Planning and Environment Act 1987

Panel Report

Wyndham Planning Scheme

Amendment C175 Truganina Precinct Structure Plan
Amendment C176 Riverdale Precinct Structure Plan
Amendment C177 Wyndham North Development Contributions Plan, and

Section 96A Planning Permit Applications:
- WYP6216/12 Dennis Family Corporation South (Leakes)
- WYP6214/12 Hellier McFarland (Resimax) (80 Woods Road)
- WYP6744/13 Dennis Family Corporation North (Leakes)
- WYP6210/12 ID Land
- WYP6211/12 Dacland (Moreton East)
- WYP6212/12 Satterley Property Group
- WYP6217/12 Stockland
- WYP6215/12 YourLand Developments
- WYP6213/12 Golden Group

30 April 2014
Planning and Environment Act 1987
Panel Report pursuant to Section 25 of the Act

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Amendment C176 ‘Riverdale Precinct Structure Plan’
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- WYP6215/12 YourLand Developments
- WYP6213/12 Golden Group

Trevor McCullough, Chair
Prof Rodger Eade, Member

Mandy Elliott, Member
John Ostroff, Member
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<td>Council</td>
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<td>MAC</td>
<td>Major Activity Centre</td>
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Executive Summary

Summary

Amendments C175, C176 and C177 to the Wyndham Planning Scheme seek to implement the Truganina Precinct Structure Plan, the Riverdale Precinct Structure Plan and the Wyndham North Development Contributions Plan respectively. The Amendments were prepared by the Metropolitan Planning Authority (MPA) in consultation with Wyndham City Council, various agencies and landowners.

Following a period of extensive consultation that commenced in April 2011, the Amendments were publicly exhibited between June and August 2013. Amendment C175 attracted 31 written submissions; Amendment C176, 34 written submissions; and Amendment C177, 29 written submissions.

Although the MPA proposed a number of changes to the Amendments that resolved many of the issues raised in submissions, not all of the issues were able to be resolved and MPA requested that an independent Panel be appointed to make recommendations to the MPA and the Minister for Planning on the outstanding issues.

The Panel comprising Trevor McCullough (Chair), Rodger Eade, Mandy Elliot and John Ostroff was appointed on 31 October 2013, and Hearings were held between 26 November 2013 and 13 December 2013, and between 29 January 2014 and 4 March 2014.

The main issues raised by submitters related to:

- Sequencing of development;
- The quantum and funding of public open space;
- The location and form of activity centres;
- Issues specific to the form and content of the Truganina PSP;
- Issues specific to the form and content of the Riverdale PSP;
- Arterial Road design and funding;
- Issues relating to inclusions in the Development Contributions Plan;
- The nine proposed Section 96A planning permits; and
- Various other site specific issues.

The MPA proposed a large number of revisions to the Amendments before and during the Hearings, resulting in many issues being resolved. Consequently, the scope and number of matters before the Panel were significantly reduced over the course of the Hearings.

The Panel generally supports the form and content of Amendments C175 and C176, the Truganina and Riverdale PSPs, including the revisions proposed by the MPA, but has recommended a number of further changes as set out in the following recommendations, and explained in the report.

The Panel generally supports the adoption of Amendment C177, the Wyndham North DCP, subject to a number of changes, including:

- A review of all interim intersections in the DCP to remove the cost of all ultimate works from the DCP;
- Revised implementation priorities;
• The addition of a clause to protect against scope creep;
• Changes to the recommended apportionment of costs;
• A revised property valuation model; and
• Revised contingency allowances.

The Panel has recommended that all nine of the proposed section 96A planning permit applications for new subdivisions be approved subject to a number of changed conditions.

In addition, the Panel has recommended that the MPA and Council undertake further actions to improve guidelines for future PSPs including:
• Develop guidelines for assessing future subdivision applications;
• Review open space standards to assess whether a ‘population’ or ‘developable area’ based approach is more appropriate in future;
• Review how the Public Transport Guidelines for Land Use and Development 2008 are applied to the standard PSP road cross sections; and
• Review existing planning provisions in relation to dry stone walls, with a view to more efficient and practical identification of walls that can be removed without a permit.

The Panel wishes to record its appreciation of the assistance provided by Planning Panels Victoria staff in preparing this report; and thank the MPA, Wyndham Council, all other submitters, their representatives and expert witnesses for their considerable effort in preparing submissions and assistance to the Panel during the Hearings.
Consolidated Recommendations

Amendment C175 Truganina PSP

For the reasons set out in this Report, the Panel recommends that Amendment C175 to the Wyndham Planning Scheme be adopted as exhibited and modified in the List of Document changes dated 13 March 2014 (Document 276), subject to the following further modifications:

A1. The MPA and Council to continue to work with service authorities to optimise the use of encumbered land for open space where this is possible, and for any suitable locations to be shown on the PSP open space plans.

A2. Update the UGZ Schedule and/or the PSP to reflect the approved Biodiversity Conservation Strategy (where required).

A3. Update the UGZ Schedule and/or the PSP to ensure the proposed DEPI requirements as outlined in DEPI’s submission are incorporated.

A4. Insert a permit condition requiring a Kangaroo Management Plan in all permits in the Truganina PSP area north of the Regional Rail Link.

A5. Alter all road cross sections in the Truganina PSP to adhere to the Public Transport Guidelines for Land Use and Development 2008, unless a variation of the requirements is endorsed by PTV.

A6. Include a requirement in the Truganina PSP that the identification of any dry stone walls to be removed or altered must consider the Dry Wall Study (when complete).

A7. Amend the Truganina Heritage Network contained in Appendix F of the Truganina PSP to include the former Wesleyan Church and bluestone well adjacent to Skeleton Creek.

A8. Include the dry stone wall running along Skeleton Creek north of Doherty’s Road and the stockyard north of the Robertsons Farm complex on Plan 3 of the Truganina PSP and note the walls as ‘existing dry stone wall with the potential for retention’.

A9. Modify the Truganina PSP to split open space area PNW-05 into two one hectare areas each contained within the separate land ownerships and centrally located to the land parcels.

A10. Identify 90-NW-5 as the site for a Catholic primary school site instead of 90-NW-12, and increase the size of 90-NW-5 to 9.6ha.

A11. The MPA consult with Leakes on a suitable design to significantly reduce the scope of the crossing of the key access street over Skeleton Creek (northern crossing) on the Leakes property.

A12. The MPA include, either as a new requirement or an amendment to R58 in the Truganina PSP, that the connector road crossing of Skelton Creek will not be required to be constructed until the north south connector to the west of Skelton Creek is warranted; and the cost of the crossing will be shared between the then owners of the ID land, Dacland and Hallek properties.
Amendment C176 Riverdale PSP

For the reasons set out in this Report, the Panel recommends that Amendment C176 to the Wyndham Planning Scheme be adopted as exhibited and modified in the List of Document changes dated 13 March 2014 (Document 277), subject to the following further modifications:

B1. The MPA and Council continue to work with service authorities to optimise the use of encumbered land for open space where this is possible, and for any suitable locations to be shown on the PSP open space plans.

B2. Update the UGZ Schedule and /or the PSP to reflect the approved Biodiversity Conservation Strategy (where required).

B3. Update the UGZ Schedule and /or the PSP to ensure the proposed DEPI requirements as outlined in DEPI’s submission are incorporated.

B4. Insert a permit condition requiring a Kangaroo Management Plan in the Riverdale PSP area permits.

B5. Alter all road cross sections in the Riverdale PSP to adhere to the Public Transport Guidelines for Land Use and Development 2008, unless a variation of the requirements is endorsed by PTV.

B6. Retain the GGF Conservation Area / waterway setback boundary at 1245 Sayers Road as exhibited in the Riverdale PSP (which removes the house from within the GGF Conservation Area 14 boundary), or adopt an alternative alignment if agreed between MPA, Melbourne Water and the land owner (which also removes the house from the GGF conservation area).

B7. Include a note on Plan 2 of the Riverdale PSP that marks the southern area of the Stockland site (where it interfaces with the Werribee River) as ‘Alternative waterway treatment under review in conjunction with relevant authorities’.

B8. Include a Public Acquisition Overlay in Amendment C176 for land required for the construction of the south-west corner of the Davis Road/ Sayers Road intersection.

B9. Remove the following area around the proposed Riverdale Town Centre from the Riverdale PSP:
   o All land north of the existing Sayers Road alignment and west of Sewells Road, including all of 1160 Sayers Road;
   o Land immediately south of Sayers Road shown on the exhibited PSP as part of the Riverdale Town Centre or community facilities; and
   o The western end of the Golden Group land, shown in the subdivision application as Stages 7, 8 and the western part of Stage 5 south of the east-west 20.5m street.

B10. The MPA to engage with Melbourne Water, DEPI and landowners to determine where culverts may be able to be used for waterway crossings, whilst ensuring adequate passage is provided for aquatic fauna.

B11. Amend P NO-01 shown on Plan 4 - Open Space in the Riverdale PSP to reflect the MPA’s revised size of this local park to 0.49ha.
Amendment C177 Wyndham North DCP

For the reasons set out in this Report, the Panel recommends that Amendment C177 to the Wyndham Planning Scheme be adopted as exhibited and modified in the List of Document changes dated 13 March 2014 (Document 275), subject to the following further modifications:

C1. Amend the DCP to provide for an alternative culvert crossing of Hogans Road over the Davis Creek subject to:
   o Demonstrating acceptable hydraulic performance and maintenance performance to the satisfaction of Melbourne Water; and
   o Demonstrating that the design can accommodate a Growling Grass Frog passage to the satisfaction of DEPI.

C2. Amend references to Dohertys Road projects RD-88-06, RD-89-03 and RD-90-04 to include the construction of the second carriageway in the DCP.

C3. The MPA to conduct a review of all interim intersections in the DCP to include the following:
   o Remove the cost of all ultimate works from the DCP;
   o Review the designs for the Sayers Road/Sewells Road and Hogans Road/Sewells Road intersections in the light of Mr Hunt’s expert evidence to the Panel;
   o Limit the extent of works at intersections with connector roads to the first 25m of the connector road;
   o Remove any unnecessary works on the western legs of intersections IN-88-04 and IN-88-10 not required in the interim; and
   o Modify the DCP accordingly.

C4. The MPA to conduct a review of all rates used in cost estimating; ensure any errors or omissions are corrected; apply the latest industry accepted rates; and apply any subsequent amendments to the DCP costings before finalising the DCP.

C5. The following Table be substituted for Table 10 in the exhibited DCP:

<table>
<thead>
<tr>
<th>PHASE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of Davis Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td>Construction of Sayers Road from Davis Road to Sewells Road</td>
</tr>
<tr>
<td>Duplication of Leakes Road from Forsyth Road to Derrimut Road</td>
</tr>
<tr>
<td>Duplication of Dohertys Road from Derrimut Road to Woods Road</td>
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<tr>
<td>Upgrade of intersection of Dohertys Road &amp; Derrimut Road</td>
</tr>
<tr>
<td>Construction of Davis Road from Lamington Drive to Leakes Road</td>
</tr>
<tr>
<td>Construction of Hogans Road from Davis Creek to Davis Road</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PHASE 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of Sewells Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td>Construction of Armstrong Road from Sewells Road to Werribee River</td>
</tr>
<tr>
<td>Construction of Morris Road from Dohertys Road to Leakes Road</td>
</tr>
<tr>
<td>Construction of Boundary Road from RRL to Derrimut Road</td>
</tr>
<tr>
<td>Duplication of Dohertys Road from Derrimut Road to Tarneit Road</td>
</tr>
</tbody>
</table>
C6. Add the following wording after the existing text in section 5.3 of the exhibited DCP:

The list in Table 10 does not bind the Development Agency to the delivery of any particular project within the time specified or in the order set out in Table 10. The Collecting Agency and the Development Agency may at any time, subject to its own Capital Works priorities, change the priority by introducing new items or deleting items at its complete discretion. The Table is provided so as to be indicative only. The Collecting Agency will from time to time publish its priorities for the infrastructure projects to be provided so as to be consistent with the facilitation of an orderly sequencing of development in the growth area.

C7. Delete the second paragraph of the new Section 4.7 of the DCP proposed by the MPA and replace with a further paragraph which captures the following:

- Where a Council or other agency seeks to change the scope of a DCP infrastructure item to meet changing standards imposed by adopted policy or by a public regulatory agency, such changes of standards and the resulting cost changes should normally be made through a change to the DCP at the time of a regular review of the DCP; and
- Where, after the DCP has been approved, a Council or other agency proposes changes to the scope of a DCP infrastructure item for reasons other than changes in standards imposed by policy or regulation the net cost increases resulting from the changes should normally be met by the agency requesting the change.

C8. Make the following changes to Table 9 in Version 3 of the C177 List of Document Changes dated 13 March 2014:

- IN-89-13 (Leakes Road/Cottesloe Blvd) to be 50% funded from the Wyndham North DCP;
- IN-89-15 (Leakes Road/Crossway Ave) to be 50% funded from the Wyndham North DCP;
- IN-90-15 (Leakes Road/Sunset Views Blvd) to be 50% funded from the Wyndham North DCP;
- IN-90-17 (Leakes Road/Woods Road) to be 50% funded from the Wyndham North DCP;
- IN-91-03 (Davis Road/East-West Connector) to be 50% funded from the Wyndham North DCP;
- RD-90-05 (Boundary Road, RRL to Derrimut Road) to be 100% funded from the Wyndham North DCP; and
- IN-90-07 (Forsyth Road/East-West Connector) to be 50% funded from the Wyndham North DCP

C9. Make the following changes to Table 3A in Version 3 of the C177 List of Document Changes dated 13 March 2014:

- For Boundary Road projects RD-89-05 and RD90-05: only an extra 10.5 metres of land for future duplication to be funded from the Wyndham North DCP.
- For road project RD-90-01 (Forsyth Road (Leakes Road to Dohertys Road): Land for the ultimate, where required; and 50% of the construction of a carriageway to be funded from the Wyndham North DCP.
C10. Apply the ‘per property broad hectare’ approach to valuing land to be acquired for public purposes in the Truganina and Riverdale PSPs.

C11. Apply the ‘hybrid’ land valuation approach recommended by Mr Kinnaird for interim valuations for other public land pending the completion of PSPs for Oakbank and Tarneit North.

C12. Remove the parcels of land which are currently included as part of the Truganina Employment DCP and which are also proposed to be included in the Wyndham North DCP from the Wyndham North DCP and recalculate the Wyndham North DCP per hectare contribution rate accordingly.

C13. Apply contingencies to project costings in the Wyndham North DCP as follows:
   - 10% for road projects
   - 20% for bridge projects
   - 15% for intersections and other projects

C14. Check the DCP for errors and anomalies claimed by Mr Ainsaar in his expert witness statement.

Section 96A Permit Applications

D1. The Panel recommends that the following permits for subdivision should issue, subject to the changes as shown in the Panel Preferred Versions in Appendix C of this report:
   - WYP6216/12 Dennis Family Corporation South (Leakes)
   - WYP6214/12 Hellier McFarland (Resimax) (80 Woods Road)
   - WYP6744/13 Dennis Family Corporation North (Leakes)
   - WYP6210/12 ID Land
   - WYP6211/12 Dacland (Moreton East)
   - WYP6212/12 Satterley Property Group
   - WYP6217/12 Stockland
   - WYP6215/12 YourLand Developments
   - WYP6213/12 Golden Group
Recommendations for Further Action

The Panel makes the following recommendations for further action:

E1. The MPA engage with Council to develop criteria that can be used to assess future applications for subdivision, and that these be based on the criteria used by the MPA in assessing the applications made under section 96A of the Planning and Environment Act 1987 and considered as part of the current process.

E2. The Council or the MPA, as relevant, develop and implement an appropriate mechanism to give the agreed assessment criteria statutory weight.

E3. The MPA should review the open space standard S2 in the Precinct Structure Planning Guidelines to assess whether a revised standard should be introduced in response to increasing dwelling densities in growth areas. The review should assess whether a ‘population’ or ‘developable area’ based approach would be more suitable in the future.

E4. The MPA and Council should work together to identify the location of regional active open space which is to be shown on the PSPs within the Wyndham North DCP area, and is not to be funded by the DCP. Panel strongly recommends that the Council owned land form part of this regional active open space provision.

E5. The MPA and PTV review how the Public Transport Guidelines for Land Use and Development 2008 are applied to the standard PSP cross sections.

E6. The MPA, in conjunction with Wyndham Council, review existing planning provisions in relation to dry stone walls with a view to more efficient and practical identification of walls that can be removed without a permit.

E7. The MPA engage with Council to complete the structure plan for the Riverdale Town Centre after the Council initiated structure planning exercise is completed.

E8. Council consider how best to utilise the land at 1160 Sayers Road to meet the objectives of the Riverdale Town Centre structure plan and regional open space objectives.

E9. The MPA engage with the Council to agree a process and timing for the incorporation of the Riverdale Town Centre structure plan into the Wyndham Planning Scheme, and make appropriate amendments to the Wyndham North DCP, if required.
1 Introduction

1.1 The Amendments

Amendments C175, C176 and C177 to the Wyndham Planning Scheme were prepared by the Metropolitan Planning Authority (MPA) as Planning Authority.

(i) Amendment C175

The Amendment applies to the area shown below on Figure 1, below.

As exhibited, Amendment C175 seeks to implement the Truganina Precinct Structure Plan through the following changes to the planning scheme:

- Incorporates two new documents into the planning scheme by listing them in the Schedule to Clause 81.01:
  - Truganina Precinct Structure Plan, July 2013
  - Truganina Native Vegetation Precinct Plan, July 2013;

- Introduces and apply Schedule 10 to the Urban Growth Zone (UGZ10) to land in the amendment area. This zone sets out the land use and development controls for the
Five affected

In Figure 2 below shows the location of each property subject to a planning permit application in the Truganina Precinct.
The Amendment and planning permit applications were placed on public exhibition between 16 July and 19 August 2013 and attracted 31 written submissions.
(ii) Amendment C176

The Amendment applies to the area shown below on Figure 3, below.

As exhibited, Amendment C176 proposes to implement the Riverdale Precinct Structure Plan through the following changes to the planning scheme:

- Incorporates three new documents into the planning scheme by listing them in the Schedule to Clause 81.01:
  - Riverdale Precinct Structure Plan
  - Riverdale Native Vegetation Precinct Plan
  - Wyndham precinct structure plans 40, 92, 1099 and 1091: Growling Grass Frog Conservation Management Plan, Wyndham Vale and Tarneit, Victoria

- Introduces and applies Schedule 11 to the Urban Growth Zone (UGZ11) to land in the amendment area. This zone sets out the land use and development controls for the
precinct. The zone requires land use and development to be generally in accordance with the incorporated *Riverdale Precinct Structure Plan*;

- Amends the Rural Conservation Zone along the Werribee River where land is designated for conservation use;
- Removes the Environmental Significance Overlay Schedule 1 (ESO1) and Environmental Significance Overlay Schedule 2 (ESO2) from the amendment area;
- Introduces and applies Schedule 2 to the Incorporated Plan Overlay (IPO) to land identified as Rural Conservation Zone in the PSP area;
- Applies the Public Acquisition Overlay 1 to land at 1122 Sayers Road, Tarneit to allow for the widening and construction of the intersection of Sayers Road and Sewells Road;
- Provides for public open space contributions for land in the *Riverdale Precinct Structure Plan* area when land is subdivided by amending the Schedule to Clause 52.01;
- Lists the *Riverdale Native Vegetation Precinct Plan (Riverdale NVPP)* in the Schedule to Clause 52.16 to manage native vegetation in the precinct;
- Updates the Schedule to Clause 66.04 to require applications for Town Centres to be referred to the Growth Areas Authority.

Five applications for permits have been made in respect to the following parcels of land affected by Amendment C175 under section 96A of the *Planning and Environment Act 1987*:

- WYP6215/12 Subdivision of land YourLand Developments Pty Ltd, Southwest corner of Leakes Road and Davis Road, Tarneit (Portion B Section 15, Parish of Tarneit).
- WYP6212/12 Subdivision of land Satterley Property Group, 990 Sayers Road, Tarneit (Portion D, Section 15, Tarneit).
- WYP6213/12 Subdivision of Land Golden Group 1070 Sayers Road, Tarneit (Lot 2, PS142708). The Panel notes that this permit number is also referred to as WYP6213/13 in some documents. The Panel understands that WYP6213/12 is the correct number and has used this throughout.
- WYP6217/12 Subdivision of Land Stockland Pty Ltd Hogans Road (Lot 3, PS136754) 538 Hogans Road (Lot 1, PS5000090), 540 Hogans Road (Lot 2, PS5000090), 542 Hogans Road (Lot 1, PS136754), 180 Davis Road (Lot 1 TP703106C).

Figure 4 below shows the location of each property subject to a planning permit application in the Riverdale Precinct.
The Amendment was placed on public exhibition between 4 June and 8 July 2013 and attracted 34 written submissions.
(iii) Amendment C177

The Amendment applies to the area shown below on Figure 5, below.

