comprises only approximately 23.45 % of the NDA for this property. The MPA notes that there is no evidence before the Panel which supports the proposition that an area of five hectares of medium density housing on this property is excessive or undeliverable.

The most logical location for potential medium density housing within the residential component of the precinct is the area that sits adjacent to the local convenience centre and other services such as the community centre. Additionally, it is located in the general area closest to the train station and likely future bus routes along Donnybrook Road. This accords with the PSP Guidelines.¹⁸

Accordingly, the MPA maintains that the Amendment allows for an appropriate provision of medium density housing on property 25.2-6 which, it is noted, accounts for less than one third of the indicative area set aside for medium density housing across the precinct.

¹⁷ Refer to section 5 of the Part A Submission.

¹⁸ Refer in particular to Standard S1 of Element Two.

9.1.5 Extent and integrity of conservation area and biodiversity sites (Submissions FMC1-5 inclusive, FMC11-14 inclusive)

- Submissions FMC1-5 inclusive & FMC11-14 inclusive – Friends of the Merri Creek Inc

Issue One: The conservation outcomes that are derived from the BCS are inadequate

Response

Provision for conservation along Melbourne's growth corridor creeks and rivers has been the subject of significant investigation, review, contest and regulation over the past five years. The submitter was part of this process. The process resulted in statutory decisions by the Commonwealth, supported by both current and former governments, under the EPBC Act. These decisions are designed to provide long term conservation through a range of measures including the protection of land and the creation of habitat amongst others. This regulatory regime is a first in Australia to fulfil national conservation outcomes alongside urban development. The program is being implemented through the PSP program including in English Street through protecting the entire length of the creek and at least 100 metres of land either side throughout the precinct.

The MPA is confident that the Amendment includes the necessary requirements and guidelines to ensure that when implemented the Vision and Objectives for the precinct in relation to conservation will be delivered.

Issue Two: Recreation areas ought be located outside or adjacent to the GGF conservation area

Response

Low intensity passive recreational activities are permitted within the GGF conservation area.¹⁹

The GGF Conservation Area Concept Plan²⁰ 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.²¹

Issue Three: WSUD wetlands ought not be located in the GGF conservation area

Response

Specific provision is made for the incorporation of WSUD wetlands within GGF conservation areas.²²

¹⁹ Refer to *Guidance note: Implementing the Biodiversity Conservation Strategy for Melbourne's Growth Corridors - Working Document*, February 2015 at page 19.

²⁰ Refer to Figure 4 of the PSP

²¹ Refer to *Guidance note: Implementing the Biodiversity Conservation Strategy for Melbourne's Growth Corridors - Working Document*, February 2015 at page 19.

²² *ibid.*

These wetlands are complementary in nature to the conservation area and have been sited to ensure that they do not undermine the conservation outcomes of reserve. Melbourne Water, DELWP and the MPA work closely together to design drainage schemes within the GGF corridor.

Issue Four: The Amendment ought make provision for additional conservation areas

Response

The MPA notes that in addition to the GGF conservation area the Amendment incorporates requirements that will deliver additional open space, landscaped streetscapes and environmentally sustainable design outcomes. The BCS determines the extent and nature of conservation areas required to be retained.

Additionally, the MPA refers to and repeats its submissions at section 9.1.5 – Issue One of this Submission.

9.1.6 Retention of native vegetation (Submissions FMC15 & 16)

- Submissions FMC15 & 16 – Friends of the Merri Creek Inc

Issue: There is inadequate retention of native vegetation

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 Conservation Area Concept Plan²³ that was prepared was to ensure that existing native vegetation was identified and retained as practicable.

9.1.7 PSP objectives (Submissions FMC18-22 inclusive)

- Submission FMC18-22 inclusive – Friends of the Merri Creek Inc

Issue: A number of changes have been proposed to the PSP objectives

Response

Whilst the submitter supports **Objective 06**, it is suggested that a Landscape Character Assessment (LCA) ought to be undertaken as part of the Amendment.

The background work that informed the Amendment confirmed the outcome that resulted in the creek corridor being retained as protection for remnant native riparian vegetation and nationally significant habitat for the threatened GGF. This precinct differs from the Wollert precinct (being the

²³ Figure 4 of the PSP

example posed by the submitter of where a LCA was produced as part of the PSP process) in that the latter had a far greater number of trees and landscape features than does the former.

The MPA disputes the assertion that the Amendment provides inadequate information concerning the protection and conservation of water courses that are tributaries to the Merri Creek.²⁴ The PSP includes requirements and guidelines for Integrated Water Management & Utilities.²⁵ With respect to POS4, the MPA notes that the Amendment includes a requirement for open space design that demonstrates integration with drainage corridors.²⁶

The MPA disagrees with the submission that suggests that in order to realise PSP **Objective 12**, the GGF conservation corridor set back ought be a uniform 200 metres and that ESO3 & 4 ought be retained. The issue of the width of the GGF conservation area has been dealt with elsewhere in this Submission.²⁷

The Amendment contemplates the deletion of ESO3 & ESO4 and the introduction of a range of provisions which the MPA considers will deliver the same, if not a greater level, of environmental protection for the Merri Creek and its environs.

The MPA has undertaken a comparison of the existing Environmental Significant Overlays applying to the Merri Creek between Donnybrook Road and the Melbourne Sydney Rail Line in Donnybrook.

The results of that comparative exercise appear in the Table that can be found at Appendix **15** to this Submission.

The Table demonstrates that the Amendment effectively translates the ESOs and in so doing achieves compatibility with the Commonwealth approvals for Melbourne's Growth Areas, the future urban context of the precinct and the consistent and transparent statutory regime for the community across Melbourne's growth corridors. It is noted that in number of locations, the proposed provisions retain permit requirements in circumstances where the current ESOs exempt a number of building, works and native vegetation removal.

The Amendment includes provisions that will address PSP **Objectives 013 & 014**.

In terms of implementing PSP Objective 13, the MPA notes that the Future Urban Structure and Conservation Area Interface – Cross-section Plans show development separated from conservation, drainage, landscape and cultural heritage values along the creek by a frontage road. Buildings are further set back from this road to minimise incidental light spill into the creek corridor. Roads intersecting with the frontage road provide for views into and along the creek. Recreation trails are planned along the length of the creek and making connections in and through the new neighbourhood.

In terms of implementing PSP Objective 014 the MPA notes that the Future Urban Structure sets aside at least 100 metres of land either side Merri Creek equating in the case of the English Street

²⁴ This submission is made in relation to **PSP Objective 011**.

²⁵ Refer to Plan 9 of the PSP and section 3.6.

²⁶ Refer to Plan 5 of the PSP and R21.

²⁷ Refer to section 9.1.2.

precinct to approximately 26% of land in the precinct. With an additional 4.5% of the land set aside for waterway and local parks the precinct provides over 30% of the precious urban land resource for open outright space to support landscape and environmental outcomes.

Finally, for the reasons already identified²⁸ the MPA disagrees with the submission that PSP **Objective 015** cannot be met in the absence of the provision of conservation areas beyond that specified by the BCS.

9.1.8 New midblock intersection (Submissions WCC5 and ESDP6, 20 & 24)

- Submission WCC5 – Whittlesea City Council
- Submissions ESDP6, 20 & 24 – English Street Development Partners Pty Ltd

Issue: It is proposed to remove the pedestrian crossing²⁹ and to construct a new mid block intersection on English Street

Response

The MPA understands that Whittlesea City Council and ESDP have reached agreement on these matters subject to the MPA advising of the costs consequences for the DCP. The MPA has provided the relevant parties with some estimated costings and awaits a response.

A copy of the email advice provided by the MPA in relation to the costings consequent upon, amongst other things, the removal of the pedestrian crossing and the construction a new mid block intersection on English Street can be found at Appendix 16 to this Submission.

The MPA supports the agreement that has been reached between Whittlesea City Council and ESDP and notes that, as a consequence, Plan 8 of the PSP and Plan 5 of the DCP will require amendment.

9.1.9 Zoning of Laffan Reserve (Submissions WCC3, D3, HCC23)

- Submission WCC3 – Whittlesea City Council
- Submission D3 – Department of Environment Land Water & Planning
- Submission HCC23 - Hume City Council

Issue: Replace RCZ for Laffan Reserve with SUZ so as to facilitate the redevelopment of the Reserve

Response

The DCP includes a levy relating to a contribution that is to be made to the upgrade of Laffan Reserve which is located within the municipality of Hume.³⁰ It has been identified and agreed that

²⁸ Refer to section 9.1.5 – Issues One & Four of this Submission.

²⁹ DCP reference IN-25.2-3.

³⁰ Refer to Plan 7 of the DCP and refer to DCP project Numbers SR-25.2-1 & 2.

the proposed zoning of Laffan Reserve as RCZ would prejudice the redevelopment of the Reserve as Open Sports Ground is prohibited in that zone.

In order to facilitate the redevelopment of Laffan Reserve, the MPA has submitted to DELWP a draft schedule to the SUZ which, amongst other things, would allow for the redevelopment of existing reserves subject to obtaining a permit. MPA and DELWP are currently discussing the most appropriate method to facilitate redevelopment of Laffan Reserve. The MPA is confident that this matter is capable of resolution.