Amendment C177:

- Introduces and applies Schedule 13 to the Development Contributions Plan Overlay (DCPO13) to land in the amendment area. This overlay requires planning permits to be consistent with the Wyndham North Development Contributions Plan;
- Incorporates the Wyndham North Development Contributions Plan into the planning scheme by listing it in the Schedule to Clause 81.01; and
- Updates the Schedule to Clause 61.03 to add planning scheme maps 2DCPO and 3DCPO.

The Amendment seeks to include a small parcel of land (14.32 hectares) on the north eastern corner of the intersection of Leakes Road and Forsyth Road currently within the Truganina Employment DCP into the Wyndham North DCP area. The MPA advised that it intends to prepare a future amendment to remove the affected land from the Truganina Employment DCP area and the associated planning scheme controls.

The Amendment was placed on public exhibition between 4 June and 8 July 2013 and attracted 29 written submissions.
1.2 The Panel Process

The Panel was initially appointed under delegation from the Minister for Planning on 4 September 2013 and comprised Mr Trevor McCullough (Chair), Ms Mandy Elliott, Professor Rodger Eade and Ms Suzanne Barker. Ms Barker subsequently identified a potential conflict of interest and the Panel was reconstituted on 31 October 2013, adding Mr John Ostroff as a member to replace Ms Barker.

A joint Directions Hearing was held on 28 October 2013 at Planning Panels Victoria.

A joint Panel Hearing was held between 26 November 2013 and 13 December 2013 and between 29 January 2014 and 14 February 2014 at Planning Panels Victoria. A further issue clarification day was held at Planning Panels Victoria on the 4th March 2014.

The Panel undertook unaccompanied inspections of the areas affected by the Amendments and the surrounding areas prior to the Hearing. A further accompanied inspection was carried out on 3 March 2014 to view a number of site specific features.

The Panel heard the parties listed in Table 1.

<table>
<thead>
<tr>
<th>Submitter</th>
<th>Represented by</th>
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<tr>
<td><strong>Growth Areas Authority</strong></td>
<td>Ms Adele Patterson of Counsel and Mr Greg Tobin of Harwood Andrews, assisted by MPA staff and calling the following expert witnesses:</td>
</tr>
<tr>
<td></td>
<td>• Mr Andrew Kinnaird of Urbis on Land Valuation</td>
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<tr>
<td></td>
<td>• Mr Derrick Hitchins of SMEC on Intersection Design</td>
</tr>
<tr>
<td><strong>Wyndham City Council</strong></td>
<td>Mr Terry Montebello (Maddocks Lawyers) assisted by Council staff and calling the following expert witnesses:</td>
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<tr>
<td></td>
<td>• Mr Henry Turnbull of Traffic Group on Traffic</td>
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<td></td>
<td>• Chris Barrett of VRC Property on Property Valuations</td>
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<td></td>
<td>• Mr Ben Bunting on Open space</td>
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<td></td>
<td>• Ms Sue Hawes of Wyndham City Council on Open Space</td>
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<td></td>
<td>• Ms Lois Binnie of Wyndham City Council on Open Space Planning</td>
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<td></td>
<td>• Mr Sean Stephens of Essential Economics on Activity Centres</td>
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<tr>
<td><strong>Leakes Pty Ltd</strong></td>
<td>Mr Chris Townsend SC and Mr Paul Chiappi of Counsel, instructed by Minter Ellison Lawyers and calling the following expert witnesses:</td>
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<tr>
<td></td>
<td>• Mr Michael Barlow of Urbis on Planning</td>
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<td></td>
<td>• Mr Mark Whalen of GHD on DCP Costings</td>
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<td></td>
<td>• Mr Stephen Hunt of Cardno on Traffic</td>
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<td>• Mr Jason Black of Insight Planning on DCPs</td>
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<tr>
<td></td>
<td>• Mr Robin Brown of Renzo Tonin and Associates on</td>
</tr>
<tr>
<td>Submitter</td>
<td>Represented by</td>
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</tbody>
</table>
| **Tarneit Development Project Pty Ltd** (Dacland) | Mr Nicholas Tweedie SC, instructed by Allens and calling the following expert witnesses:  
  - Mr Michael Barlow of Urbis on Planning  
  - Mr Tim De Young of GTA on Traffic  
  - Mr Jonathon McLean of Alluvium on Drainage and Surface Water Management |
| **Villawood Properties** | Mr Chris De Silva of Mesh Planning |
| **Mr Andrew Booth** | |
| **ID Dohertys Road Pty Ltd** | Mr Adrian Finanzio SC, instructed by Norton Rose Fulbright and calling the following expert witnesses:  
  - Mr Michael Collie of Collie Pty Ltd on Planning  
  - Mr Tim de Young of GTA on Traffic  
  - Ms Andrea Murphy of Tardis on Heritage |
| **Peet No 87 Pty Ltd** | Ms Juliette Forsyth of Counsel, instructed by Norton Rose Fulbright and calling the following expert witness:  
  - Mr Jason Black of Insight Planning on DCPs |
| **Stockland Development Pty Ltd and Satterley Property Group Pty Ltd** | Mr Jeremy Gobbo QC and Mr Peter O’Farrell of Counsel, instructed by Norton Rose Fulbright and calling the following witnesses:  
  - Mr Michael Collie of Collie Pty Ltd on Planning  
  - Mr Stephen Hunt of Cardno on Traffic  
  - Mr Matt Ainsaar of Urban Enterprise on DCPs  
  - Mr Brett Lane of Brett Lane and Associates on Ecology  
  - Mr Jonathon McLean on Drainage |
| **Golden Group** | Mr Ross Lamont from Taylors |
| **Ms Frances Overmars** | |
| **YourLand Developments** | Ms Susan Brennan SC who called the following expert witnesses:  
  - Mr Nick Hooper of Taylors on DCPs  
  - Mr Jason Sellars of GTA on Traffic  
  - Mr Rob Panozzo of ASR on open space planning |
| **Public Transport Victoria** | Ms Louise Hicks of Counsel and instructed by Ms Rebecca Jenkins |
| **Melbourne Water** | Ms Nicki Granek |
In reaching its conclusions and recommendations, the Panel has read and considered the submissions and a range of other material referred to it. This includes written submissions, evidence and verbal presentations. A list of the 277 documents tabled at the Hearings is attached as Appendix B to this report.

1.3 Procedural matters

(i) Further Directions

On 9 December 2013 the Panel issued further directions to the MPA and Council to attempt to resolve issues relating to public open space allocation. The MPA and Council provided updated advice on their respective positions on 20 January 2014 and all parties were given a
further opportunity to revise expert evidence and make further submissions in relation to public open space.

On 16 December 2013 the Panel directed Council to clarify a number of matters in relation to the declaration of a number of arterial roads relevant to the Amendments. Council provided this advice on 17 January 2014.

The Panel made a number of other more minor directions and requests for information during the course of the Hearing.

(ii) Changes to the amendments

The MPA continued to negotiate changes and resolve issues with submitters and other stakeholders following the exhibition of the amendments and in response to submissions. These changes were outlined in the MPA’s written submissions to the Panel, while changes to PSPs and UGZ schedules were also tracked in a series of documents prepared by the MPA. These documents included:

- Track changes versions of the Explanatory Reports (25 November 2013, Documents 7, 8);
- Summary of unresolved submissions v3 (25 November 2013, Document 9);
- Summary of unresolved submissions v4 (4 December 2013, Document 21);
- Revised planning permits (4 December 2013, Documents 24, 25);
- C177 List of document changes v2 (4 December 2013, Document 23);
- C175 List of document changes v2 (3 February 2014, Document 107);
- C176 List of document changes v2 (3 February 2014, Document 108);
- Revised planning permits v3 (7 February 2014, Documents 152-160);
- MPA closing submissions, including a summary of outstanding issues (14 February 2014, Document 198);
- Final MPA versions of planning permits (4 March 2014, Documents 228-236); and
- Final list of document changes (13 March 2014, Documents 275, 276, 277).

The Panel has made general recommendations that the revisions outlined in the MPA’s final tables (Documents 275, 276 and 277) be included in modified Amendments, unless otherwise recommended by the Panel.

1.4 The Panel’s approach to issues and submissions

Consistent with other PSP Panels, this Panel has not reviewed the Amendments from first principles; rather, it has reviewed the amendments with a view to resolving outstanding issues between the MPA, Council and other submitters.

In this context, the Panel relied on the MPA to identify the submissions and issues that had not been resolved and to refer those to the Panel. During the Hearing, many of these matters were resolved and the number and scope of outstanding issues were considerably reduced. Some submissions were also withdrawn on the basis that the MPA had agreed to revise the amendments.
Importantly, this report is focussed on those matters that remained unresolved at the end of the Hearing and does not detail the submissions or issues that were resolved before or during the Hearing, unless the Panel thinks that a short discussion on the matter is required to ensure that the submitter is made aware that the issue(s) have been resolved.

For this reason, the Panel relies on the MPA’s final documents as the basis for its recommendations. In particular, the lists of document changes, Panel Documents 275, 276 and 277, list a large number of changes made to the PSPs and DCP. These changes are taken as read, and adopted by the Panel unless addressed in this report and recommendations made to the contrary.

1.5 Issues covered in this report

The Panel process raised a number of ‘general’ issues, many of which apply more broadly to the amendments. These are discussed in Chapter 4 of this report and include:

- Sequencing - Criteria and Guidelines;
- Are the Section 96A planning permit applications in sequence?
- Public open space;
- The Biodiversity Conservation Strategy;
- Kangaroo Management Plan;
- PTV issues;
- Proposed change to Clause 52.47 – Dry Stone Walls; and
- Issues raised by Ms Overmars, Mr Booth, Melbourne Water and City West Water.

PSP and site specific issues are discussed as follows:

Chapter 5 – Amendment C175 Truganina PSP and section 96A permit issues;
Chapter 6 – Amendment C176 Riverdale PSP and section 96A permit issues; and
Chapter 7 – Amendment C177 Wyndham North DCP issues.

The Panel’s recommendations are included at the end of each section or sub-section of the report. For ease of reading these have been consolidated in the Executive Summary. The numbering system for the recommendations does not relate to the order in which they appear throughout the body of this report.
2 Background

2.1 The Wyndham North Growth Front

(i) Overview

The Truganina and Riverdale precincts are two of the four precincts in the Wyndham North DCP area. Wyndham North is one of the primary growth areas within Melbourne’s Western Growth Corridor which incorporates the City of Wyndham and the City of Melton.

The MPA advised that the area covered by the West Growth Corridor Plan will eventually accommodate a population of 377,000 or more people and have the capacity to accommodate at least 164,000 jobs. Within the Corridor, the Wyndham North DCP area (refer to Figure 6 below) consists of 4,318 hectares of future urban land within Truganina, Riverdale, Tarneit North and Oakbank.

![Figure 6 Wyndham North DCP area](image)

The four precincts have the capacity to deliver approximately 42,000 new dwellings accommodating around 116,000 persons. Wyndham North, along with Wyndham West, will become the core area for urban expansion in the City of Wyndham for at least the next 30 years.

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1 Source – MPA Panel Hearing opening submission
(ii) **Wyndham North Development Contributions Plan**

The Wyndham North DCP is proposed to deliver over $750 million of local infrastructure over the four Wyndham North Precincts including:

- Over $500 million for 50km of roads;
- 60 intersections;
- New road bridges and pedestrian and cycle bridges and crossings;
- $180 million for 16 sporting reserves; and
- Over $70 million for land and construction of community facilities.

The MPA have prepared the Wyndham North DCP with the support of Wyndham City Council, developers, landowners and relevant government agencies.

The MPA submitted that the DCP:

- Outlines projects required to ensure that future residents, visitors and workers in the area can be provided with timely access to infrastructure and services necessary to support a quality and affordable lifestyle.
- Establishes a framework for development proponents to make a financial contribution towards the cost of the identified infrastructure projects. It ensures that the cost of providing new infrastructure and services is shared equitably between various development proponents and the wider community.
- Provides the details of the calculation of financial contributions that must be made by future developments towards the nominated projects. In this way, it provides developers, investors and local communities with certainty about development contributions requirements and how these will be administered.

2.2 **Truganina Precinct**

(i) **Description**

The Truganina PSP applies to approximately 1,073 hectares of land as shown in Figure 5 and on Wyndham Planning Scheme maps as Schedule 10 to the Urban Growth Zone. The PSP area is generally defined by Boundary Road to the north, Derrimut Road to the west, Leakes Road to the south and the alignment of the extension of Forsyth Road to the east. Skeleton Creek passes through the precinct from north to south, converging with Dry Creek in the southwest corner of the precinct.

(ii) **The Truganina Precinct Structure Plan**

**Overview**

The Truganina PSP has been prepared by the MPA in consultation with the Wyndham City Council, Government agencies, service authorities and major stakeholders.

The PSP is a long-term plan for urban development. It describes how the land is expected to be developed and how and where services are planned to support development.

The MPA submitted that the PSP:
• Sets out plans to guide the delivery of quality urban environments in accordance with the Victorian Government policies and guidelines.
• Enables the transition from non-urban land to urban land.
• Sets the vision for how land should be developed, illustrates the future urban structure and describes the outcomes to be achieved by the future development.
• Outlines projects required to ensure that the future community, visitors and workers within the area are provided with timely access to services and transport infrastructure necessary to support a quality, affordable lifestyle.
• Sets out objectives, requirements and guidelines for land use, development and subdivision.
• Provides Government agencies, the Council, developers, investors and local communities with certainty about future development.
• Addresses the requirements of the Environment Protection and Biodiversity Conservation Act 1999 in accordance with an endorsed program under Part 10 and the approved Biodiversity Conservation Strategy.

Plan 2 of the exhibited PSP (Future Urban Structure Plan) is provided in Figure 7.

The vision for the Truganina Precinct

The exhibited PSP provides the following ‘vision’ for the precinct:

Settlement on the Werribee Plains has always had an essential reliance on water. The influence of water on the settlement patterns remains evident with indigenous cultural artefact scatters and bluestone ruins lining the banks of Skeleton and Dry Creeks. Under the Truganina Structure Plan, these waterways, dry stone walls, plantings, and other historic remnants become the founding element of a new urban structure that maintains and embraces the character of the plains.

The creeks and their tributaries will link a series of new neighbourhoods across the precinct. Their historical significance will be woven into the urban fabric through a network of trails, streets and parks that tell story of the area’s history. The network will interconnect town centres and community hubs, extending over 20 kilometres within the bounds of the precinct and further into the surrounding region.

Important biodiversity values will be protected and enhanced within the Truganina Cemetery and Woods Road Conservation Areas, which will be accessible to the community to allow appreciation of vegetation and habitat characteristics of the Werribee Plains.

The Regional Rail Link, traversing the precinct from north-east to south-west, represents a large-scale public investment in the future of Wyndham and will provide a connection to the wider metropolitan area, Geelong, and beyond. The new rail line will be catalyst for the creation of a fully integrated and transit connected community that contributes to the liveability of greater Melbourne.
Located alongside the Tarneit station (due to open in 2016) and halfway between Werribee and Footscray, the Tarneit major town centre will become an important cluster servicing the western industrial node. The centre will also form an employment generator in its own right, combining retail, entertainment, community services, and business opportunities.

In the north-east the Truganina local town centre, located adjacent to the potential future Truganina station, will complement the major centre with additional local services for the nearby residential neighbourhoods, office parks and industrial areas.

The precinct’ proximity to Melbourne, access to rail and freeways, range of retail and commercial services, means it will make a significant contribution to the creation of new jobs through the broader logistics focussed employment region. In addition, the increased amenity, public transport infrastructure, and town centres will lead to a greater variety of housing choices across a series of highly diverse new neighbourhoods.
(iii) The Truganina Native Vegetation Precinct Plan

The Truganina Native Vegetation Precinct Plan (the NVPP) has also been prepared concurrently with the PSP.

The NVPP identifies:
- Native vegetation which may be removed without a planning permit.
- The offsets that must be provided by development proponents wishing to commence works prior to removing the native vegetation which can be removed.

The NVPP is a separate document that was proposed to be incorporated into the Wyndham Planning Scheme, however the need for the NVPP was removed once the Biodiversity Conservation Strategy (BCS) was approved as part of Melbourne’s Strategic Assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999) (refer to Section 3.6 of this report).

2.3 Riverdale Precinct

(i) Description

The PSP applies to approximately 1,120 hectares of land as shown in Figure 8 and on Wyndham Planning Scheme maps as Schedule 11 to the Urban Growth Zone.

The PSP area is generally defined by the Regional Rail Link to the north, Davis Road in the north-east, Davis Creek in the south-east, and the Werribee River in the south and west.

Davis Creek and three tributaries as well as an additional overland flow path run through the precinct toward the Werribee River.

(ii) The Riverdale Precinct Structure Plan

Overview

The Riverdale PSP has been prepared by the MPA in consultation with the Wyndham City Council, government agencies, service authorities and major stakeholders.

The PSP is a long-term plan for urban development. It describes how the land is expected to be developed and how and where services are planned to support development.

Plan 2 of the exhibited PSP (Future Urban Structure Plan) is provided in Figure 8 below.
The vision for the Riverdale Precinct

The exhibited PSP provides the following ‘vision’ for the precinct:

*The Riverdale precinct is characterised by open views, strong linear stands of trees, and waterways winding toward the Werribee River, which dominates the southern precinct boundary. The rich character of the landscape is the foundation of the new urban structure.*
The river and environs will become a corridor of open space that protects important environmental values and provides recreational and regional connectivity. New neighbourhoods and town centres will be formed on the edge of the creeks and tributaries that run southward and connect to the river. Providing connections between waterways, retained windrows and varying streetscapes of boulevards, avenues, and meandering waterside drives integrate east-west and form an expansive network of paths.

Significant biodiversity values will be protected and enhanced within the Growling Grass Frog Conservation Area which extends along the Werribee River and Davis Creek, which will also be accessible to the community to allow appreciation of these values.

The substantial public investment in the Regional Rail Link is a catalyst for change and driving force behind growth across the corridor. The PSP capitalises on this investment through the creation of a transit-ready major town centre that intensifies uses around the potential future Riverdale station. The centre, will be the central hub of activity and gateway to the precinct, providing inter‐metropolitan connections the Priority Public Transport Network and eventually the railway, as well as retail, entertainment, recreation, business opportunities and a variety of local jobs.

Two local town centres will complement the services of the major hub with additional retail and employment opportunities, each centred on a main street and public space.

The town centres, public transport infrastructure, and the expansive integrated network of open space will lead to a greater variety of housing choices and price points across a highly diverse precinct.

(iii) The Riverdale Native Vegetation Precinct Plan

The Riverdale Native Vegetation Precinct Plan (the NVPP) has also been prepared concurrently with the PSP.

The NVPP identifies:

- Native vegetation which may be removed without a planning permit.
- The offsets that must be provided by development proponents wishing to commence works prior to removing the native vegetation which can be removed.

The NVPP is a separate document that was proposed to be incorporated into the Wyndham Planning Scheme, however the need for the NVPP was removed once the Biodiversity Conservation Strategy (BCS) was approved as part of Melbourne’s Strategic Assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999) (refer to Section 3.6 of this report).
3 Strategic Planning Context

This section of the report briefly sets out key elements of State Planning Policy Framework (SPPF), the Municipal Strategic Statement (MSS), Local Planning Policies, zones and overlays, and other provisions and strategies relevant to the Amendments. The MPA provided a response to the Strategic Assessment Guidelines as part of the Explanatory Reports.

3.1 Policy framework

(i) State Planning Policy Framework

The MPA submitted that the following key elements of the SPPF were taken into account in the consideration of the Amendments and that they represent an integrated decision making process that balances the conflicting objectives of the relevant State planning policies as follows.

Clause 11.01 Activity centres, 11.02 Urban growth, 11.03 Open space – The Amendments incorporate precinct structure plans and native vegetation precinct plans. These plans set out an orderly structure for development of the precinct including the location and function of activity centres taking into account the existing and planned network of centres in the region, bringing zoned land supply to the market, providing land with good proximity to existing and planned amenities and services, and infrastructure.

Clause 12.01 Biodiversity - Offsets for vegetation removal and habitat areas for nationally and state significant species will be provided in accordance with the prescriptions of the Melbourne Growth Area Strategic Assessment Report and Victoria’s Permitted Clearing of Native Vegetation Biodiversity Assessment guidelines.

Clause 16.01 Integrated housing - Housing in the precincts will be fully serviced. New residents will have access to existing services and employment opportunities in the community in adjacent developed neighbourhoods and through provision of new infrastructure in the precinct. The precinct structure plans set out a range of housing densities that can be accommodated in the precinct.

Clause 17.01 Commercial - The Amendments provide for two major town centres adjoining rail stations, four local town centres and two local convenience centres. The precincts are located in close proximity to the Werribee Principal Town Centre and the future East Werribee Employment Precinct.