9.1.10 Employment Area Requirements and Guidelines (Submission WCC6)

- Submission WCC6 – Whittlesea City Council

Issue: Employment Area Requirements and Guidelines ought be included within the body of the PSP and not in the Appendix to the PSP

Response

Section 3.2 Town Centres & Employment of the PSP includes, amongst other things, a number of Requirements and Guidelines relating to Town Centres, the Local Convenience Centre and Employment. Appendix 4.2 to the PSP sets out design criteria in relation to Local Convenience Centres. As such, the matters addressed in Appendix 4.2 do not relate to the Employment Area as a whole.

The MPA is satisfied that the requirements and guidelines for Employment in the PSP provide sufficient guidance at an appropriate level of detail given the broad strategic nature of the PSP. If further policy detail is required it is appropriate that this be reflected in Local Policies that respond to the PSP Requirements and Guidelines.

Accordingly, the MPA does not support the inclusion of the Design Criteria for the Local Convenience Centre being relocated from Appendix 4.2.

9.1.11 Deletion of ESO3 & 4 and replacement with alternate provisions (Submissions D2)

- Submission D2 – Department of Environment Land Water & Planning

Issue: Obtaining agreement of DELWP to provisions that will address the deletion of ESO3 & ESO4

Response

The MPA considers this matter will be resolved presently.

The MPA has engaged in discussions with DELWP concerning the deletion of ESO3 & ESO4 as part of the Amendment and the introduction of a new schedule to the RCZ, the IPO and the PSP together

with a new schedule to clause 52.17. These matters are presently the subject of ongoing discussions and the MPA is confident the final form of the provisions will be agreed shortly.

The MPA notes that the fact that DELWP has not considered it necessary to appear before the Panel underlines that this matter is readily capable of resolution.

9.1.12 Biodiversity, Threatened Species & Bushfire Management (Submission D19)

- Submission D19 – Department of Environment Land Water & Planning

Issue: DELWP considers that wording ought be introduced to section 3.4 of the PSP directing the reader to Schedule 4 to the UGZ.

Response

The MPA does not consider this to be either necessary or appropriate.

In response to a request from DELWP, many of the Requirements and Guidelines in subsection 3.4 of the PSP have been moved to the UGZ Schedule. To introduce the words sought by DELWP into this subsection of the PSP would introduce an inconsistency with the manner in which the PSP interrelates with other provisions within the planning scheme including the UGZ. Self evidently, the provisions of the PSP do not replace the requirements of the Schedule to the UGZ. To the contrary, the provisions must be read together as is the case for all other provisions within the planning scheme that reference the PSP.

As pointed out in section 1.1 of the PSP:

This PSP guides land use and development where a planning permit is required under the Urban Growth Zone (Clause 37.07 of the Whittlesea Planning Scheme), or any other provision of the planning scheme that references this structure plan.

9.2 C183 Submissions which relate to the English Street Development Contributions Plan

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

- Submission HCC9-11 inclusive – Hume City Council

9.2.1. – Road bridge over the Merri Creek (Submissions HCC9-11 inclusive)

Issue: The interim road bridge design will result in unnecessary additional costs when construction of the ultimate design occurs

Response

The DCP includes construction of a two-lane road bridge (interim treatment) over the Merri Creek.³¹ This is in accordance with established practice based on the principles detailed in the Development Contributions Guidelines.³² Those principles accord with DCP planning in Victoria which has consistently worked on the basis of a 10 year horizon for developer funding of local infrastructure. The MPA notes that the DCP makes a significant contribution to the road bridge by contributing the land required for the ultimate design.

It is submitted that Council's concerns lack foundation given:

- the current bridge proposal has the ability to be duplicated on either or both sides³³
- the SKM modelling for the bridge suggests that there may not be a demand for construction of an ultimate bridge in 2046.³⁴

The Council's concerns appear to proceed on the assumption that there will be a need for an ultimate bridge. This position contradicts the SKM report and the MPA notes there is no evidence before the Panel to support the Council's proposition.

Issue: Uncertainty surrounding DCP road bridge costings in the absence of a CHMP and Geotechnical Assessment

Response

As has been noted elsewhere in this submission,³⁵ it is expected that a CHMP and Geotechnical Assessment will be available prior to gazettal of the Amendment. If, in the unlikely scenario, this necessitates a revision of the DCP costing for this item appropriate notification will take place.

The DCP costing for this infrastructure has been formed by reasonable assumptions which subsequent assessments being made on behalf of ESDP appear to be bearing out.

9.3 C183 Submissions which relate to the proposed schedules to the zoning and overlays

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

- 9.3.1. – RCZ (Submissions HCC24-25, MCMC6 & FMC6)
- 9.3.2. – ESO (Submissions HCC26, MCMC7 & FMC7)
- 9.3.3. – PAO (Submission NW1)
- 9.3.4. – IPO (Submission FMC9)
- 9.3.5. – LSIO (Submission MW29)

³¹ DCP Project ID BR-25.2-1.

³² Version 5.9 released 16 June 2003 and amended March 2007.

³³ PSP 25.1 Craigieburn North and PSP 25.2 English Street Infrastructure Costings Study – Report prepared by Jacobs SKM August 2014 at Section 5.1 at page 12.

³⁴ Strategic Traffic Modelling Craigieburn PSP25 March 2014 at section 4.2.4 page 45.

³⁵ Refer to section 9.1.1

9.3.1 RCZ (Submissions HCC24-25, MCMC6 & FMC6)

- Submission HCC24-25 – Hume City Council
- Submission MCMC6 – Merri Creek Management Committee Inc
- Submission FMC6 – Friends of Merri Creek Inc

Issue: The GGF conservation area ought be zoned SUZ

Response

The MPA acknowledges that DELWP is investigating the possibility of introducing the SUZ over areas the subject of a BCS. However, in consultation with DELWP the MPA has received advice that until investigations into use of the SUZ are completed, the RCZ ought be applied to the GGF conservation area.

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 it is consistent with the approach adopted by the MPA in relation to this issue.

9.3.2 ESO (Submissions HCC26, MCMC7 & FMC7)

- Submission HCC26 – Hume City Council
- Submission MCMC7 – Merri Creek Management Committee Inc
- Submission FMC7 – Friends of Merri Creek Inc

Issue: The deletion of ESO3 & ESO4 is inappropriate

Response

The MPA refers to and repeats its comments in relation to the proposed deletion of the ESOs.³⁶

To the extent that Hume City Council has made a submission concerning the deletion of ESO2³⁷ the MPA notes there is no proposal in the Amendment to delete ESO2 from the Whittlesea Planning Scheme. To the extent that Council's concerns in this regard relate to ESO2 in the Hume City Council, it is submitted that this is not a matter before the Panel. Notwithstanding this and acknowledging that ESO2 in the Hume Planning Scheme is almost identical to ESO3 in the Whittlesea Planning Scheme, the MPA considers that the various provisions introduced by the Amendment effect a transition of the ESO provisions.

Accordingly and accepting this to be the case, there will be adequate protection for the matters currently addressed by the ESO2 provided in Hume C198.

Additionally, this is a matter that Hume City Council can ventilate before the C198 Panel at the forthcoming hearing.

³⁶ Refer to section 9.1.1 of this Submission.

³⁷ HCC26.

9.3.3 PAO (Submission NW1)

- Submission NW1 – Northgate Woods Pty Ltd

Issue: Extent of acquisition to facilitate the widening of Donnybrook Road does not encapsulate entire property

Response

The MPA has written to this submitter in response to its submission and has provided information concerning the VicRoads land acquisition process and the extent of the PAO.

A copy of the letter sent by MPA to the submitter dated 22 July 2015 can be found at Appendix 17 to this submission.

9.3.4 IPO (Submission FMC9)

- Submission FMC9 – Friends of Merri Creek Inc

Issue: Proposed IPO10 does not make reference to key strategic documents

Response

Policy for the Merri Creek in Melbourne's growth corridors has been updated for each growth area precinct. Where these policies remain as part of the LPPF they will still apply to the land where relevant.

9.3.5 LSIO (Submission W29)

- Submission MW29 – Melbourne Water

Issue: The amended LSIO must be updated to match Melbourne Water's current flood shape

Response

In order to facilitate this, the MPA requested an updated mapinfo table on 21 August 2015.

Once the information is available, the MPA will update the LSIO in accordance with the submission.

PART C

Summary of Submission

10. Summary

Review of the submissions made reveals support for the English Street PSP across State 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. This was aptly demonstrated by the outcome of the Conclave held in relation the costing for the DCP road bridge item which delivered unanimous agreement.

Unresolved submissions relate broadly to the following matters:

- location of the Merri Creek road bridge and the costs consequences of its interim design
- extent and use of the GGF conservation area
- adequacy of the conservation outcomes including through the application of the proposed planning provisions
- zoning of Laffan reserve
- quantum of medium density housing

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

Appendix 12

Key matters that remain in content table

Appendix 13

Preliminary work undertaken in relation to potential bridge crossings

Appendix 14

SMEC bridge sections



Appendix 15

Comparison of Environmental Significance Overlays table

Appendix 16

Correspondence between MPA and City of Whittlesea dated 26 August 2015
Re: new midblock intersection and removal of pedestrian crossing agreement

Appendix 17

MPA correspondence to landowners of 810 Donnybrook Road, Donnybrook
dated 23 July 2015 re: land acquisition process and
extent of Public Acquisition Overlay