Clause 18.01 Land use and transport planning, 18.02 Movement networks – The precincts are strongly integrated with the existing and planned arterial road network and Principal Public Transport Network. The proposed road network provides a robust structure for traffic and transport movement within and through the precincts.

Clause 19.02 Community infrastructure, 19.03 Development infrastructure – A comprehensive development contributions plan has been prepared for the precincts. The development contributions plan provides for major roads, intersections, bicycle paths, sports facilities and open space through a levy on new subdivision in the Wyndham North area. Water, sewer and drainage services are readily connectable from adjacent development into the precinct.
(ii) **Local Planning Policy Framework**

The following key elements of the LPPF were taken into account in the consideration of the Amendments.

**Municipal Strategic Statement**

*Clause 21.04 - Wyndham’s Vision.* This policy provides a strategic framework and vision for Wyndham. The MPA submitted that the PSPs aim to meet the Land Use Planning Objectives as follows:

- *The cost-effective and orderly management of urban growth, balancing the city and country aspects of the municipality.*
  - Provide for new development to occur in areas that are not isolated from the core urban area and which integrate well with existing communities and physical infrastructure.
  - Provide for urban development that does not adversely affect the water quality, flows, environmental values, landscape feature and cultural heritage sites of rivers and watercourses, their waterway corridors and adjoining land.

- *Access to a range and quality of housing opportunities which meet the needs of the population.*
  - Encourage diversity in subdivisions and housing in terms of lot size and housing form.
  - Encourage the integration of housing with compatible activities such as open space, community facilities and shopping centres.

- *Access to a range of leisure and recreational opportunities which meet the needs of the population and which can be provided cost-effectively.*
  - Maximise open space opportunities along the creeks, waterways and coastal areas of the municipality, including trails and other links.
  - Maximise the recreation links and opportunities for development within and near housing areas.

Council is currently reviewing the Wyndham MSS, exhibited as Amendment C192.

**Local Planning Policy**

*22.03 Infrastructure Financing Policy*

A comprehensive development contributions plan is under preparation for the four Wyndham North precincts. The Amendments provide the strategic basis for that plan including major roads, intersections, bicycle paths, sports facilities and open space. Water, sewer and drainage services are readily connectable from adjacent development into the precinct.

*22.07 Open Space Policy*

The Riverdale PSP sets aside land for four multi-purpose sports fields and a range of local parks throughout the PSP area. The PSP also includes a regional park, conservation and recreation space along the length of the Werribee River and Davis Creek, allowing land used for drainage to have complementary passive recreation facilities.
The Truganina PSP sets aside land for four multi-use sports fields, a range of local parks throughout the precinct area, a number of heritage sites with open space components, linear reserves for drainage along Dry Creek and Skeleton Creek, a conservation reserve around the Truganina Cemetery and another conservation reserve in the south east area of the precinct (Woods Road Conservation Area).

3.2 Planning scheme provisions

(i) Zones

The land subject to Amendments C175 and C176 is proposed to be included within a PSP and as such Part B of the Urban Growth Zone (UGZ) is also proposed to apply. The UGZ includes zone provisions which seek to provide certainty about the nature of future development, streamline the approval process and ensure that a planning permit for development accords with the incorporated PSP.

The UGZ applies to land that has been identified for future urban development within the Urban Growth Boundary (UGB). It has been specifically designed to implement an incorporated PSP and ensure that future development accords with the approved PSP. The UGZ includes two parts: Part A applies to land when no PSP applies; and Part B applies to land included in a PSP.

A schedule to the Urban Growth Zone is proposed for each PSP area and includes requirements for land use, buildings and works, application/advertising requirements, decision guidelines and any other conditions/requirements.

The MPA submitted that the:

‘...UGZ and Schedule for Amendment C175 and 176 to the Wyndham Planning Scheme has been designed to ascribe a suite of Victoria Planning Provision zones to guide future use and development of the site through the specification of conditions and requirements for permits. The design of the zone promotes consistency in the manner which planning authorities deal with land use issues and ensures that the zone implements the state planning policy framework.’

The UGZ Schedules 10 and 11 have been prepared for Truganina and Riverdale PSPs respectively. The MPA submitted that ‘they have been structured in such a way that the ultimate translation to conventional VPP zones can occur in a timely and efficient manner once the land has been developed.’

(ii) Overlays

Amendment C177 proposes to apply the Development Contributions Plan Overlay (DCPO) Schedule 13 to all land in Wyndham North, including the Truganina, Riverdale, Oakbank and Tarneit North precincts.

Amendments C175 and C176 propose to delete Environmental Significance Overlay (ESO) Schedules 1 and 2 from land in the Truganina and Riverdale precincts.

The following other changes to overlays are proposed as part of the Amendments:

• Introduces Schedule 7 to the Special Use Zone (SUZ7);
- Rezones the transmission line easement land in the north west corner of the Precinct from Farming Zone (FZ2) to Schedule 7 to the Special Use Zone (SUZ7);
- Applies the Public Acquisition Overlay (PAO1) to land at 778 Doherty’s Road, Truganina to allow for the widening and construction of the intersection of Doherty’s Road and Woods Road;
- Introduces and applies Schedule 2 to the Incorporated Plan Overlay (IPO) to land identified as Rural Conservation Zone in the PSP area;
- Applies the Public Acquisition Overlay 1 to land at 1122 Sayers Road, Tarneit to allow for the widening and construction of the intersection of Sayers Road and Sewells Road;

Amendment C191 to the Wyndham Planning Scheme came into effect from 14 November 2013. The Amendment applies to land within and adjacent to Section 2 of the Regional Rail Link to manage noise impacts on bedrooms from the operation of the Regional Rail Link. The Amendment applies Design and Development Overlay – Schedule 10 (DDO10) to the land to require new buildings with a bedroom (including a room likely to accommodate sleeping persons on a regular basis) to be constructed in such a way as to ensure internal bedroom noise levels do not exceed $65 \text{dB}_{A_{\text{max}}}$ and $40 \text{dB}_{A_{\text{eq,8h}}}$ for the night period from 10pm to 6am. The overlay affects land within the Truganina and Riverdale PSPs in close proximity to the rail line. In particular, permit applications WYP6744/13 and WYP6216/12 exhibited as part of Amendment C175 were affected by the new overlay.

(iii) **West Growth Corridor Plan**

The MPA submitted that the West Growth Corridor Plan:

- Identifies the long term pattern of development;
- Identifies committed transport networks as well as network options for investigation;
- Identifies committed regional open space networks as well as investigation sites; and
- Identifies opportunities for creating green corridors.

*The plans inform the development and review of local planning schemes and the preparation of future strategies, structure plans and other planning tools. They also provide a strategic basis for infrastructure and service planning as well as sequencing of land release.*

### 3.3 Issues arising out of zone reforms

The MPA submitted as follows in relation to issues arising out of the recent zone reforms:

*The MPA has applied zones under the exhibited Urban Growth Zone Schedules (‘UGZ schedules’) including zones that existed prior to July 2013 and the recent ‘reformed zones’.*

*The reformed zones are now part of the Victoria Planning Provisions. The MPA has considered the following matters in choosing reformed zones:*

*Commercial zones – Riverdale and Truganina*
The Commercial 1 Zone (C1Z) is used for all town centres. C1Z is intended to replace the former Business 1 Zone (B1Z) which has been the conventional zone applied to growth corridor town centres. The C1Z provides shop, retail and commercial uses without a permit and is ideal for encouraging town centre development.

In the Minister’s response to the report of the Advisory Committee on reformed zones, allowance was made for a cap on the area of floor space that can be used for shop without a planning permit.

The MPA has included provisions in the UGZ Schedules that require a permit once a certain floor space area has been reached. The amounts of floor area are specified for each town centre in the UGZ schedules.

Land described as ‘Business & residential’ in the Truganina Precinct Structure Plan (PSP) was exhibited as an applied Residential Growth Zone. This was essentially an oversight in that it fell within the ‘all other land’ category in the applied zones table in the UGZ Schedule. Further consideration of this area and its sub-precincts (described on ‘Figure 1: Tarneit major town centre concept’ in the PSP), has resulted in the MPA seeking to apply the C1Z with complementary specific provisions to require a permit for all shop uses and remove the permit requirement for use of a dwelling in the areas described as ‘dry creek precinct’ and skeleton creek precinct’ on Figure 1: Tarneit major town centre concept in the PSP.

The permit requirement for all shop uses seeks to reinforce the major town centre’s role as the primary location for retailing. It may be that once the initial development of the centre is established, and the PSP is unincorporated that the surrounding land may be considered for C1Z without any specific provisions to allow for future town centre expansion. Use of the C1Z also seeks to signal that these areas are intended to be truly mixed, particularly south of the rail reserve.

Office and industry uses – Truganina

The Truganina PSP contains a large area around its northern extent variously called ‘Office park’, ‘Office and Light Industrial’ and ‘General Light Industrial’. The exhibited amendment proposed applying the use and development provisions of the following reformed zones:

a. Office park – Mixed Use Zone,
b. Office and light industrial – Industrial 3 Zone,
c. General light industrial – Industrial 3 Zone.

In light of submissions, further consideration of the operation of the new zones as they have been gazetted and their interaction with the PSP’s, the MPA intends to apply:

a. Office park and office and light industrial – Commercial 2 Zone,
b. General light industrial – Industrial 3 Zone.
MPA initially considered applying the Commercial 2 Zone (C2Z) to these areas might compromise the development of new town centres nearby, given the zone’s allowance of a range of retail uses without a permit. Hence the Mixed Use Zone (with dwelling requiring a permit via a special provision in the UGZ Schedule) was applied to allow the responsible authority to exercise tighter discretion over retailing in these areas via the permit process.

However on further consideration, MPA is confident that while some uses will remain outside the influence of the PSP as no permit is required (e.g. small supermarkets with associated shops and restricted retailing), that any larger retail development will be considered under permit and in the context of the PSP.

The C2Z in these areas also has the benefit of exempting office, industry and warehouse (non-offensive) uses from a permit and prohibiting residential uses consistent with the need to protect industrial opportunities north of Boundary Road.

The Industrial 3 Zone remains appropriate for managing land use and development for ‘General & light industry’.

Residential Zones

The General Residential Zone (GRZ) is suitable for application in growth area precincts. Consideration may be given to the Residential Growth Zone and Neighbourhood Residential Zone at times. However, when combined with the housing guidance in the PSP the GRZ proves the most adaptable for the broad range of contexts in growth area residential precincts.

Where the MPA does see benefit in an alternative residential zone is application of the Mixed Use Zone (MUZ) at the edge of town centres. Consistent with the approach of the reformed zones in providing for a more fluid transition between retail/commercial centres and surrounding residential development, use of the MUZ seeks to protect these opportunities for, what is likely to be smaller scale complementary non-residential uses. Such uses include development known as ‘soho’ (small office home office) and smaller industry uses such as motor repairs. These areas may also facilitate small business growth between the restrictive home occupation category and the more fully committed town centre located business with its associated increased costs.

The Panel supports the proposed applied zones for the areas illustrated in the PSPs.

The reformed zones introduce uses, whether as of right or discretionary, that enable a broader range of activities to be considered. It is proposed to introduce greater control of shop use in the business and residential areas adjacent to the Tarneit Town Centre by requiring a permit for what otherwise would be an as-of-right use in the C1Z. Additionally, a permit would not be required for the use of land as a dwelling, though needing to comply with the C1Z requirement for a maximum 2m frontage at ground level, unless a permit is granted that exceeds this requirement.

One submission was lodged with regard to the applied zones. The submission from G2 Urban Planning on behalf of Estdale P/L, owners of No. 282 Woods Road, referred to the
office and light Industrial area. It considered the inclusion of the land in the IN3Z, as originally proposed by the MPA, would create conflict between new industry and residents. It recommended that the zone should be changed to C2Z, which has less potential offsite effects. It considered that the inclusion of land in the C2Z would provide greater flexibility than the IN3Z and the necessary buffering between the light industrial core and the residential areas to the south.

The Panel notes that the MPA has amended the proposed zoning of the office and light industrial land from IN3Z to C2Z.

3.4 Ministerial Directions and Practice Notes

The MPA submitted that the Amendments comply with the applicable Ministerial Directions including:

Ministerial Direction No. 1 Potentially Contaminated Land

Ministerial Direction No. 1 does not strictly apply to most of the land affected by the amendments as the amendments propose to rezone land that has typically been used for various agricultural uses rather than industrial uses.

A precautionary desktop environment site assessment has been carried out for all of the land whether or not it meets the definition of 'potentially contaminated land'. The assessment identified areas subject to historical localised land uses that are potentially subject to contamination. The amendments (via the UGZ schedule) require further investigation, assessment and remediation of all land within the Precincts prior to use for sensitive land uses (e.g. housing, junior schools and child care).

Ministerial Direction No. 9 Metropolitan Strategy

The amendments implement the growth area elements of the metropolitan strategy. The amendment provides for fully serviced new urban neighbourhoods in a designated growth area.

Ministerial Direction 11, Strategic Assessment of Amendments

The Amendments have been strategically assessed in accordance with the assessment criteria set out in Ministerial Direction 11.

The Amendments will implement the objectives of planning in Victoria by providing for the fair, orderly, economic and sustainable use of land identified for urban purposes.

The Amendments addressed environmental effects, as the pattern of land use and development was guided by studies of the area relating to flora and fauna, flooding and drainage.

The Amendments have addressed social and economic effects. It is expected to have a positive social and economic effect through the provision of additional housing and community facilities, as well as the creation of local employment opportunities.
Ministerial Direction 12, Urban Growth Areas

This Direction applies to the preparation of any planning scheme amendment that provides for the incorporation of a PSP in the scheme or the introduction of, or changes to, provisions in a schedule to the UGZ. Therefore, the Direction applies to the Amendments.

The Direction provides that the Amendments must implement the Growth Area Corridor Plan relevant to the land, and must be in accordance with applicable Precinct Structure Plan guidelines.

The MPA considers that the Amendments implement the West Growth Corridor Plan. Furthermore, the provisions of the UGZ and accompanying provisions will give effect to the intended outcomes of the PSP.

3.5 Precinct Structure Plan Guidelines

The Precinct Structure Plan Guidelines (the PSP Guidelines) were launched by the Minister for Planning on 7 October 2009, replacing an earlier draft version released by the GAA in 2006.

The PSP Guidelines apply to the preparation of precinct structure plans for new residential communities and new employment areas.

There are two parts to the Guidelines:

- Part One describes the objectives and the process for planning new communities in the growth areas.
- Part Two sets out the content, form and process for preparing and implementing a PSP.

The key elements of the PSP Guidelines are:

- To establish a sense of place and community;
- To create greater housing choice diversity and affordable places to live;
- To create highly accessible and vibrant activity centres;
- To provide local employment and business activity;
- To provide better transport choices;
- To respond to climate change and increase environmental sustainability; and
- To deliver accessible, integrated and adaptable community infrastructure.

The MPA submitted that the Truganina and Riverdale PSPs have been prepared in accordance with the PSP Guidelines.

3.6 The Melbourne Strategic Assessment under the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)

(i) Overview

The Victorian and Commonwealth governments agreed to undertake a strategic assessment under the Commonwealth’s Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) in March 2009 for the expansion of Melbourne’s urban growth boundary. A
number of reports were prepared, public comment followed and in February 2010, the Commonwealth Minister for Environment endorsed the program document *Delivering Melbourne’s Newest Sustainable Communities: Program report* (Dec 2009). Classes of actions can be approved under the endorsed strategic assessment program. To date, this has included the Regional Rail project, Melbourne 28 precincts and Melbourne’s Northern, North Western and Western Growth Corridors. The Truganina and Riverdale PSPs are within the Western Growth Corridor.

The Melbourne Strategic Assessment allows 41,000 ha of developable land in the four growth corridors to be assessed under this strategic process, rather than requiring individual referrals (which may be required because of the potential impact to matters of national environmental significance, particularly listed species and communities) under the *EPBC Act*. The Melbourne Strategic Assessment also allowed for the approval of the Regional Rail Link and Outer Metropolitan Ring/E6 Transport Corridor.

The endorsed program under the *EPBC Act* includes actions associated with urban development in four growth corridors in the 2010 Melbourne Urban Growth Boundary, including the Western Growth Corridor, of which the Truganina and Riverdale PSPs are included. The endorsed program included a commitment by the Victorian Government to prepare a Biodiversity Conservation Strategy for the four corridors as well as regional strategies for the Growling Grass Frog (GGF), Golden Sun Moth (GSM) and the Southern Brown Bandicoot.

The Commonwealth Minister for Environment (who is the responsible Minister under the *EPBC Act*) has approved (5 September 2013) the following strategies:

- Biodiversity Conservation Strategy for Melbourne’s Growth Corridors (DEPI, June 2013);
- Sub-regional Species Strategy for the Golden Sun Moth (DEPI, May 2013);
- Sub-regional Species Strategy for the Growling Grass Frog (DEPI, May 2013).

The **Biodiversity Conservation Strategy** (BCS) identifies areas of conservation to be protected within the growth corridors. Conservation Area 14 – Growling Grass Frog Corridor is within the Riverdale PSP associated with the Werribee River. Conservation Area 14 contains matters of national environmental significance listed under the *EPBC Act* and matters of state significance listed under the *Flora and Fauna Guarantee Act* 1988 and/or DEPI’s advisory lists for rare or threatened species. The Riverdale PSP also includes Conservation Area 12 – Sewells Road Reserve, Truganina, which is a linear area of conservation reserve established primarily to protect the nationally listed Spiny Rice Flower.

The Truganina PSP includes Conservation Area 10 – Truganina Cemetery Grassland and Buffer as well as Conservation Area 11 – Woods Road. The Truganina Cemetery Conservation Area aims to protect a small area of very high quality native grassland that contains nationally listed species such as the Button Wrinklewort, Golden Sun Moth and the Spiny Rice Flower. Conservation Area 11 – Woods Road has also been established to protect

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2 Commonwealth Department of the Environment

native grassland that contains the Golden Sun Moth and is contiguous with the Truganina South Precinct Structure Plan Golden Sun Moth reserve.

The BCS requires a Conservation Management Plan (CMP) to be prepared for each conservation area in the growth corridors. CMP’s are prepared as part of the PSP process, and are usually prepared by DEPI in consultation with the landholder and relevant authorities. CMP’s will identify conservation objectives and management measures including arrangements to secure land. CMP’s inform detailed management plans that are prepared when land is secured for conservation.

The Growling Grass Frog (GGF) Conservation Area (Area 14) comprises terrestrial habitat for the GGF, existing water bodies suitable for GGF, the Werribee River and Davis Creek. A CMP was prepared for this conservation area and approved by DEPI and the Commonwealth Department of the Environment in October 2013. A CMP has also been prepared and approved by DEPI for the Truganina Cemetery Conservation Area as well as the Woods Road Conservation Area.

All of the above summarised background and approved documents are relevant to consideration of the Riverdale and Truganina PSPs, particularly when the Panel considers the implications of any potential changes to the boundaries of these conservation areas.

(ii) Native Vegetation Time-Stamping

The time-stamping project captured and ‘time stamped’ native vegetation information to establish a native vegetation dataset and maps showing the type, extent and condition of all native vegetation in Melbourne’s growth corridors. The time-stamping process occurred as part the Victorian government’s commitment under the Melbourne Strategic Assessment. The information gathered as part of the time-stamping data project was used to calculate (based on 2012 native vegetation assessments) habitat compensation requirements for the removal of native vegetation and threatened species habitat associated with development in the growth areas.

As stated in the Time-Stamping Native Vegetation Data: Public Consultation 2010-12 Final Report:

...this information was used together with information on threatened species habitat mapped for the Biodiversity Conservation Strategy and sub-regional species strategies to calculate habitat compensation requirements for the removal of native vegetation and threatened species habitat associated with urban development in the growth corridors.

Under the time-stamping approach, if land in the growth corridors is to be subdivided and developed, habitat compensation will be calculated on the basis of the 2012 “time-stamped” maps regardless of the extent and condition of the vegetation on the land at the time it is developed. This approach will simplify the current system and increase certainty for landowners, planners and developers regarding habitat compensation requirements.
4 General Issues across all Amendments

4.1 Sequencing – Criteria and Guidelines

(i) The issues

At its meeting on 24 June 2013 Wyndham Council adopted the strategy entitled *Strategy for Managing Growth in Wyndham*, subsequently amended at its meeting of 25 November 2013, the first day of this Hearing. That strategy sets out principles which the Council would like to use in assessing permit applications for subdivision within its growth areas. The Panel has identified a series of interrelated issues as follows:

- The approach to the issue itself, where the MPA takes a higher level approach more focussed on sequencing of PSPs for development, whereas Council is attempting to develop tools which are usable in assessing individual subdivision applications;
- The philosophical underpinning of a market led approach to land release, and whether a level of intervention is needed to ensure orderly planning;
- The respective responsibilities of Council and the MPA with respect to planning and land release;
- The policy and statutory tools that can and should be used to manage sequencing; and
- The limitations on revenue sources to fund early provision of infrastructure.

The Panel sees managing the sequencing of growth as an issue to be addressed in the case of Wyndham North, but more broadly as an issue of relevance across all growth areas as precinct structure planning is increasingly taking place for areas which, at current rates of population growth, will be developed in the medium and longer term.

This section of the report deals with the broader principles that should be adopted. The following section reviews how these principles apply to the nine section 96A planning permit applications that are under consideration.

(ii) Evidence and submissions

Both the MPA and the Council have made detailed submissions on this issue, as have a number of other submitters and expert witnesses.

Policy basis for sequencing

The MPA submitted that the policy underpinning the approach that it has used in its position on the applications for permits is found in both Clause 11 of the Wyndham Planning Scheme and in the Growth Corridor Plan.

The MPA submitted that:

*Clause 11.02-4 of the Wyndham Planning Scheme outlines a number of strategies to address the sequencing of development which are:*

- *Define preferred development sequences in growth areas to better coordinate infrastructure planning and funding.*
• Ensure that new land is released in growth areas in a timely fashion to facilitate coordinated and cost-efficient provision of local and regional infrastructure.
• Require new development to make a financial contribution to the provision of infrastructure such as community facilities, public transport and roads.
• Improve the coordination and timing of the installation of services and infrastructure in new development areas.
• Support opportunities to co-locate facilities.
• Ensure that planning for water supply, sewerage and drainage works receives high priority in early planning for new developments.

Ms Patterson when questioned by the Panel on the underpinning philosophy of the approach that the MPA was taking, submitted that the market should play a key role in determining the sequencing of development. She submitted that this should be in the context of the relevant sections of the Planning Scheme as set out in Clause 11 and also Principle 8 in the Growth Corridor Plan.

This underpinning approach was supported by submitters and expert witnesses including Mr Lamont, Mr Tweedie, Mr Gobbo, Mr Collie and Mr Hooper. They further submitted that the Growth Corridor Plans which outline high level land use and infrastructure networks for the growth areas of Melbourne provide considerations that should be taken into account in staging of development. This is outlined under Principle 8 of the Growth Corridor Plan document, and includes the following:

   In line with the policy principles set out under Clause 11 of the State Planning Policy Framework, priority will be given to facilitating urban development and infrastructure provision for areas that:
   • Form logical and contiguous extensions of existing urban areas, especially where development in such areas will enable the early provision of infrastructure, facilities and services required to provide for the needs of the existing community;
   • Will enable the staged extension of infrastructure networks in a way that minimises the real cost of infrastructure provision;
   • Are not subject to major constraints or uncertainties that could delay development and are of a size and with a pattern of land ownership that is likely to result in a substantial and predictable yield of housing and/or industrial land; and
   • Support the effective and early development of the network of town centres and employment precincts identified in the Growth Corridor Plans.

The MPA further submitted that:

   The MPA typically priorities (sic) PSPs for preparation based on which PSP areas are closest to existing development, and/or which are adjacent precincts which are already planned.

Sequencing of growth in a metropolitan context

Broadly supporting the macro level approach of the MPA, Mr Tweedie submitted:
A consideration as to whether the PSP land in general, and the land in particular is (or is not) fairly regarded as ‘out of sequence’ cannot be determined from a purely ‘local’ perspective that only considers Wyndham and its localised issues. Rather, it is necessary to have regard to the bigger picture, which is the need to provide for on-going growth of the metropolis of Melbourne, and to do so in a cost effective, sustainable and efficient way....

Refusing to allow, or artificially constraining growth in such areas will not mean that Melbourne will grow less quickly, or that demand for new housing and communities slows. All it will mean is that growth and demand must occur elsewhere within the UGB.

In his expert evidence for Leakes, Mr Barlow supported this position by stating:

I understand that the ‘solution’ proffered by Council is to establish a growth paradigm that seeks to slow the rate of growth to 3000 dwellings per annum and to direct growth to a number of areas...

The idea of facilitating growth to key locations has merit but the idea of ‘restricting’ the rate of growth has a number of significant negative implications for the metropolis and Victoria...

I consider that the implementation of Council’s growth strategy in accordance with the possible sequencing plan (see Figure 9 of the ‘Strategy for Managing Growth in Wyndham’) and the principles regarding out of sequence development will result is (sic) sub optimal outcomes for the Truganina precinct.

The Council Strategy

Mr Montebello submitted that the Council Strategy for Managing Growth in Wyndham had been through significant consultation over a considerable period of time. He submitted that it is appropriate for the Panel to recommend that the principles underpinning the Council Strategy be included in the PSP.

Both Mr Chiappi and Mr Tweedie submitted that the Council Strategy for Managing Growth in Wyndham had no statutory weight as it had not been through any formal process. Mr Tweedie submitted that the Strategy cannot be considered as a ‘seriously entertained planning proposal’.

Mr Tweedie further submitted that the Council has known for some time the need to plan for infrastructure, but that the Council Strategy has only appeared at the last moment. He took the Panel to proposed Amendment C192 to the Wyndham Planning Scheme, which replaces the LPPF, and which at the time of Mr Tweedie’s submission was still on exhibition. He submitted that the Council was only seeking to make the Strategy a Reference Document under Clause 21.02-5 of the Scheme. Mr Tweedie submitted that the Strategy remains a work in progress and that this was emphasised by the ‘belated modifications made to it by Council resolution of 25 November 2013’.

Mr Finanzio submitted that he is sympathetic to Council’s desire that planning for Wyndham occurs in an orderly and proper way. Mr Finanzio further submitted that sequencing can be dealt with either by prescription or by a qualitative judgement. Mr Finanzio submitted that
in substance the only difference between the Council’s criteria and the MPA’s Guideline 55 is that the Council attempts to impose ‘distance’ and other measures and require that the great majority of their criteria are met.

He further submitted that there is nothing in the Planning Scheme concerning the sequencing of development which amounts to prescription. He made the following observations with respect to the Council strategy:

(a) The Council’s Strategy for Managing Growth is not part of the Planning Scheme.

(b) This is not a case about the introduction of the Council’s Strategy for Managing Growth into the Planning Scheme.

(c) The fact that the Council’s principles are contained in the Strategy for Managing Growth does not, in and of itself lend to those principles any greater weight than any other submission made to these amendments. The wrapping up of a submission in the cloak of a public document with a glossy cover does not elevate its status beyond what it is – a submission.

(d) As such, the Strategy for Managing Growth should be treated with no greater deference than any other submission.

(e) It is true that the Council’s submission which invites the adoption of different sequencing principles than those exhibited, seeks a change to Amendment C175.

(f) The change that is sought does not give rise to questions of “transformation” (if it can be said that such questions ever arise in the context of planning scheme amendments).

(g) In substance, the only thing for the panel to do is to consider the submission of Council on its merit – should the principles concerning sequencing for which the Council contend form part of the PSP?

In response to a question from the Panel, Mr Montebello submitted that Mr Finanzio’s submission (that including principles in the PSP will not constitute a transformation of the Amendment) had opened the door for the Panel to recommend that the Council’s principles be included in the PSP. In closing Mr Montebello submitted that the Council’s principles should be incorporated as Guidelines 55-61 in replacement of the MPA’s Guideline 55.

With respect to a Development Staging Plan (which according to the PSP Guidelines at p55 should be included in a PSP), the MPA submitted that there is no staging plan as such, but rather Requirement 88 and Guideline 55 (of the Truganina PSP) which deal with development staging. These are accompanied by a Precinct Infrastructure Plan (PIP) which provides details of likely timing of key road, intersection recreation and community infrastructure in three time periods 2012-2015, 2016-2025 and 2025 and beyond. As part of Council’s closing submission, Mr Montebello tabled a Development Sequencing Plan which simply showed arrows pointing north from the existing extent of development south of Leakes Road and west from the existing development east of Davis Road and Davis Creek.
Criteria to determine appropriate sequencing

Mr Barlow, in his expert evidence for Dacland, listed the following seven principles which he indicated to the Panel were used by the MPA to assess applications and which had been made available to developers after invitations were made to submit permit applications:

The application must have a reasonable chance of being developed upon issue of a permit.

The landowner/ developer must intend to develop the land as soon as is practicable following the issue of a permit.

Ability of the development to be serviced with the relevant development and community infrastructure (as determined by the GAA).

Depending on the distance from the existing urban area, the development must be located such that it is reasonably likely that surrounding land would be developed within 5 years, taking into account anticipated demand for land, the provision by relevant authorities of infrastructure required to service adjacent development.

Where an existing road or road reserve is able to be used to access a development that road must be upgraded at full cost to the developer to an urban standard (DCP credits apply where the road is a DCP item).

The proposed development must be able to demonstrate convenient access to existing development and community infrastructure unless that infrastructure is to be provided as part of the development as outlined above.

Where trunk servicing extensions are required, the applicant must provide details of an agreed approach, including timing, for delivery of the extensions with the relevant infrastructure/ service provider with the application.

The MPA acknowledged in their closing submission that these principles had been made available and used to assess applications.

By contrast, the approach of the Council is embodied in the process and principles which are set out in section 6 of Strategy for Managing Growth in Wyndham (as amended at the meeting of Council on 25 November 2013) state:

1. Residential growth is contiguous with existing residential areas unless it is based around a major transport corridor or node.
2. A primary school with available capacity already exists within an adjacent neighbourhood and is within a safe walking distance – up to about 1.5 km.
3. A community centre (kindergarten and maternal and child health) with available capacity already exists within an adjacent neighbourhood and is within safe walking distance.
4. An activity centre exists within an adjacent neighbourhood and is within a safe walking distance.
5. An active open space facility (sports playing reserves and pavilions) exists within an adjacent neighbourhood and is within safe walking distance.
6. **There is a railway station within walking distance, or a bus service exists within or immediately adjacent to the proposed development or within a safe and easy walking distance, up to about 800m for buses.**

7. **The road network has good connectivity to arterial/main roads that are not overcapacity and connect to the freeway or to a railway station.**

Mr Barlow stated that he fully understands the pressure Council is under, but that he disagrees with the application of their principles. In his submission for Stockland and Satterley, Mr Gobbo described the Council’s strategy as politicking rather than planning.

In his cross examination of Mr Hooper, Mr Montebello put a series of questions around the need for Council to have guidance around its decision making on permit applications that would, if necessary, be defensible at VCAT. Mr Collie took a more laissez-faire approach to sequencing of growth. He pointed out a number of inconsistencies between the approach being taken by Council and the policy documents which should inform sequencing decisions. Under cross examination by Mr Montebello, Mr Collie indicated that permits should be considered on the basis that basic water sewerage and energy services could be provided and indicated that this could result in a number of alternative development fronts. He indicated that, in his view, a decision on the grant of a permit should be based on whether an approved PSP was in place and the merits of the application.

In detailing the approach taken by Council, Mr Montebello submitted that in a recent report, *Developing Transport Infrastructure and Services for Population Growth Areas*, the Auditor General had been extremely critical of the approach to infrastructure provision in Melbourne’s growth areas. He highlighted the following:

*Growth Corridor and Precinct Structure Plans provide a sound framework for identifying transport Infrastructure needs in greenfields. However, the absence of a supporting funding and implementation strategy limits their effectiveness. ...*

*The Growth Areas Authority has yet to establish effective arrangements to assure all required standards have been adequately addressed in the development of Precinct Structure Plans.*

Mr Montebello submitted that the reference to ‘required standards’ should be interpreted to include staging of growth and implementation strategies which he argued were being addressed in Wyndham’s Strategy.

In addressing the issue of the appropriate responsibility for managing the sequencing of development, both Ms Patterson and Mr Montebello seemed to accept that there were roles for each of the MPA and local government.

Mr Montebello submitted that the Auditor General’s report referred to a whole of government approach, which he interpreted as including a role for local government.

Under cross examination, Mr Barlow acknowledged that the Council’s principles were a starting point but that they needed further refinement and development. He stated that there needs to be more emphasis in the principles on ‘accessibility’ to facilities. He placed great emphasis on the role that the Tarneit railway station would play in attracting proximate residential development when it opened.
Growth sequencing in the context of funding constraints

In his opening on behalf of the Council, Mr Montebello submitted that one of the reasons Council was seeking to limit growth was because of its inability to borrow in order to fund the upfront costs of necessary infrastructure. In the early years of a DCP, the demand for infrastructure is often in excess of the funds being generated. The Panel was made aware that the Council had submitted to the Wyndham C171, C172 Panel on Council’s borrowing capacity and requested that similar information be provided to this Panel. This information was subsequently provided in an email to the Panel dated January 28 and copied to all submitters. The Council acknowledged that their subsequent investigations had revealed that Council debt as a proportion of rate revenue was no longer capped, but that they still had obligations under Section 144 of the Local Government Act 1989 for sound financial management. Council also provided information to the Panel on the level of indebtedness that they might incur under various guidelines which they operate under. Council informed the Panel that borrowing to fund infrastructure was a more significant issue in Wyndham West because of the relatively less developed state of the arterial road network in that growth front.

(iii) Discussion

The Panel is of the view that appropriate managing of the sequencing of growth is a key issue, not just for these Amendments and the associated s96A planning permit applications but also for subsequent permit applications in both Wyndham and other growth areas. The PSPs being considered here, and those likely to be considered over the next couple of years, will release land that may not be fully developed for possibly 30 years or more. The ability of Responsible Authorities to ensure orderly planning is therefore of paramount importance.

The Panel is conscious that a similar issue (albeit proposed to be tackled by the Council through a different mechanism) was considered by the Panel which recently considered Amendments C171 and C172 to the Wyndham Planning Scheme. Pointedly, that Panel concluded that the proposed mechanism may be suitable, but could not be given any weighting at this time because the Council strategy document is not an incorporated document. The Panel concluded that the MPA and Council should continue their discussions on this issue. These conclusions are also relevant to Amendments C175 and C176 and the s96A applications.

The Panel is of the view that orderly planning is best served by managing the context in which the market operates and not trying to manage the market. The Council’s Strategy of attempting to restrict development to a maximum of 3000 lots per annum, whilst not an issue at current rates of development, is in the Panel’s view fundamentally misguided and beyond the role of planning. The Panel observes that if each of the growth area Councils tried to control supply, the inevitable consequence would be land price escalation. For this reason alone the Panel is of the view that the Strategy for Managing Growth cannot be supported in its current form.

Having said this, the position in which Council finds itself is understandable because, as pointed out in the VAGO report, there are significant infrastructure backlogs and Wyndham is identified as having significant road infrastructure backlogs. It is easy to sympathise to the extent that an already difficulty position should not be made worse. Restricting
development is, however, not the answer, but, as recommended by the VAGO report, the GAA (now MPA) should finalise the development of plans for effective acquitting of the PSP guidelines and related transport requirements. The recently released WIK Guidelines for GAIC projects is presumably part of this.

The Panel observes that the discussion on sequencing would have been helped by clearer recognition that the sequencing of growth needs to be understood at two broad levels:

- The order in which PSPs are developed and rolled out; and
- The sequencing of development within approved PSPs across a growth front.

As the Panel understands, it is the ability to appropriately manage the sequencing of development within approved PSPs that the Council is seeking.

Principle 8 in the Growth Corridor Plans, which was repeatedly referred to by submitters, appears to the Panel to be clearly aimed at the sequencing of PSPs, albeit the same principles may be applicable in the managing of the sequencing of growth within a PSP. Similarly, there can be little argument that the wording of Section 11 of the SPPF provides a basis for broad principles but does not give the Council workable sequencing criteria. The Panel accepts the argument by the MPA and a number of the developer submitters that the sequencing of growth should be substantially market driven, and that attempts to restrict growth at the local level are likely simply to see that demand is transferred to other growth fronts or growth areas.

The Panel is also firmly of the view that one of the roles of government is to provide the policy framework within which the market operates. That is what orderly planning referred to in Clause 11 of the Scheme is about. The Panel is of the view that both the MPA and Council have important roles to play in managing the sequencing of growth. Generally the MPA will be responsible for sequencing the development of PSPs and the Responsible Authority for managing the sequencing of development within PSPs. This simple dichotomy is complicated in this instance by the planning authority role which the MPA is playing with respect to the Section 96A permits. In this instance the nine applications supported by the MPA will provide some 5,400 lots. The Panel was informed that the MPA has also received seven Section 96A applications to accompany the soon to be exhibited Tarneit North PSP totalling some 3,200 lots. An overall total of 8,600 lots, which based on current levels of demand as indicated by Council, would be some 4 years supply if all Wyndham development occurred in these three PSPs, which of course it will not.

The Panel understands this prospective level of supply, infrastructure backlogs and resource constraints at all levels of government are such that the Council needs the ability to manage future applications for subdivision to ensure that orderly development does in fact occur. The need for this, but not the Council approach, appears to be supported by at least Mr Finanzio and Mr Barlow. In closing on behalf of the MPA, Ms Patterson confirmed the Authority’s position of relying on the principles embodied in both Clause 11.02-4 of the Scheme and Principle 8 of the Growth Corridor Plan. The Panel observes that the MPA seems to acknowledge the need for prioritization within PSPs, and have developed criteria by which they assessed the Section 96A permit applications. It is acknowledged that MPA have developed these criteria in response to pressures from the Council. They appear, however, to have been developed without Council input, as it appears that the Council and
the MPA broke off discussions of the development of criteria some considerable time before
the exhibition of the PSPs and the associated permit applications. This apparent lack of a
productive working relationship between the two bodies, at least on this issue, has not been
conducive to a good outcome.

The Panel is of the view that in order to assess the timeliness and appropriateness of future
development applications the principles contained in the SPPF and the Growth Corridor Plan
would be usefully supplemented by some more detailed and workable criteria. The question
then becomes: what criteria? From the Panel’s perspective, each of the sets of criteria
proposed by the Council and the MPA have their merits. However, the criteria proposed by
Council do have a number of significant shortcomings from the Panel’s perspective:

- The Panel agrees with Mr Finanzio that they are unnecessarily prescriptive;
- The Panel agrees with Mr Barlow that they focus too much on proximity with respect
to existing facilities rather than access. In the early days of development of new areas
it is inevitable that not all desired community services and retail services will be as
proximate as they might as each of these is dependent on catchment triggers;
- The requirement for a significant majority of the criteria to be met implies equal or
near equal weight being allocated to each. The Panel is of the view that in the
Truganina precinct in particular, access to the Tarneit Station should be highly valued
as evidenced by recent development around the Williams Landing railway station cited
by Council;
- The Panel is of the view that ‘safe walking distance’ (apparently conflating the criteria
of safety and access), whilst desirable, may not always be readily achieved in the early
stages of development; and
- The requirement for development to be contiguous with existing development, as
demonstrated by Mr Barlow in an Appendix C to his evidence on behalf of Dacland, is
overly prescriptive and does not reflect development patterns in the recent past.

The Panel offers the following comments on the criteria developed and used by the MPA.

- In their current form they are not tight enough to be useful objective criteria that will
stand up to external scrutiny;
- The purpose and wording of the first criterion is not clear and therefore it needs
rewording;
- The requirement that surrounding land ‘would be developed in five years’ in criterion
4, appears to the Panel to be too long and that three years is a more appropriate time
period to achieve development that is approximately contiguous. This appears to
accord more closely to the pattern of development south of Leakes Road used by Mr
Barlow, not that this development pattern should necessarily be the benchmark;
- It would appear desirable to include a criterion on the connectivity of and accessibility
to the arterial/ freeway network;
- For the Truganina precinct, and the foreshadowed Tarneit North PSP, specific
reference to accessibility to the Tarneit Station would appear desirable.

The question for the Panel is where to from here and how any criteria should be given
appropriate standing?
The Panel is of the view that the MPA criteria are better based in broad policy and principles and are not as prescriptive as the approach proposed by Council. However, in the view of the Panel they do need some reworking along the lines suggested above so that they can be applied in a more objective way than appears to be the case currently. There should also be the opportunity for input by Council, in line with broad context of the comments made by the Panel above. If this approach is followed, the MPA should be in a position to adopt a set of modified criteria that meet a number of the Council’s concerns but which are also broadly accepted by the development industry.

The Panel is acutely aware that it is handing this task back to the MPA and Council, and into an environment where to date has not been as much cooperation as might be hoped. However, the Panel does not believe that it is appropriate for it to recommend criteria as this is best done by the agencies who will implement them.

Having established that criteria to assess development sequencing within a PSP are needed, the next issue is where these criteria are best located and what the appropriate process might be to achieve this. An alternative open to the MPA is to seek to introduce criteria into the PSP as part of a later process, either the first review of the PSPs or indeed as part of the process of consideration of the Tarneit North PSP, that is as part of that PSP, and as a concurrent amendment to the Truganina and Riverdale PSPs. The Panel observes that, given the volume of approved subdivision that is likely to exist after the current two PSPs and the Tarneit North PSP are approved, there would not seem to be great urgency in finalising this issue. Council may, however, see itself as being left in a ‘sequencing policy vacuum’ if these latter courses of action were considered, with no guidance on how to assess new applications if they were submitted.

Whilst it is not a matter for this Panel, the observation is made that the Council’s *Strategy for Managing Growth* is proposed to be referenced in the Planning Scheme through Amendment C192. The Panel can see little value in this, both because if its recommendations are followed, this course would result in inconsistent messages and because the Panel is of the view that any criteria to be used need greater weight than they would have through a reference document.

The Panel sought information from Council on its ability to incur debt to fund infrastructure up front. The Panel acknowledges the information provided and that debt to fund road infrastructure is a more significant issue for Council in Wyndham West. The Panel further acknowledges that the Council is at least partially dependent on road infrastructure funded through works in kind, but this reduces the cash flow from DCP liabilities which in turn can reduce the capacity of Council to plan and fund other infrastructure priorities outside those provided by approved developments. The Panel notes the submissions of a number of developer submitters that approved developments generate DCP revenue or works in kind, but observes that this will not necessarily result in coordinated infrastructure provision. The Panel therefore understands Council’s wish to be able to sequence development in order for it to ensure orderly planning of required infrastructure, particularly road and intersection infrastructure. However, as indicated above, the Panel is of the view that development must be responsive to the market, and that there is an obligation to manage infrastructure provision to accommodate that.
(iv) Conclusions

The Panel concludes as follows:

- Where and when development occurs should be broadly market driven;
- Orderly planning is facilitated by the ability of Council (and the MPA) to appropriately assess development applications within a PSP, including applications for out of sequence development;
- The Council’s Strategy for Managing Growth in Wyndham is not appropriate to use in its current form;
- Criteria to allow managing the sequencing of development are needed and are most appropriately based on the criteria used to assess the s96A applications exhibited with the current Amendments; and
- A mechanism needs to be established to give agreed criteria appropriate statutory weight.

(v) Recommendation

The Panel recommends the following further actions:

The MPA engage with Council to develop criteria that can be used to assess future applications for subdivision, and that these be based on the criteria used by the MPA in assessing the applications made under section 96A of the Planning and Environment Act 1987 and considered as part of the current process.

The Council or the MPA, as relevant, develop and implement an appropriate mechanism to give the agreed assessment criteria statutory weight.

4.2 Are the Section 96A planning permit applications ‘in sequence’?

This section follows the discussion on the appropriate criteria for assessing the sequencing of growth, and addresses the issue of whether each of the proposed Section 96A permit applications can be regarded as appropriately ‘in-sequence’.

Concurrent with the exhibition of Amendments C175, C176 and C177 to the Wyndham Planning Scheme, nine planning permit applications to subdivide land were exhibited. The MPA supports the issue of all nine permits. At its meeting of 22 July 2013, Wyndham Council resolved to oppose all nine permits subject to a satisfactory resolution of the issue of the management of the sequencing of development.

Subsequently, at its meeting of the 25 November 2013, the first day of the Hearing for these Amendments, Council amended its position and resolved to conditionally support five of the applications and conditionally support Application No., WYP6744/13 Dennis Family Corp (Leakes P/L) subject to an overpass of the Regional Rail Link and sports reserve being provided contemporaneously, and on appropriate conditions. Council continued to oppose the ID Land, Dacland and Golden Group permit applications.

The Council has not subsequently further revised its position, however in closing the Council did note that the YourLand proposal has no schools or active open space save for that which will be developed on the Almeg site to its west. For this reason it regards the resolution of
the issue of access to the Almeg site as important to the YourLand proposal proceeding. This issue is addressed in Section 6.13.

(i) Assessment of each s96A Application

The Panel makes the following comments with respect to the sequencing of each of the s96A applications. The location of each of the applications is as shown on Figures 2 and 4.

WYP6214/12 Hellier McFarland (Resimax) (80 Woods Road)

This application is supported by the MPA, and is supported by Council subject to conditions. This proposal abuts existing development to the south of Leakes Road and is supported by the Panel as development which is in sequence.

WYP6216/12 Dennis Family Corporation (Leakes South)

This application is supported by the MPA, and supported by Council subject to conditions. This proposal abuts existing residential development to the south of Leakes Road and as such should be regarded as appropriate sequential development. The Panel supports the proposed development in this respect.

WYP6744/13 Dennis Family Corporation (Leakes North)

This application is supported by the MPA and initially opposed by Council unless the Morris Road overpass over the RRL and the active recreation reserve are provided contemporaneously with appropriate conditions. The staging of this proposal shows development commencing in the south. Whilst this will not abut the Leakes development south of the RRL in its early stages, the proximity and access to the Tarneit Station are such that the Panel is of the view that intervening land in the north of the Leakes South development is likely to be developed in a short period of time and quite likely within the three years which the Panel have proposed is appropriate for infill to occur. For this reason, from a sequencing perspective, the Panel supports the issue of a permit.

WYP6210/12 ID Land

The MPA has recommended the issue of a permit for this proposed development. Council has relied upon the seven criteria in Section 6.3 of its Strategy to oppose the ID Land permit application. This position was reiterated in the Council’s closing submission.

In opening, Mr Montebello submitted that Council opposed the ID Land proposal on two grounds: being that it is too remote from essential community infrastructure and services; and it will impact on prioritisation of arterial road development, especially in relation to Doherty’s Road.

Mr Finanzio’s submission on sequencing was addressed in Section 4.1 of this report and that detail is not repeated here. With respect to the grounds submitted by Council for not supporting the ID Land permit application Mr Finanzio submitted:

No evidence has been advanced by Council for the first ground. In this case the Council supports the Dennis Family’s Leakes Road (North) s.96A Application for a planning permit. In the absence of any evidence at all from Council it is difficult.
to understand how residents at the northern end of the Dennis family subdivision are any less remote from essential community services at the time of the grant of a permit than potential residents on the other side of Dohertys Road...

With respect to the second criterion used by Council in opposing the permit, Mr Finanzio submitted that the priority, form and funding of Dohertys Road were already well settled at the time of Council’s resolution and that the relevant section of Doherty’s Road is a DCP item. Notwithstanding this, the evidence of Mr De Young is that it has the capacity to support some development in its current form.

Mr Turnbull, in his evidence for Council, included the upgrade of Dohertys Road east of Tarneit Road as a priority. The Council has not supported this change to priorities.

With respect to the upgrade of Dohertys Road, Mr Finanzio submitted that:

If it can be said that the grant of a permit for subdivision affects funding and prioritisation of road funding at all, it will be a positive effect in that, regardless of the funding source and responsibility for the works, the grant of a permit will in all likelihood increase the chance that the works on Dohertys Road will actually be carried out.

The Panel agrees with Mr Finanzio that the ID Land development will abut the northern extent of the Leakes North development, but Leakes is not likely to develop those stages for a number of years, leaving the ID Land development non-contiguous for an unknown period. The Panel is influenced in its recommendation that, on sequencing grounds, the issue of a permit should be supported by the proximity and access to Tarneit station. The Panel agrees that the opening of the station in 2016 is very likely to make this particular area very attractive to future residents and that development is likely to proceed relatively more quickly than in some other growth fronts.

The Panel is concerned that road funding priorities are not unduly influenced by the grant of a permit to ID Land, but having said that, if the market dictates that this is desirable location and Leakes North, ID Land and the Dacland developments prove popular, then proposed works on this section of Dohertys Road may need to be brought forward. This could be considered at the first review of the DCP.

**WYP6211/12 Dacland (Moreton East)**

Council has relied on the seven criteria in Section 6.3 of its Strategy to oppose the Dacland permit application. This position was reiterated in the Council’s closing submission.

In his submission, Mr Tweedie concentrated on refuting two of these criteria, the remoteness of the subject site from community services and the effect of the development on the prioritisation of arterial development road development.

Mr Barlow in giving evidence for Dacland placed considerable emphasis on the accessibility of the subject site to the Tarneit Station, which is currently under construction and is due to open in 2016, and other existing community facilities. He stated:

The Moreton East S96A site is positioned less than 2 km by road from Tarneit Station in its initial stages, via Doherty’s and Derrimut Roads, and in the ultimate
build out scenario for this PSP, will be less than 1 km from the station via the proposed Connector road network...

The early development of land within the Moreton East landholding will be critical to the creation of a strong new catchment to support this very significant State Government investment.

Mr Barlow further set out existing community infrastructure which is within a five minute driving travel time of the subject site.

Under cross examination by Mr Montebello, Mr De Young acknowledged that walking along Derrimut Road to access facilities would not be a viable option in the short term because of the lack of footpaths.

With respect to the proposed development not being contiguous with other supported development, Mr Barlow presented a series of annual time lapse aerial photographs showing that in the area between Leakes Road and Sayers Road further to the south. Some non-contiguous subdivision had occurred in the previous decade but that it very quickly became contiguous as other development occurred. It is not clear to what extent this reflects approved staging within individual landholdings.

With respect to the issue of arterial road development and capacity, Mr Tweedie submitted that:

... it remains unclear precisely why Council thinks that approval of Dacland and ID developments will “affect” the “prioritisation of arterial road development” or in what manner it will be affected.

Mr De Young presented evidence on the capacity of the road network to accommodate the proposed development, stating that:

- Up to 350 dwellings can be accommodated within the study area before the existing intersection configuration at Derrimut Road and Dohertys Road requires upgrading to a roundabout;
- VicRoads propose to install a roundabout at Derrimut Road/ Dohertys Road by the end of 2014, which will add significantly to the capacity of this intersection.

In giving traffic evidence for the Council, Mr Turnbull did not comment on this level of detail. Mr Tweedie submitted:

Equally significant is what Mr Turnbull did not say, or more correctly was not asked to even consider. Mr Turnbull could have been asked by the Council to assess the existing road network capacity to identify whether or not he agrees with the other experts that it is capable of supporting additional development.

Under cross examination by Mr Tweedie, Mr Turnbull acknowledged that he had the professional capacity to provide such advice but had not been asked to do so.

The Panel is cognisant of and agrees with the evidence of Mr Barlow, that the site has good access to the soon to open Tarneit station and that facility is highly likely to be a strong catalyst for development in its vicinity.
The Panel is less convinced about access to a range of community facilities. Driving access is not ideal, as walkability is a key driver of precinct planning. However, it is acknowledged that driving access is an unfortunate reality in the early days of many developments. The Panel points out that access to community facilities is one thing, but this does not mean that those facilities have available capacity. There was little discussion at the Hearing on this issue.

That the arterial road network in the vicinity of the subject site has some existing capacity was not seriously challenged at the Hearing. It is further noted that an imminent upgrade to the intersection of Dohertys Road and Derrimut Road will further increase that capacity.

For these reasons the Panel supports the issue of a permit for the Dacland development as being ‘in sequence’.

WYP6212/12 Satterley Property Group

This application is supported by the MPA, and supported by Council subject to conditions. The proposed development directly abuts existing development to the east of Davis Road and for this reason the issue of a permit is supported by the Panel as development which is ‘in-sequence’.

WYP6217/12 Stockland

This application is supported by the MPA, and supported by Council subject to conditions. The proposed development directly abuts existing development to the east of Davis Creek and for this reason the issue of a permit is supported by the Panel as development which is ‘in-sequence’.

WYP6215/12 YourLand Developments

This application is supported by the MPA, and supported by Council subject to conditions. In closing the Council submitted that the proposed development provides no ‘schools or active open space save in its vicinity save for those to be constructed on the Almeg site.’ For this reason, Council regards the resolution of access to the Almeg site as an important aspect of this proposal. This issue is discussed in Section 6.1. The Panel notes that despite R46 which requires connecting roads to be constructed and which the Council cites in closing, it is aware that the development of the Almeg site is some years away because of hydraulic service constraints. The YourLand site directly abuts existing development to the east of Davis Road and for this reason the issue of a permit is supported from the perspective that this development is regarded as in-sequence.

WYP6213/12 Golden Group

The MPA has recommended the issue of a permit for the proposed development. Council has opposed the grant of a permit for the proposed Golden Group development at this stage as it regards the proposal as failing against all seven of the criteria that it has specified. In particular, it notes that There are currently no substantial strategic issues which favour approval of this subdivision...

In closing, Mr Montebello reiterated that Council maintains its position.
Mr Lamont submitted that:

_The development industry is best qualified on economic grounds to determine sequencing. If a site can be economically serviced and accessed and supporting infrastructure provided, then it is deemed in sequence and should be promoted to ensure appropriate competition and housing affordability._

Mr Lamont supports the contention by Mr Finanzio that supporting development will in turn assist with the delivery of key infrastructure through the development contributions that will be generated.

The Golden Group development is some 300m west of the western most extent of the proposed Satterley development and some 700m along the Sayers Road frontage to Davis Road. There appears to be no development in prospect immediately north or south of the Golden Group development. As indicated in the discussion of YourLand, the Panel is aware that there are servicing issues associated with the Almeg land immediately to the north. Given the quantum of land likely to be approved for development as part of this process and associated with the prospective Tarneit North PSP, the Panel can see little prospect of the Almeg land to the north, or the Satterley land west of Davis Creek, being developed in the next few years, and probably not within the five year time frame specified in the MPA criterion 4.

As part of its consideration of this application, the Panel attempted to apply the MPA criteria to this (and other) application(s) in an attempt to better understand how the MPA developed its position on this and other applications. However, the Panel does not have information available to it to undertake this exercise effectively and finds the process at best opaque. The Panel does not understand how the MPA reached the conclusion that it has in supporting the Golden Group application.

The Panel does not feel that the lack of its ability to apply the criteria used by the MPA is sufficient grounds for refusing to support the issue of a permit. Hence the Panel somewhat reluctantly supports the issue of a permit for the proposed development. The Panel is firmly of the view that the future management of growth by Council will be aided by a more transparent assessment of permit applications by the MPA in future as discussed in Section 4.1.

The Panel understands that the upgrade of Sayers Road from Davis Road to the Golden Group stage 1 entry point is a condition that Council wishes to impose on the Golden Group permit. The Panel supports this and notes that it is a condition that the MPA also supports.

The Panel believes that the market may be ‘self-regulatory’ to a degree, and that, in practice, the Golden Group land may not be taken up as quickly as other, better located development. It is also possible that by the time the Golden Group land is ready for release, supporting infrastructure such as access roads, local schools and shopping facilities in adjoining developments will be in place or close to implementation. This, in the view of the Panel, lessens the likely consequences of what otherwise could be seen as out of sequence development.
Conclusion

The Panel concludes that the development proposed in the nine applications for permits for subdivision made under Section 96A of the Planning and Environment Act 1987 can reasonably be regarded as in-sequence and permits should issue.

4.3 Public Open Space

(i) The issues

The key issues for the Panel to determine on public open space are:

- What is the appropriate quantum of open space that should be provided in each PSP?
- How much active open space should be allocated?
- How should regional open space be provided for?
- How should open space be provided for in the DCP?
- How can open space be best designed within the PSPs?

(ii) Background

Council, MPA and other submitters raised a number of detailed issues regarding public open space during the course of the Hearings. These issues included:

- Terminology/definitions of open space;
- The use of Council’s proposed 2ha/1000 population approach to open space planning as opposed to the PSP Guidelines methodology of ‘in residential areas, approximately 10% of the net developable area as total public open space’;
- Whether the Truganina and Riverdale PSPs should provide for more public open space than exhibited;
- Whether or not encumbered land (e.g. drainage easements, electricity easements) could be used for some form of active or passive open space;
- Whether school sites could provide areas of additional active open space;
- Whether the proposed active open space (sports fields) should be redesigned and enlarged to address various design issues, including adequate buffers and inclusion of passive open space;
- Provision of regional open space within the PSP areas;
- The role of the Council owned land at 1160 Sayers Road for public open space; and
- Appropriate mechanisms for funding public open space.

During the first stage of the Hearings (pre-Christmas), evidence and submissions on open space for the Wyndham North precincts were provided, and the submissions by MPA and Wyndham City Council revealed a number of points of agreement and disagreement between the two parties on open space issues, particularly with regard to planning and implementation of active open space and provision of regional open space. In order to assist the Panel on these matters, the Panel directed (in a letter dated 9 December 2013) that the MPA and Council have further discussion on their respective positions, with a view to seeking a common position on:
Appropriate allocation of open space for each of the four precincts in the Wyndham North area;

An appropriate proportion of local passive and active open space for each precinct;

The proposed approach to planning for regional open space, including the proposed location of regional facilities;

The role of the Council owned land at 1160 Sayers Road in the provision of local or regional open space; and

The type and quantum of open space to be funded through the DCP.

The MPA and Council responded to these requests separately in letters to the Panel on the 20 and 21 January 2014 respectively. These matters are discussed below.

(iii) Defining Open Space

Terminology used by the parties was confusing regarding active open space. The definitions used by the MPA differ from those used by Council. Table 2 presents the Panel’s understanding of the definitions used by the MPA and Wyndham Council.
Table 2  Open Space definitions

<table>
<thead>
<tr>
<th>Category</th>
<th>Wyndham City Council Definitions</th>
<th>MPA Definitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passive open space</td>
<td>Local parks that cater for a broad range of users and are within 400m safe walking distance of at least 95% of all dwellings</td>
<td>Local parks that cater for a broad range of users and are within 400m safe walking distance of at least 95% of all dwellings</td>
</tr>
</tbody>
</table>
| Local active open space   | • Local active open space reserves/sports fields established on approximately 6-12 hectares of land  
  • Caters for top 15 participation sports                                                   | • Local active open space reserves/sports fields established on approximately 8 hectares of land  
  • Caters for top 5 sports (AFL, cricket, soccer, netball, tennis)                           
  • Within 1km of 95% of all dwellings (PSP Guidelines S1)                                    |
| District active open space| Reserves that can vary considerably in size from 12 to 70 hectares or more.                      | Reserves that can vary considerably in size from 12 to 70 hectares or more.       |
| Regional open space       | • Included in 2ha/1000 population method and DCP funded                                            | • Not included in the 10% PSP Guidelines public open space provision.            
  • Reserves that can vary from 12-70 ha or more and covers facilities that capture a wider catchment | • Reserves that can vary from 12-70 ha or more and covers facilities that capture a wider catchment but are typically between 20-40 hectares in size.  
  • Generally provided at a rate of 0.5 hectares per 1000 people (Growth Corridor Plan 3.6.3).  
  • Not funded in the DCP; normally delivered by Councils.                                      
  • MPA includes higher order active open space as regional active open space.                |
| Higher order active open space | • Those sports that are not within the top 15 but still need to be catered for.                       | Included in regional active open space provision.                                 |
| Active Indoor Recreation Facilities |                                                                                                     | $ha/60,000 residents                                                              |

Conclusion

There is not necessarily a right or wrong way to interpret open space definitions, but for simplicity the Panel has adopted the definitions of the PSP Guidelines used by the MPA and will refer to public open space in the same way.
(iv) Open Space Policy Context

Evidence and Submissions

A key issue of contention is the use of the relevant guidelines or standards for determining adequate open space provision requirements within the PSP areas.

The approach of the MPA (who expressed to the Panel that they represent a ‘whole of Government’ approach) is for the PSP to provide for, ‘in residential areas, approximately 10% of net developable area’ as per the PSP Guidelines Element 5 (S2). This is different to the Wyndham Council approach, which has proposed a provision of 2ha/1000 population for active open space provision.

Ms Patterson, for the MPA, submitted that the context for open space planning and other matters set out in the PSP Guidelines is set by the Growth Corridor Plans. She submitted that Clause 3.6.3 of part 1 of the Growth Corridor Plans identifies that ‘Local active and passive open space is provided within local neighbourhoods via Precinct Structure Plans and Development Contributions Plans’, and that higher order active open space (‘typically ... between 20-40 hectares in size; generally provided at a rate of 0.5 hectares per 1000’ people) is normally delivered by Councils. She submitted that the PSP Guidelines, including the PSP Guidelines on open space provision, were developed with extensive consultation with the relevant local Councils and State Government agencies.

Ms Patterson explained that the proposed allocated percentage of active open space had been increased to 7% within the Riverdale and Truganina precincts and the percentage of passive open space had been reduced to 3% in agreement with Council who desired more active open space. The MPA provided clarification that the increase to 7% also allowed an extra 1% allocation to support district or regional sports.

Mr Townshend, representing Leakes Pty Ltd, described the relevant policies to the Panel in regard to open space planning for growth areas. He submitted that Clause 11.02-2 of the Wyndham Planning Scheme sets out the objectives and strategies for planning for urban growth. The policy guidelines provide that planning must consider, as relevant, the PSP Guidelines and the Ministerial Direction No. 12 – Urban Growth Areas. Clause 11.02-3 addresses structure planning and requires that Precinct Structure Plans are consistent with the PSP Guidelines. Clause 11.03-1 sets out the objectives and strategies for open space planning and also requires consideration, to the extent relevant, of the PSP Guidelines.

Mr Montebello, representing Council, advocated that the Council’s approach to open space planning is through a needs based assessment and uses a population ratio of 2ha/1000 population rather than a percentage of land area. Council’s submission emphasises that the SPPF contains significant policy statements that the provision of open space (all forms) must respond to the ‘needs’ of the community. Mr Montebello also referred the Panel to the Growth Corridor Plan for the West, particularly Principle 3.6 – Create Integrated Open Space Networks.

The Council’s position is provided in the minutes of the Council meetings of 22 July 2013 (Riverdale) and 26 August 2013 (Truganina), where Council resolved to oppose the Amendments and the concurrent section 96A planning applications unless the following issues can be resolved to Council’s satisfaction:
Increase Active Open Space provision within the PSP to 2ha per 1,000 people, reflecting the adopted Council policy, Sport and Recreation Victoria’s policy and the Exercise Recreation and Sport Survey’s recommended Standard (ERASS).

The resolution in respect of C176 (Riverdale) also sought to:

Relocate the Indoor Open Space facility to a site agreeable to Council.

The Wyndham City Council’s current open space strategy, which is referenced in Clause 22.07-5 of the Wyndham Planning Scheme, is the Wyndham Open Space Strategy 2004. Council relies upon the Open Space Strategy and the Wyndham Social Infrastructure Planning 2040 Framework (WSIP 2040) in advocating its position of 2ha of open space per 1000 population. Council submitted that these documents provide a ‘needs-based’ analysis tool that determines appropriate ratios between population levels and different sporting facilities (e.g. AFL oval be provided for every 4,000 people) as well as it noting the 2ha/1000 population.

Mr Montebello stressed the use of a needs based assessment and detailed previous strategies and reports that had done just this, including the Planning for Community Infrastructure in Growth Areas (ASR 2008) document. Mr Montebello called evidence from Mr Bunting who provided an overview of approaches to land use planning for active open space and the need to quantify how much active open space is required in each particular community. Mr Bunting examined the provision standard of 6% of active open space in the PSP Guidelines and the difficulties that this causes when considering the realities of emerging residential densities.

Ms Patterson informed the Panel that the Council recently sought to include a revision to Clause 52.01 requiring active open space provision at 2ha/1000 population as part of its MSS Review Amendment (Wyndham C192). However, in a letter from the DTPLI, the Department stated:

The Schedule as exhibited pre-empts precinct structure planning work which is yet to be done, may be inconsistent with precinct structure plan preparation currently underway, and is inconsistent with the standards outlined in the Precinct Structure Planning Guidelines.

The schedule is incorrectly used to nominate amounts in ha/1000 people. Clause 52.01 allows for amounts to be specified as a percentage (of land or site value or combination)......

It is unlikely that the proposed changes to the schedule would be supported if submitted for approval in this form.

The MPA suggested that other guidance or evidence provided by specialist advocates (such as the Council expert witnesses), does not necessarily take into account the balancing of the broad range of matters associated with planning for new communities in growth areas.

Ms Patterson put forward that the PSP Guidelines should be given weight and that they have taken into account, and balanced, many complementary and competing issues associated with planning for new communities, such as affordability, housing diversity and commercial viability for developers.
Ms Patterson submitted that Council’s open space strategies had not been implemented through the planning scheme, had not been through a panel process and that the Panel should rely upon the PSP Guidelines as the tested guidelines for open space planning. It is noted by the Panel that the *Wyndham Open Space Strategy 2004* is referenced in the Wyndham Planning Scheme at Clause 22.07-5.

Ms Patterson also stressed to the Panel that the Council did not request its *2040 Social Infrastructure Planning Framework* to be incorporated into the scheme as part of Amendment C192, which it could have.

Mr Townshend for Leakes Pty Ltd, Ms Brennan for YourLand and Mr Gobbo for Stockland and Satterley agreed with the MPA’s position. In Leakes submission on open space, Mr Townshend reinforced this position by stating:

*The Panel’s deliberations are to be made within the framework set by the planning scheme and the relevant statements of State planning policy ….. The Panel’s role is to assess whether the standards (and key principles and so on) have been appropriately applied in the creation of the PSPs and the DCP.*

*The framework is made up of the relevant provisions with the planning scheme, principally within the State Planning Policy Framework, and the relevant statements of State planning policy. It is these provisions and statements which are to guide the Panel’s deliberations.*

In contrast, Mr Montebello, for Council, submitted that the PSPs and the Wyndham North DCP have not been informed by a needs based assessment and that the SPPF clearly requires such an assessment. Council’s submission stated ‘They [PSPs] rely on the (we say incorrect) application of the open space standard in the PSP Guidelines without the added analysis of the needs of the population and without having regard to other parts of the PSP Guidelines. Council’s submission also points to a number of Clause’s in the SPPF that refer to the assessment of a community’s needs (Clause 11; Clause 11.02-1; Clause 11.02-3; Clause 11.03; Clause 11.03-2).

Mr Bunting, in his evidence, advocated for a Demand Based Planning Model (DBPM) and relied on a paper titled *Demand Based Planning for Active Open Space 2009* that he authored for Sport and Recreation Victoria (SRV). He indicated that although this paper was for internal purposes, the paper had informed the development of the first iteration of the PSP Guidelines in 2009.

Mr Montebello submitted in the Council’s closing submission that ‘it is now clear that the standard of 2 hectares per 1000 people is a widely recognised standard even though it is not written as law’.

Mr Townshend submitted that the Council has put forward various publications with different active open space ratios to support their position of 2ha/1000 per population but these publications have differing analyses of local, district, regional or higher order demand provision. Mr Townshend continued to submit that these publications have a different purpose and ‘do not have regard to the particular requirements of growth area planning or attempt to weigh competing planning considerations to achieve a balanced outcome’. He submitted that Leakes also supported the MPA’s position and the use of the PSP Guidelines.
Ms Brennan, representing YourLand, called evidence from Mr Panozzo of ASR (who was also the open space/community infrastructure planning expert witness for Stockland and Satterley). Mr Panozzo said in his witness statement:

‘Whilst I do not oppose in principle Council’s desire to obtain this level of provision [i.e. 2ha/1000 people] I do believe that the 1.5ha of active open space per 1000 people target is a fair and reasonable contribution to be provided by developers in the context of Melbourne’s growth areas’.

Mr Panozzo stated:

‘open space planning represents one of the more complex and challenging tasks in any community infrastructure assessment.....

It has only been in recent times that the traditional ‘gulf’ that existed between the statutory requirements for open space in Melbourne’s growth areas and the open space standards expressed through ‘industry guidelines’ and local municipal strategies (e.g. open space and recreation strategies) appears to be narrowing.

This, in part, has been assisted by the work of the MPA and the research work of Sport and Recreation Victoria.....

When questioned by Mr Montebello in cross examination, Mr Panozzo confirmed that the SRV work referred to above is the ‘internal working paper’ referred to by the MPA. Mr Montebello also questioned Mr Panozzo’s assessment of the open space provisions and suggested that he had presented a differing opinion of what open space was required in other PSP processes. Mr Montebello took the Panel to Mr Panozzo’s expert witness report for the Clyde North PSP Panel to demonstrate this point.

Council stated that ‘the Clyde North evidence of Mr Panozzo makes it clear now that, contrary to what was put to the Wyndham West Panel, SRV has in fact strongly advocated for this provision standard noting that MPA made a submission to the contrary to the Wyndham West Panel’.

In his closing submission, Mr Montebello emphasised that Council’s position of 2ha/1000 population is consistent with the PSP Guidelines and that while different numbers are set out in various documents, ‘the consistent thread is that more land is required’ and ‘even Ms Brennan SC referred to a range of 8.5% to 11.5% being consistent with the PSP Guidelines of ‘approximately 10%’.

Discussion

The Panel has reviewed what the PSP Guidelines say, and considered the relevant standards that ought to apply. The Panel agrees that the adequate provision of open space (active and passive) is a key component in the success of growth area planning.

The PSP Guidelines (Part 2) Element 5 standard S2, prepared to assist the MPA and growth area Councils in preparing PSPs, state that ‘in residential areas, approximately 10% of net developable area’ is to be allocated in a PSP for open space (generally with the ratio of 6% for active open space and 4% for passive open space (parks), although these proportions can
change to reflect local circumstances, (as is the case for Wyndham North where a ratio of 7% active and 3% passive has been agreed between the MPA and Council).

The S2 standard also states that in addition to the approximate 10%, ‘residential precincts should contain active indoor recreation facilities that are co-located and/or share space with schools and integrated community facilities. This should result in an active indoor sports provision of approximately five hectares per 60,000 residents’.

The Panel agrees with the Council that an assessment of a community’s need would be beneficial in all aspects of planning, however, it was not convinced by the Council’s submission that planning for outdoor sports with participation rates of 0.7% (outdoor hockey), 0.2% (baseball) or 0.1% (rugby union) should necessarily be included as part of the PSP active open space provision where the top five outdoor sports are provided for (i.e. tennis (6.8%), Australian rules football (5.4%), netball (3.8%), cricket (3.5%) and soccer (3.5%).

This does not mean that the Panel believes that these other sports should not be provided for, but the Panel sees this exercise as a matter for the Council and not necessarily the PSP or the DCP.

There is clearly contention between the MPA and Council whether the PSP Guidelines land area approach of ‘in residential areas, approximately 10% of NDA’ versus Council’s advocated approach of ‘2ha/1000 population’ is the preferred approach to open space planning in growth areas.

The Panel notes that there may be some merit in a different approach to open space provision in the future, however, the Panel is not convinced that this approach can be supported at this time because the PSP Guidelines and the Growth Corridor Plan provide a consistent approach and tested strategic basis for planning of open space in Growth areas. For these reasons, the PSP Guidelines and the Growth Corridor Plan should be given greater weight than the standards and strategies put forward by Council.

The Panel agrees with the MPA submission that the PSP Guidelines and the Growth Corridor Plan represent a balanced and considered approach to open space planning, and also provide a response to the broader objective that open space provision should be cost effective and balanced with other community requirements and needs.

While the Panel acknowledges that there are potential benefits in assessing the open space needs of a community on a precinct by precinct basis, these are outweighed by the benefits of applying consistent ‘standards’ to growth area planning, such as those in the PSP Guidelines. Applying standards provides certainty and an informed basis on which PSPs can be developed, while also having a degree of flexibility to respond to local circumstances, which is the case for Truganina and Riverdale, where 7% (instead of 6%) of active open space of NDA (residential) will be provided.

Notwithstanding this conclusion, the Panel believes that Council’s submissions and evidence have raised legitimate concerns about the adequacy of calculating the provision of open space based on a percentage of net developable area rather than projected population and its needs. The Panel recommends that the MPA review this element of the PSP Guidelines,
particularly in the context of the draft Metropolitan Planning Strategy and increasing dwelling densities in growth areas.

**Conclusions**

The Panel concludes that:

- The PSP Guidelines and the Growth Corridor Plan represent a balanced and considered approach to open space planning;
- In the circumstances of the Riverdale and Truganina PSPs, the increase to 7% instead of 6% of NDA (in residential areas) for active open space is accepted.
- The Council proposal to require active open space provision of 2ha/1000 population is not supported.
- The MPA should review the open space standard S2 in the Precinct Structure Planning Guidelines to assess whether a revised standard should be introduced in response to increasing dwelling densities in growth areas. The review should assess whether a ‘population’ or ‘developable area’ based approach would be more suitable in the future.

**(v) Provision of Open Space**

**Evidence and submissions**

In their opening submission, the MPA emphasised that the Riverdale, Truganina and the Wyndham North DCP *will provide a comprehensive, high standard and integrated open space network*, that:

- Includes a wide range of sports-field (active) and local (passive) parks located within walkable/cycling neighbourhood catchments;
- builds on existing and proposed waterways and wetlands as well as conservation areas; and
- provides the future community with a diverse mix of easily accessible recreation opportunities.

- The MPA has calculated that for the Truganina PSP, 20.7% (or 225.7ha) of the total 1088ha precinct area (including employment land) is set aside for open space. For the Riverdale PSP, 25.4% of the total 1107ha precinct area comprises open space. For the whole Wyndham North DCP area (i.e. the four PSPs), open space provision averages at 19.8% (854.03ha) of the total 4,318ha sub-corridor area.

- The total of 225.7ha of open space provided for Truganina, including passive open space and that provided on encumbered land, is equivalent to 38.4% of the NDA-R. For Riverdale, this is equivalent to 37.9% of the NDA-R. For the whole of the Wyndham North DCP area, this equates to 32.1% of the total NDA-R being provided as open space for the sub-corridor area.

For active open space, the Riverdale PSP area provides less than 7% NDA-R, however, the MPA say this is offset by provision above 7% NDA-R in Truganina and the other Wyndham North PSPs. The MPA submits that the amount of active open space being delivered through the Riverdale and Truganina PSPs, and funded by the Wyndham North DCP, is a significant
increase to the provision achieved through previous planning undertaken by Wyndham Council. Mr Panozzo agreed that these PSPs provide a good level of open space provision; however Ms Hawes, open space planner for Council, did not agree.

Council’s submission to the Panel is that to provide local and regional active open space in a consolidated form for the population envisaged, active open space areas should be increased in size. Ms Hawes stated that part of the additional provision of the level 3/regional land, which she said would be used for local sports as well, should be provided (and funded by the DCP) by adding land onto existing local active open space reserves.

Based on the updated land budget provided to Panel on 4 December 2013 by the MPA, the Wyndham North Sub-Corridor will deliver 7% of NDA-R as local active open space. This equates to 184.79Ha for an anticipated population of 118,352, delivering a ratio of 1.56Ha of active open space per 1000 people. The MPA submitted that Council’s request for the provision of 2ha/1000 population would require an additional 47.5Ha of active open space to be provided across the Wyndham North sub-corridor.

In support of Council’s position for additional provision of active open space requirements Mr Montebello referred to:

- State policies in the Wyndham Planning Scheme that support an adequate provision of open space;
- the PSP Guidelines, including principles relating to the function, design and size of open space areas;
- local policy in the Wyndham Planning Scheme that requires, amongst other things, that ‘Open space provision be based on the objectives of Clause 56’; and
- the ‘vision’ statements in the PSPs that support active and healthy communities.

Mr Montebello noted that the draft Metropolitan Planning Strategy includes the proposed initiative3:

Amend the Precinct Structure Planning Guidelines to require the delivery of an average of 18 dwellings per hectare in new growth areas. This can be achieved by providing a variety of lot sizes and housing types across a precinct, including lower density, standard lots and higher density housing in areas of high amenity.

He submitted that increased residential densities necessitated an increased provision of active open space. The MPA submitted that higher densities did not necessarily lead to the need for more open space provision.

Mr Montebello also relied on the evidence of Mr Bunting, Ms Binnie and Ms Hawes. Mr Montebello stated that the outcome sought by Council is that open space provision should be increased as proposed in Ms Hawes evidence, and the balance of active open space up to 2ha/1000 should be provided by DCP funding, with flexibility as to where Council may provide that land within the DCP area. The other parties to the Hearing who submitted on this issue disagreed with Council’s position.

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3 Plan Melbourne Initiative 2.1.3
**Higher order active open space**

The MPA submitted that the Wyndham North sub-corridor is projected to deliver around 1.58ha per 1,000 people in local active (sport-field) open space. The higher order active open space provision would equate to around 0.42ha per 1,000. The 2040 Framework states (p34) that a 1.5ha per 1,000 population active open space provision is typically expected by PSPs, thus supporting the contention that provision above this is not the role of PSPs/DCPs. The MPA advocates that this is important to understand as these types of higher order facilities (potentially constituting around 0.5ha per 1000 people) are not local scale basic infrastructure that should be delivered as a matter of course via PSP developer works or DCPs.

Council’s view is that this higher order active open space should be included in the DCP so that land can be purchased opportunistically.

**Discussion and Conclusions**

The Panel does not accept Council’s position, or that of its experts, that the 2ha/1000 approach is now widely accepted. The balance of evidence before the Panel is that this is not the case. The Panel acknowledges that there is some variation between PSPs in regard to provision of open space. For example, in the Lockerbie PSP 8.33% of NDA was provided for open space, and in the Cranbourne West PSP 12.41% of open space was provided (although of this 12.41%, 6.84% was allocated to active open space).

The Panel does agree that a total of 2ha/1000 population may be an appropriate figure for overall active open space if it includes regional open space. There seemed to be agreement that approximately 1.5ha/1000 population roughly equated to 6 to 7% of NDA-R, and a further 0.5ha/1000 population was approximately what is required for regional open space, but this component should not be included in the DCP. Council did not accept this, and maintained that 2.0ha/1000 population should be provided for local and district active open space, and be provided for within the DCP. The Panel does not think this is reasonable.

The Panel agrees with the MPA and developer submitters that the proposed provision of active open space is consistent with the PSP Guidelines and is generally satisfied that the Truganina and Riverdale PSPs provide an adequate quantum of open space.

The Panel accepts that for the Truganina and Riverdale PSPs, there is adequate open space provision and as noted in earlier discussion, the increase to 7% instead of 6% of NDA for active open space is accepted.

**(vi) The Design of the Active Open Space Areas**

**Evidence and Submissions**

The PSP’s provide for four active open space land parcels in each of the Riverdale and Truganina PSPs (8 in total). These land parcels range from 10.42ha to 13.09ha in size, with one smaller reserve at 3.82ha. MPA suggest that these active open space reserves are at the larger end of the spectrum in terms of local sports-field provision (with the exception of the smaller reserve in Riverdale PSP). Each of the reserves also provide for cricket nets, car parking, pavilions, paths and landscaping. The active open space reserves in the PSPs have
been designed using a 20m buffer around the AFL/cricket ovals, which the MPA had established with Council through previous discussion during the PSP process.

SS5 of Element 5 in the PSP Guidelines Part 2 sets out directions as to the configuration of active open space reserves. It states that active open space should be:

- of an appropriate size, i.e. big enough to accommodate two football/cricket ovals but small enough to enable regular spacing of reserves across the precinct, giving a configuration of generally at least 8 hectares;
- appropriate for its intended open space use in terms of quality and orientation;
- located on flat land;
- located with access to, or making provision for a recycled or other sustainable water supply;
- designed to achieve sharing of space between sports, and;
- linked to pedestrian and cycle paths.

Mr Montebello submitted that the active open space areas were not ‘fit for purpose’ and need to be redesigned, and that the additional land identified by Ms Hawes (expert witness for Council) is required to provide for the top 15 popular outdoor sports. He relied on the evidence of Ms Hawes who provided a ‘desktop’ analysis of the eight active open space areas against various factors including size, shape, topography, aspect/orientation, dimensions, adaptability, co-location, environment, infrastructure and heritage, and Council’s insurance provider’s buffer requirements.

The MPA’s submission includes data on participation rates for the top 15 most popular outdoor sports and suggests that these top 15 outdoor sports include some very low participation rates (lawn bowls (1.8%), hockey (0.7%), rugby league (0.3%)) compared to the most popular recreational activities (e.g. walking 36.6%).

Ms Hawes referred to the buffer distances recommended within the MAV Insurance (Liability Mutual Insurance) Best Practice Manual - Risks in Sporting Reserves 2011. Ms Hawes presented a diagram from this manual that provides dimensions for buffer zones around AFL/cricket ovals to assess each of the active space reserves in the PSPs and makes recommendations as to how the reserves should be adjusted to comply with these buffer zones, as well as the other factors mentioned above.

The MAV Insurance document is not a public document, and was not made available to the Panel, however Ms Hawes said that if the Panel wanted to view a copy they could do so at MAV Insurance office. MPA’s view on the matter is that the Council has ‘uncritically adopted the diagram to support its current desire for more active open space land to be provided by the Wyndham North PSPs’.

On the basis of her analysis, Ms Hawes recommended a number of revisions, with the key changes summarised below:

**A90-01 (Truganina)**
- Increase the area from 11ha to 13.1 (approximately 2 hectares).
- Move the active open space north to property # 120772

**A90-02 (Truganina)**
• Increase the area from 11.87ha to 17 hectares (approximately 5 hectares).
• Provides an additional AFL/Cricket oval.
• Increase/provide 1ha passive open space in the south-east corner adjacent to RRL.

A90-03 (Truganina)
• No change in area - 12.11ha
• Slight design changes

A90-04 (Truganina)
• Increase the area from 10.42ha to 11.6ha (approximately 1.2 hectares).
• Various design changes, including relocating community facility to another location.
• Increase/provide 1ha passive open space

A91-01 (Riverdale)
• Increase the area from 11.9ha to 12.5ha
• Increase/provide passive 1.8ha open space
• Design changes – locate the community centre north of the reserve
• Realignment of road

A91-02 (Riverdale)
• Increase the area from 13.09ha to 15.2ha (approximately 2 hectares).
• Increase/provide 1ha passive open space

A91-03 (Riverdale)
• Increase the area from 11.78ha to 12.5ha (0.72 hectares).
• Increase/load 0.7ha passive open space

A91-04 (Riverdale)
• 3.82ha - No change to reserve.

Ms Hawes evidence is that the rearrangement of facilities and provision of additional space is necessary to enable the top 15 sports to be provided across the Wyndham North DCP area.

Ms Patterson, for the MPA, objected to the increase in reserve sizes put forward by Ms Hawes and Ms Patterson notes that this substantial increase has ‘only resulted in the additional provision of a single oval’. Some of the developer submitters also objected to the increase in active open space area suggested by Ms Hawes.

Discussion In assessing the eight active open space reserves, Ms Hawes used a number of criteria to determine what the Council believe to be the required sporting provision/needs for these active open space areas in the PSPs, and in most cases recommended an increase in area. Ms Hawes analysis looks at the top 15 participation outdoor sports, as opposed to the MPA’s top 5. The Panel provides the following comments on Ms Hawes proposed changes:
• A90-01 (Truganina) – Panel does not agree with moving this active open space reserve into an area that Ms Patterson and Ms Overmars suggest has heritage values and is subject to a broader heritage assessment (e.g. bluestone wells, dry stone walls).
- A90-01 (Truganina) – This reserve is almost 12ha and Panel agrees with the MPA that is large enough to accommodate required sporting facilities.

- A90-03 (Truganina) – This reserve is just over 12ha and Panel agrees with the MPA that is large enough to accommodate required sporting facilities. However, the Panel see merit in the Council and MPA negotiating a better design outcome for this sporting reserve that ensures that the reserve is not land-locked.

- A90-04 (Truganina) – The Panel accepts Mesh’s revised active open space area and notes the MPA is in agreement. The reserve retains the same land area.

- A91-01 (Riverdale) – The Panel suggests the MPA and Council review the design and potential for realignment of the road with the objective of achieving a better design outcome for sporting facilities. Use of POS potential on encumbered land should be examined.

- A91-02 (Riverdale) – The Panel does not agree with Ms Hawes proposed changes that show car parking in a waterway. There may be opportunities to enhance POS in this location but not car parking.

- A91-03 (Riverdale) – no change proposed to exhibited active open space.

- A91-04 (Riverdale) – no change proposed to exhibited active open space.

The Panel does not agree with Ms Hawes analysis for the reasons noted above, including encroaching onto heritage and waterway areas. The Panel also agrees with the MPA that providing active open space for the top five outdoor participation sports is adequate.

The Panel is also satisfied that the siting, arrangement and layout of the eight active open space reserves are generally appropriate while noting that there is scope for refinement as part of the detailed design of the areas, including the use of encumbered land.

The *Strategy for Managing Growth in Wyndham* acknowledges that there are challenges in providing land and facilities for less common sports, but it also notes that ‘efficient and clever use of good land in the correct shape and dimensions can meet community needs’, p57.

The Panel applauds the Council and the MPA for meeting with each other and the service authorities with the objective of determining if and where encumbered land (particularly water and electricity easements) could be used for open space.

The outcome is that, according to Ms Hawes, approximately 3ha of encumbered land may be used for a number of sporting purposes and/or passive open space. The Panel understands that discussions are not finalised on this matter, and encourages the MPA and Council to keep working on this so that some of the ‘short fall’ in open space as Council suggests may be overcome.

The Panel notes that the MPA is committed to assisting the Council in discussion with DEECD and schools to improve the ability to share facilities and encourages this ongoing consultation between the agencies.

In regards to sharing of school facilities, the Panel appreciates the issues facing Council as Ms Binnie presented in her evidence and that co-locating with schools is not always a practical option. The Panel encourages the MPA and Council to co-locate active open space where
possible with larger secondary schools and encourage the MPA to assist Council with this. This includes exploring arrangements where schools may provide the land but the embellishment is from non-school sources and joint school/community use results.

Conclusions

The Panel concludes that:

- Designing the active open space reserves for the top 5 most popular outdoor sports (not the top 15) is the most appropriate when undertaking planning for local active open space within a PSP.
- For reasons outlined in the above discussion, there should be no increase (with the exception of using encumbered land) in the active open space reserve areas across the two PSPs; and
- The MPA and Council should work together to achieve the best design outcomes for these sporting reserves, including the use of encumbered land.

(vii) Use of Encumbered land

Evidence and Submissions

Following from the Panel Direction’s of 9th December 2013, the MPA and Council conducted a workshop on 19th December 2013 to work through the items in the Directions letter. The MPA provided a response to Panel on the matters on the 20th January and in regard to encumbered land, stated that encumbered / publicly owned land deemed suitable within the Wyndham North sub-corridor for provision of active recreation facilities was:

- electricity transmission easements that run through both the Oakbank and Tarneit North precincts.....
- Schools within each of the four PSPs that make up the Wyndham North sub-corridor.

The MPA provided information from SP Ausnet’s ‘A Guide to Living with Transmission Line Easements’ that lists uses which may occur within an easement that contain overhead high voltage powerlines. The list includes ground level sporting activities such as tennis, football, cricket, golf, basketball and netball, subject to special requirements regarding the design of fences, goals and lights. Council also confirmed that sports such as lawn bowls, tennis, netball, BMX (track portion only), and soccer/lacrosse (so long as it can be partially located on an adjacent unencumbered reserve) could be accommodated within easements. The MPA is of the view that tennis and netball facilities could readily be located within electricity easements and the adjacent sporting reserve.

Council also had a meeting with Melbourne Water on the 20th January 2014 to discuss the utilisation of land over the Melbourne-Geelong main pipeline for sporting infrastructure.

Ms Hawes suggested that the use of encumbered land is difficult as it is often associated with waterways, drainage areas or conservation and heritage sites, and may not be compatible with the buffers required for active open space reserves. Ms Hawes evidence included a number of examples where this had occurred.

Council also relied on the evidence of Ms Binnie, Council’s expert witness on open space planning. In regard to the issue of co-locating active open space reserves with school sites,
Ms Binnie’s evidence indicates that Council has been working hard to implement a range of initiatives to increase its existing open space deficiencies. These include:

- working with local schools to develop shared use agreements for grounds;
- investigation and implementation of synthetic surfaces;
- efficient design of sports field complexes within constrained circumstances; and
- a combination of pro-active and opportunistic land purchases and land swaps.

Ms Binnie’s evidence provided detail on why co-locating with schools has not been an optimal outcome in Wyndham and as documented, she suggests:

- One of the historical assumptions relating to school sites is that they will provide some level of open space which will supplement community open space. However, experience shows that school sites in developing areas, with few exceptions, are generally not contributing usable active open space that can be used by the community, certainly not in the short term, and schools are, in fact, heavy consumers of Council provided active open space.

- Ms Binnie stated that there are some schools requesting up to 30 hours use per week of Council grounds because school grounds are in such poor condition.

- Ms Binnie also raised the issue of the school sites not meeting the Council’s insurer requirements and states:
  
  Council’s insurer and most peak sporting bodies require active open space facilities to be constructed to a safe standard for community play. The standard of development of open space on school sites does not meet these standards and if Council was to use these sites for community recreation, it would have to fully fund the construction or reconstruction costs, in addition to the costs of ongoing maintenance to ensure the grounds meet a satisfactory standard, (up).

Council provided correspondence to the Panel from the DEECD that states, in regard to co-locating and sharing of government school active open space facilities:

...the Department is committed to providing students with the very best learning environments, through high-quality infrastructure and state-of-the-art facilities. Partnerships between government schools and their communities to share these facilities provides added benefits for students, as well as for members of the broader community.

These facilities include the use of ovals and indoor sport stadiums. The Department’s sporting facilities are built and maintained in accordance with evidence-based facilities standards linked to student enrolment numbers at differing stages of learning. These are not however typically built to sporting competition standards/dimensions.

The Department does support the construction of larger facilities to accommodate competition standards and other community uses where opportunities are identified to partner with local councils and community organisations. This is subject to suitable arrangement being agreed to share the cost for constructing and maintaining these larger facilities with council.....
In general secondary schools lend themselves more favourably to delivering competition standard outdoor sporting facilities, given the standard school site size of 8.4ha in growth areas...

The MPA stated that only three secondary schools are planned within Wyndham North which will provide the potential to deliver 3 ovals/fields at best.

**Co-location of Passive Open Space within active/sports reserves.**

Council advocate that additional areas of passive open space should be provided within the active open space reserves to allow for such uses to be co-located. The MPA suggest that providing dedicated passive park components within active recreation reserves is ‘entirely unnecessary and counter to the concept of efficient and integrated design’. The MPA have allocated areas within the PSPs for passive open space and note that active open space areas will provide incidental open space within the reserves between and around the playing fields (e.g. buffers), as well as the recreational facilities such as playgrounds where reserves are co-located with schools.

**Conclusions**

The Panel concludes that:

- The use of encumbered land for open space should continue to be assessed by the MPA;
- There are genuine limitations to co-location of active open space facilities with schools;
- Some encumbered land could be used for active open space;
- Additional passive open space within the exhibited active open space reserves is not required.

**(viii) Regional Open Space**

**Evidence and Submissions**

Land for regional open space was not identified in either the Riverdale or Truganina PSPs. MPA and Council are in agreement that regional open space is required, but there is no agreement as to where it should be located. The MPA suggested that locations for regional open space were originally provided and presented in the draft Growth Corridor Plans and then Council requested they be deleted. Land for regional open space has subsequently not been shown in the Truganina or Riverdale PSPs. In its closing submission, the MPA suggested that Council did not nominate regional open space facilities because of:

- *The increase in provision of active open space to from 6% to 7% of NDA yielding an additional 26.4 hectares of land; and*
- *Anticipating the delivery of additional facilities on Council’s land at 1160 Sayers Road, with expectations of land provision ranging from 20 hectares to 70 hectares.*

The MPA also stated ‘Council’s refusal to admit that it has the primary role in delivering regional active open space it desires, is an abrogation of its responsibility’. Mr Gobbo, for Stockland and Satterley, agreed with Ms Patterson on this matter.
Ms Patterson submitted that it was understood by the MPA that Council would be providing somewhere between 25 and 50 hectares of land for sporting reserves and facilities on its 113ha property at 1160 Sayers Road, Tarneit. This understanding had occurred during the 2-3 years of PSP planning between the MPA and Council for the Wyndham North areas.

Mr Panozzo concurred with the MPA’s view on this matter and states in his expert witness report that whilst engaged by Council in preparing the Wyndham Social Infrastructure Planning (WSIP) 2040: 2012 Update,

> My recollection of verbal discussions with various Council officers indicated a strong interest in providing for a large, and more specifically, what I would classify as a higher order active recreation reserve within this parcel of land. While no definitive figure as to the size of the reserve was identified, I recall suggestions from various Council officers that ranged from 30 to 70 hectares.

During the course of the Hearings, some debate occurred about whether the Council owned land should be identified as having land available for regional open space and submitters (particularly the MPA, Leakes P/L, Peet, YourLand, Stockland and Satterly) referred to the report to the Council meeting of 30 August 2010 which suggests the Council owned land at 1160 Sayers Road was purchased for recreational and community purposes. Of particular relevance to the debate, the Council report states:

> This major land holding is strategically situated in the optimum position for future growth and for the provision of both local and regional recreational and community facilities....This location is most suitable for major recreation and/or community infrastructure.

> The large parcel of land will greatly assist in meeting the shortfall in open space in the north/west area and provide opportunities for council to develop both local and regional facilities.

> ...the value of the land will increase to near-full urban value which allows Council, should it have excess land holding after meeting recreational and community needs, to sell any surplus land which could assist in funding future infrastructure.

Mr Chiappi (representing Leakes) and Ms Forsyth (representing PEET) questioned Ms Binnie about the fact that Council had purchased the land at 1160 Sayers Road for regional open space and the land area was more than adequate to meet the land requirement for regional open space.

In Ms Binnie’s expert evidence statement, she stated that Council purchased a site of 113ha at 1160 Sayers Road primarily to retrofit existing Wyndham with active open space and to ensure it had a site in the north-west that could provide for major recreation facilities such as aquatics, indoor courts and athletics. It is intended that approximately 50ha will be used for that purpose although much of that provision may not ultimately be on this site, as some of this area may be traded or swapped for alternative sites to spread the provision of facilities across a wider area’. Ms Brennan, Mr Gobbo and Mr Townshend all had questions in cross examination regarding the Council’s intent for the purchase of the 1160 Sayers Road and asked a number of questions of Ms Binnie about this intent.
Council submitted in their letter to the Panel of 20th January 2014 that the active open space contribution from the Council owned land would be as follows:

- Cash equivalent towards the site’s own obligations for administration via the DCP, including any density related element.

Any additional active open space provided on 1160 Sayers Road (amount yet to be determined) will be for the retrofitting of sporting provision for the established areas in Wyndham North, not for the Wyndham North growth area population.

Discussion

The Panel is of the view that regional active open space needs to be provided for within the Wyndham North area. The Panel believes it is a substantial failing of the exhibited PSPs that they do not identify areas for regional open space. The exact location of such facilities is required to be determined between the MPA and Council, and the Panel believes that the master planning process for 1160 Sayers Road (Council owned land) is integral to this planning. The Panel believes that it is appropriate that at least some of the regional open space provision should be attributed to the land that Council purchased, apparently, based on evidence submitted to the Panel, precisely for that purpose.

Whilst the Panel is firmly of the view that planning should occur now for any regional open space that is to be located in the Wyndham North precinct, including on 1160 Sayers Road, it is equally of the view that the acquisition of regional open space land should not be funded through the DCP. It acknowledges the reference to land acquisition for open space purposes in Report 1 of the Standard Development Contributions Advisory Committee but points out that report was proposing an entirely different development contributions regime. It is not appropriate to cherry pick parts of that report and superimpose those recommendations on the current DCP system.

Reviewing all the material before it, the Panel agrees with Council that the Growth Corridor Plan states that higher order (regional) active open space is to be provided at 0.5ha per 1000 people. The Panel does not believe that the Council was in disagreement with this provision, but what Council failed to address is that the same corridor plan states ‘Council’s would normally deliver these areas’.

Conclusions

The Panel concludes that:

- Regional active open space needs to be provided for within the Wyndham North area and should be identified in the PSPs; and

- Planning of regional open space should consider the role of the Wyndham City Council owned land at 1160 Sayers Road.

In drawing these conclusions, the Panel makes reference to Section 6.6 of this report and its recommendation that the Riverdale Town Centre and 1160 Sayers Road be excised from the Riverdale PSP to enable more considered planning of that area. The Panel believes that this provides an opportunity for regional open space requirements to be reviewed across the broader Riverdale and Oakbank PSP areas.
(ix) Who Pays?

Evidence and Submissions

The MPA submitted that, if Panel agrees with Council’s approach of 2ha/1000 population for open space, the increase in active open space across the Wyndham North sub-corridor will have a significant impact on the DCP, adding approximately $41.5 million, or some $13,900 per hectare to the DCP levy.

The MPA and developer submitters reiterate the PSP Guidelines and State policy that local active and passive open space is to be provided by developers via the DCP. They submitted that additional open space (regional open space and active indoor recreational facilities) is to be provided by Council. Clause 3.6.3 of Part 1 of the Growth Corridor Plans identifies that ‘Local active and passive open space is to be provided within local neighbourhoods via PSPs and DCPs’, and that higher order active open space, ‘typically…between 20-40 hectares in size; generally provided at a rate of 0.5 hectares per 1000 people’, is normally delivered by Councils.

In contrast, Council submitted that the balance of regional open space should be provided as a cash contribution via the DCP for future Council opportunistic purchasing.

MPA stated in their opening submission:

*All landowners in the Precinct are required to provide a contribution (either as land or cash) equivalent to 3% of net developable area (NDA) as unencumbered local (passive) open space via the schedule to Clause 52.01 of the planning scheme. Further, landowners in residential areas will also be contributing 7% of NDA in land (or cash via the Wyndham North DCP) for active (sports field) open space. Thus all landowners ultimately must contribute a total of 10% of NDA either as land or cash for unencumbered local open space.*

In its letter to Panel (20 January 2014), Council stated that it believes development contributions should fund all land required for the infrastructure that Council expects to be delivered, including both regional and local active open space, but only local passive space, due to Parks Victoria’s regional role. Council pointed out that the Standard Development Contributions Advisory Committee, in Report 1 p65 (17 December 2012) stated ‘The Committee prefers that the levy should be used to fund the acquisition of land for all planned community and recreation facilities and for embellishment of local facilities only’.

Discussion and Conclusions

The Panel agrees with the MPA that adequate contribution by developers for open space has been met for the Truganina and Riverdale PSP, as provided for in the PSP Guidelines. The Panel also agrees that additional open space (regional open space and active indoor recreational facilities) is to be provided by Council, as intended in the PSP Guidelines.

The Panel concludes that:

- Local active open space provision, as exhibited and provided for in the exhibited Truganina and Riverdale PSPs, is to be funded by the DCP.
- Regional active open space should not be funded through the DCP.
(x) Recommendations

The Panel recommends the following further actions:

The MPA should review the open space standard S2 in the Precinct Structure Planning Guidelines to assess whether a revised standard should be introduced in response to increasing dwelling densities in growth areas. The review should assess whether a ‘population’ or ‘developable area’ based approach would be more suitable in the future.

The MPA and Council should work together to identify the location of regional active open space which is to be shown on the PSPs within the Wyndham North DCP area, and is not to be funded by the DCP. Panel strongly recommends that the Council owned land form part of this regional active open space provision.

The Panel recommends the following changes to the Truganina and Riverdale PSPs:

The MPA and Council continue to work with service authorities to optimise the use of encumbered land for open space where this is possible, and for any suitable locations to be shown on the PSP open space plans.

4.4 Biodiversity Conservation Strategy

(i) The issues

The issues are:

- Potential changes to the GGF Conservation Area 14 boundary (within the Riverdale PSP) and the Truganina Cemetery Conservation Area 10 boundary (Truganina PSP) that are within the are covered by the approved Biodiversity Conservation Strategy (BCS);
- PSP documentation will require updating to reflect the approved BCS; and
- Inclusion of a provision in the UGZ schedules that provide for variation to the extent of native vegetation to be offset.

The process for approving the BCS as part of the Melbourne Strategic Assessment under the *EPBC Act* is described in Section 3.6 of this report.

(ii) Evidence and submissions

Accommodating changes to the approved GGF Conservation Areas within the Biodiversity Conservation Strategy

Ms Patterson submitted that issues associated with the BCS (and native vegetation time stamping) are not matters that this Panel can resolve.

Although DEPI did not appear before the Panel, the MPA informed the Panel that the MPA represents a ‘whole of government’ approach and position on the amendments, including DEPI. Ms Patterson advised that DEPI supports the amendments, subject to ensuring they are updated in line with the approved BCS and other relevant approved documents, such as the *Sub-regional Species Strategy for the Growling Grass Frog*. The MPA confirmed that the PSP documentation for both Truganina and Riverdale is to be updated to reflect the approved BCS. DEPI will provide final advice to the MPA relating to specific provisions...
required to implement the BCS once it has been incorporated into the Victorian Planning Scheme.

DEPI did however provide written submission to the amendments and a response on the 5th March 2014 that clarifies the Commonwealth Department of Environment’s position on any potential review of time stamping data (discussed further below). DEPI also provided correspondence to the Panel on 15 November 2013 that included information relating to the Melbourne Strategic Assessment (MSA) and the BCS, including the implications for Amendments C175 and C176. DEPI informed the Panel that the requirements and conditions located in the draft Schedule to the Urban Growth Zone will be updated to ensure they are consistent with the requirements of the BCS and stated in the correspondence that the following obligations will be addressed in the UGZ Schedule and/or the PSPs:

- Development and implementation of an Eastern Grey Kangaroo Management Plan;
- Habitat compensation obligations;
- Land security for conservation areas;
- Salvage and translocation of flora and fauna;
- Conservation Area Concept Plan;
- Conservation Interface Plans; and
- Construction requirements.

DEPI suggested that they, MPA and DTPLI are in the process of finalising the mechanisms to address these obligations within the UGZ.

Mr Gobbo, on behalf of Stockland, proposed changes to the GGF Conservation Area 14 and submitted that the GGF Conservation Area north of the Werribee River is excessive and should be reduced to a maximum of 100m buffer consistent with the offsets further west (along the Werribee River). The proposed changes put forward by Stockland propose no net loss of GGF habitat or conservation area and Mr Gobbo took the Panel to the evidence of Mr Lane in this regard.

Mr Cicero, on behalf of Ms Driver and Benneb Pty Ltd, proposed changes to the GGF Conservation area 14 and opposed the proposed boundary put forward by Melbourne Water on the 25 November 2013 (document 10) that, if changed, would then include his clients’ residence within a floodplain area and outside the development boundary. DEPI agreed with Melbourne Water’s proposed boundary line, whilst the MPA did not and preferred the exhibited boundary (which DEPI were also in agreement with). Mr Cicero stated that the proposed development line presented by his clients responds to DEPI requirements under the BCS that there be no net loss in the GGF conservation area.

Mr Chiappi, representing Leakes Pty Ltd, presented a proposed revised Truganina Cemetery Conservation Area 10 plan to the Panel. Mr Chiappi, when asked by the Panel whether these changes have been accepted by the Commonwealth and/or DEPI, said that Leakes were in negotiation with the Commonwealth Department regarding these proposed boundary changes. No further information was provided to Panel regarding outcomes of discussions with the Commonwealth (or DEPI) or whether the proposed changes had been accepted.
Time Stamping – Native Vegetation

Mr Cicero, on behalf of Ms Craig and Casabene Nominees Pty Ltd and Trukeel Pty Ltd, filed evidence from Paul Kelly and Associates that supported the position that Mr Cicero’s client’s land does not contain native vegetation or fauna which would require payment of habitat compensation offsets in the event of the development of their land. Mr Cicero also stated ‘the landowners accept that this Panel has limited jurisdiction to consider matters related to the BCS’.

In regard to this matter, Mr Cicero proposed the following words to be inserted into the Schedule to the UGZ:

Prior to the issue of a Statement of Compliance under the Subdivision Act 1988, fees for the clearing of threatened species habitat and/or native vegetation within the lot, must be provided in accordance with the (compensatory habitat fee document) subject to any variation to the extent of native vegetation, or threatened species habitat to be offset as approved by the Secretary to the Department of Environment and Primary Industries and the Minister responsible for the administration of the Environment Protection Biodiversity Conservation Act 1999 or his delegate....

The Panel for Wyndham C171 and C172 suggested that the MPA, DEPI and the Commonwealth decide upon words that could allow some flexibility to the PSPs if there were changes to the BCS in the future. The recommendation from that Panel was:

Include a provision in the Urban Growth Zone schedules to be drafted by the Metropolitan Planning Authority that provides for variation to the extent of native vegetation or threatened species habitat to be offset where approved by the Secretary of the Department of Environment and Primary Industries or the Minister responsible for the administration of the Environment Protection and Biodiversity Conservation Act 1999 or his delegate.

The MPA submits that the words drafted by the MPA and presented to this Panel as an outcome of the above recommendation were based on those presented by Mr Pitt and Mr Cicero during the course of the C171 and C172 hearing (see Mr Cicero’s words above). Although the MPA agree with the need for a provision to allow some flexibility, Ms Patterson suggested that DEPI and the Commonwealth Department of Environment do not agree to providing such flexibility when it comes to native vegetation and the time stamping data.

The Panel understands that since the C171 and C172 Panel, DEPI has consulted with the Commonwealth Department of Environment on the matter and the Commonwealth provided the following response (submitted as Document 273), received by the Panel on 5 March 2014):

We understand DEPI will discuss this recommendation further with MPA (GAA) to ensure it is clear there is no expectation on the Commonwealth Minister (or State) to review the time stamping data for individual developments. You have not committed to the recommendation and the recommendation may not be accepted (to be determined).

We do not support a clause that provides for review of the time stamping data which is
a basis for several elements of the endorsed program and Part 10 EPBC Act approval for development and conservation achieved through the Melbourne Strategic Assessment. Such a clause could lead to many individual requests for review, especially as vegetation condition varies over time.

Mr Booth and Ms Overmars raised concerns that not enough native vegetation was being retained through the PSP process and that the corridors along the Skeleton Creek and Davis Creek should be at least 100m, rather than 50m because of the native grasslands and potential for species to be present such as the Striped Legless Lizard. Mr Booth is also concerned that the Conservation Management Plans prepared for the Conservation Areas within the PSPs are not detailed enough and do not provided adequate management measures for the protection of native vegetation.

(iii) Discussion

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’.

Issues raised by Mr Booth and Ms Overmars are discussed under the individual submitters in Sections 4.8 and 4.9.

Other matters and suggested changes in DEPI’s submission have been agreed by MPA and will be addressed in finalising the PSP and UGZ documentation.

Time Stamping Data

This Panel (and the previous Wyndham C171 and C172 Panel) certainly did not advocate for ‘many individual requests for review’ and understands that to do so would undermine the approach of a strategic assessment under the Commonwealth EPBC Act and the point of conducting broad scale native vegetation assessments as part of the time stamping data project. As put forward by the MPA, given that Amendments C175, C176 and C177 will need to be processed through DEPI, whether or not a clause allowing variation is included may be a moot point. This Panel is satisfied that the MPA took the previous Wyndham C171 and C172 Panel’s recommendation on board and consulted with DEPI and the Commonwealth Department of Environment to get some written clarification of the two agencies position on the matter.
(iv) Conclusions

The need for NVPPs was removed once the BCS was approved as the BCS provides the mechanism to identify areas of native vegetation that are to be retained and can be removed. The Panel accepts that this is satisfactory.

The Panel is also satisfied that the UGZ schedules and provisions within the Planning Scheme and BCS adequately provide for the protection of: native vegetation; management of the Growling Grass Frog habitat areas; Woods Road Conservation Area; the Truganina Cemetery Conservation Area; and the Sewell’s Road Conservation Area and the management of nationally threatened species as well as State listed species.

The Panel concludes that, although there is differing opinion about the amount of native vegetation cover and its condition, there has been a process available for review under the Melbourne Strategic Assessment (an assessment process under the Commonwealth EPBC Act 1999 between the DEPI and the Commonwealth).

The Panel concludes that, given the advice of the Commonwealth Department of Environment (Document 273), which is supported by DEPI, it is clear that, without the agreement of the Commonwealth or DEPI, the MPA will not be able to allow flexibility for review of time stamping data and that recommending words to that effect would be a moot point, as Ms Patterson suggests.

The approval under the Melbourne Strategic Assessment states that changes to the area or boundaries of conservation areas cannot occur without agreement (of DEPI and the Commonwealth), however this flexibility is for boundary changes of Conservation Areas that include no net loss of habitat area and not for review or changes to the time stamped native vegetation data.

(v) Recommendation

The Panel recommends the following changes to the PSPs:

- Update the UGZ Schedule and/or the PSPs within Amendments C175 and C176 to reflect the approved Biodiversity Conservation Strategy (where required).
- Update the UGZ Schedule and/or the PSPs within Amendments C175 and C176 to ensure the proposed DEPI requirements as outlined in DEPI’s submission are incorporated.

4.5 Kangaroo Management Plan

(i) The issue

The issue raised by some 96A applicants in both Riverdale and Truganina PSP are that the conditions in the 96A permit relating to the requirements for a Kangaroo Management Plan (KMP) are onerous.

(ii) Evidence and submissions

Submissions from Stockland and Satterley suggested that the draft permit requirement of requiring a KMP was too onerous. In Mr Collie’s evidence, he stated that the requirement for a KMP be based on a determination of whether kangaroos are likely to be landlocked by
the development. He recommended an amended condition both for C 4 of the PSP, and the relevant conditions in the Stockland and Satterley permits to read:

Before the commencement of works for any stage of subdivision where it can be reasonably determined that kangaroos would be landlocked by the stage development, a kangaroo management plan must be submitted....

The MPA provided background to the issue in its opening submission which included the concern that with the estimated removal of up to 4,667ha of grassland and therefore Eastern Grey Kangaroo habitat in the west, north west and northern growth areas, there is a potential for kangaroos to become land-locked by development. Land-locking of kangaroos can lead to a number of adverse consequences ranging from potential human safety concerns to animal welfare issues.

In its written submission, DEPI requested that an obligation for developers to develop and implement an Eastern Grey Kangaroo Management Plan be addressed in the UGZ Schedule and /or the PSPs.

The Panel asked the MPA whether DEPI had undertaken its own assessment of the area in regards to kangaroo populations and whether there could be some flexibility in the approach of requiring a full KMP in areas where kangaroo’s were not likely.

(iii) Discussion and conclusions

The Panel observed a small group of kangaroos during the site visit within the Truganina PSP. DEPI advised the MPA that no area wide kangaroo assessment had been undertaken nor was one scheduled to be undertaken by DEPI.

The Panel agrees with the MPA in that no change should be proposed to the requirement in the PSP relating to the necessity for a KMP. The requirement for a KMP as part of the permit application means that prior to any development taking place, the developer must be responsible for producing and implementing a plan for managing kangaroos on their land and it ensures that staging of development avoids land-locking of kangaroos.

The Panel also agrees with the process for an abridged version of a KMP where it will be up to DEPI to determine whether this option is suitable. An abridged version of a KMP may be used when an ecological consultant has undertaken an appropriate habitat use assessment and presence/absence surveys and produced a statement declaring that kangaroos are neither present on the property or within 1km of the study area, nor has any evidence been found to suggest that kangaroos have used the property or passed through the property. The Panel agrees that this is a satisfactory approach and significantly reduces the obligations and costs of the landholder where it can be demonstrated that no kangaroos are present on the property and immediate surrounds.

The MPA provided further clarification in its closing submission regarding the need for a KMP after consulting with DEPI. The advice provided is as follows:

Truganina 96A applications:

Any subdivisions south of the RRL in the Truganina Precinct, this includes the Resimax and Leakes Pty Ltd (South) applications, will not require a KMP. All applications north of the RRL in Truganina will require a KMP.
Riverdale 96A applications:

All applications within the Riverdale Precinct will require a KMP to be prepared.

The Panel notes that Mr Gobbo on behalf of Stockland and Satterley proposed an additional condition to address the implementation of the endorsed Kangaroo Management Plan to read:

The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the responsible authority.

The Panel supports such a condition, as it is precise in its intent without issues of interpretation as proposed in Mr Collie’s condition. Mr Gobbo’s proposed condition has been included in all the relevant permits.

(iv) Recommendation

The Panel recommends the following change to the s96A permits:

Insert a permit condition requiring a Kangaroo Management Plan in the Riverdale PSP area permits, and in all permits in the Truganina PSP area north of the Regional Rail Link.

4.6 Issues Raised by Public Transport Victoria (PTV)

(i) The issue

PTV raised a number of issues in their submission to the Panel. The key issues centred on:

• Requests that road cross-sections in the Truganina and Riverdale PSPs be reviewed to ensure compliance with the Public Transport Guidelines for Land Use and Development 2008, particularly with respect to trafficable lane widths.

• A number of detailed issues regarding planning permit conditions.

(ii) Evidence and submissions

PTV requested changes to a number of cross sections in the Truganina and Riverdale PSPs and the YourLand s96A permit that can be broadly characterised as connector roads with a single lane in each direction, on street car parking, on or off-road bicycle paths and a central median. This included the following road cross sections in the PSPs:

• Truganina PSP Cross Section 5e Boulevard Connector Street and Cross Section 10: Feature Connector Street – Pipetrack.

• Riverdale PSP Cross Section 3e Boulevard Connector Street, Cross Section 7: Feature Connector Street 1 and Cross Section 8: Feature Connector Street 2.

Ms Hicks submitted on behalf of PTV that the change to the cross sections was requested to ensure that a 7.0m clear zone and trafficable median are provided on the connector roads as required in the Department of Transport’s Public Transport Guidelines for Land Use and Development. The Guidelines are a reference document in the Wyndham Planning Scheme at Clause 18.02-3.

Ms Hicks submitted that the provision of a clear zone and trafficable median enables a bus to safely pass a slow moving vehicle (such as a garbage truck) or when a vehicle has broken
down or double parked in the traffic lane. PTV submitted that this is needed to avoid a delay to bus services and to maintain reliable and punctual services.

Mr Hunt, in his evidence called by Stockland and Satterley, stated in relation to Connector Street Boulevards that:

*The DTPLI ‘Public Transport Guidelines for Land Use and Development’ requires a minimum 5.0 metre carriageway width between parking and medians and no less than a 7.0 metre trafficable width between parking and obstructions in the median.*

*The minimum 2.0 metre median identified within Connector Road cross section is insufficient to comply with these requirements and achieve the desired canopy tree planting. As such, this cross section should be amended to include a minimum 3.0 metre median width.*

The MPA acknowledged that the Guidelines are referenced in the planning scheme, but questioned the practicality of some aspects of the Guidelines.

The MPA submitted that the Guidelines require the median to be fully trafficable (fully paved) resulting in the following negative impacts:

- An inability to plant any trees or other vegetation within medians, lest they obstruct bus movements.
- An inability to use medians for the common purpose of stormwater management and Water Sensitive Urban Design initiatives.
- An inability to place street lights and traffic signage in medians, directly conflicting with other road management guidelines and leading to duplications in infrastructure provision.
- The need for kerbs and medians to be reinforced to withstand the weight of buses.
- Conflicts with oncoming traffic where medians are less than 3.0 metres.
- Conflicts with existing road rules whereby any vehicle using a median to overtake other vehicles is considered to be illegal.

The MPA submitted that the Guidelines incorrectly assume that the parking lane cannot be used for the purpose of pulling off stationary or broken down vehicles. MPA submitted that, in practice, slow moving vehicles would be a temporary obstruction as they would pull into a car space or next cross street at the next opportunity, and the delay caused by the very unlikely event of a broken down vehicle does not justify a 7m wide ‘clear zone’. MPA further submitted that use of the median to bypass a stationary vehicle would be inherently difficult and unsafe, encourages breaches of the road rules, and should not be encouraged by making medians fully trafficable.

The MPA summarised their concerns as follows:

*It should also be noted by panel, that divided, two-lane, boulevard connector roads provide an important function in the local road network, by providing an intermediate ‘bridging’ step between standard connectors with a capacity of up to around 7,000 vehicles per day (VPD) and four lane local arterials with a capacity range from 12,000 to 20,000 VPD. The numerous problems with and,
inherent impracticality of the PTV proposition, would mean that in reality, boulevard connectors could no longer be used as part of the local road network. The only alternative then to accommodate PTV’s request would be to provide arterial sized four-lane divided roads within the local street network. With the required parking lanes each side, these roads would then be up to 38 metres wide, which is a completely unacceptable and untenable proposition for a local road network, all again for a problem that is likely to be non-existent.

The MPA noted that the proposed cross sections have been used in other subdivisions without apparent problems.

PTV raised a number of detailed issues relating to references to: bus capable carriageways; bus stops; bicycle paths; and required approvals. The MPA provided a response to each of these issues and has either agreed, and included the relevant words in the permit conditions, or suggested an alternative approach to achieving the outcome sought by PTV in all cases. The Panel has not addressed these issues further as it is assumed the issues have been dealt with satisfactorily. To the extent that the issues have not been fully resolved, the MPA and PTV should further discuss and resolve an agreed government agency position.

(iii) Discussion and conclusions

The Panel understands and supports the PTV’s reasons for requesting that boulevard connectors are sufficiently wide to prevent delays to services. Providing for efficient public transport services is a fundamental requirement of proper PSP planning and is supported in the VPP at Clause 18. The Public Transport Guidelines for Land Use and Development are a reference document cited at Clause 18.02-3 as ‘must be considered as relevant’.

The Panel also notes the MPA’s submission that the inclusion of boulevard connectors in PSPs provides a practical and visually attractive alternative to standard undivided connectors. The Panel agrees with the MPA’s conclusion that if the Guidelines were strictly followed, boulevard connectors would not be feasible in most locations.

The Panel is of the view that boulevard connectors do provide a worthwhile addition to the suite of urban design options in subdivisions, and that a functional cross section should therefore be retained as an option in growth area PSPs provided that, where they are to be used by buses, the reasonable efficiency and safety of the bus service is not compromised. The questions for the Panel therefore are:

- Should the Guidelines be strictly adhered to?
- Is there room for compromise on the requirement for a 7m clear zone and/or a fully trafficable median?

The Panel is of the view that public transport services should be well catered for in new green field developments and that this should extend to complying with the Public Transport Guidelines for Land Use and Development unless there is a very good reason why that is not possible.

The Panel, however, agrees that the likelihood of a bus being delayed by a broken down vehicle is low, and the consequences in terms of length of delay is minor. The Panel believes that the Guidelines are intended to be used practically rather than prescriptively and so
some compromise is possible in their interpretation. Some compromise on lane widths and/or trafficable medians may be reasonable provided that safety is not compromised.

The Panel was not presented with any traffic engineering evidence to assist it to determine definitively on this issue. The Panel believes that the most appropriate way for design issues to be resolved is for the MPA and PTV to review the Guidelines and reach agreement on how they are to be applied, perhaps with the benefit of expert input.

Until such an agreement can be reached, the Panel believes the clear zones should be provided as set out in the Guidelines. This means that the proposed cross sections may not be able to be used in some of the locations as proposed in the Truganina and Riverdale PSP areas if the roads must be bus capable. In practice, however, the Panel thinks it should be possible for MPA and PTV to reach a compromise before detailed subdivision design is finalised in both PSPs.

Whilst generally supporting the principles in the Guidelines, the Panel makes the following comments on the information that has been presented to it:

- The Panel believes that the disadvantages of a trafficable median as submitted by MPA are substantial, and agrees with MPA that there may be undesirable impacts. A fully trafficable median is therefore not supported, although the Panel agrees that kerbs on the median should be semi or fully mountable so that vehicles can safely mount the kerb in the unlikely event of a breakdown or accident;

- To assist with lessening the likelihood of delays to buses, a clear zone of 7m should be provided wherever possible, but the Panel believes that this should be interpreted to mean a 7m clear width between obstacles, not necessarily all trafficable pavement. This means that poles, signs and plantings in the median will need to be set back to ensure the 7m clear zone is retained;

- The Panel further believes that if cross sections do not meet the requirements of the Guidelines, they should be used sparingly and over short distances to reduce the likelihood of delays;

- The Panel notes that for cross sections without bicycle lanes (Cross sections 4e and 7 in the exhibited Truganina PSP and 6a and 10 in the Riverdale PSP) the total kerb to kerb width is only 5.8m, comprising a traffic lane of 3.5m and a parking lane of 2.3m. The Panel suggests that some expert advice be sought on whether this is a safe separation between buses and parked vehicles. The Panel notes that the Guidelines recommend 5.0m lane widths in these cases to allow for on road cyclists. Even though off road cycle lanes are proposed, the Panel is concerned that some cyclists will inevitably use the roadway, and they should be allowed for;

- The location, spacing and length of kerb outstands should be carefully considered so as to reduce the number of ‘pinch points’ where the clear zone for buses is compromised. In any case, a minimum kerb to kerb width of 5.0m should be designed to allow safely for buses and bicycles to share the roadway; and

- Trees should not be planted in kerb outstands in the parking lane where they compromise the clear zone.
(iv) Recommendation

The Panel recommends the following changes to the PSPs:

Alter all road cross sections in the Truganina and Riverdale PSPs to adhere to the Public Transport Guidelines for Land Use and Development 2008, unless a variation of the requirements is endorsed by PTV.

The Panel recommends the following further work:

The MPA and PTV review how the Public Transport Guidelines for Land Use and Development 2008 are applied to the standard PSP cross sections.

4.7 Proposed change to Clause 52.37 – Dry Stone Walls

(i) The issue

Clause 52.37 of the Wyndham Planning Scheme currently requires a permit ‘to demolish, remove or alter a dry stone wall constructed before 1940’. The Schedule specifies that this applies to all land.

As exhibited, Amendment C175 proposes the introduction of a new Schedule 10 to the Urban Growth Zone that in turn includes, at Clause 2.7 – Specific provisions – Dry Stone Walls:

A permit is required to demolish, remove or alter a dry stone wall that is shown to be retained on Plan 3 – Image & Character in the Truganina Precinct Structure Plan.

The PSP identifies a number of dry stone walls for retention and others that may be removed. The MPA submitted that it had worked with Council to identify all existing dry stone walls and consider how they might be integrated with the urbanisation of the area.

It was commonly agreed between MPA, Council and Mr Finizio (for ID Land) that this Clause in the UGZ Schedule (prepared before the Schedule to Clause 52.37 was introduced in October 2013) would not be sufficient to exempt any proposal to remove a wall from a permit.

(ii) Evidence and submissions

During the course of the Hearings, the MPA proposed that the Schedule to Clause 52.37 be amended to provide for an exemption to the requirement for a permit where a PSP applies unless the PSP describes the dry stone wall as ‘to be retained’. This has the effect of allowing, without permit, the removal of any dry stone wall in a PSP area unless it is specifically identified in the PSP as ‘to be retained’.

In support of this, MPA submitted that it would improve certainty and support more pragmatic development of the land.

Council opposed the proposed change to the Schedule, submitting as follows:

- The change does not allow an objective and proper assessment of each dry stone wall to be exempted by a suitably qualified person;

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4 Source – letter from the Council CEO to the Panel dated 11 February 2014 (Document 183)
• The proposed change is transformative and should be re-authorised and re-exhibited, or form part of a new amendment;
• The nomination of dry stone walls to be removed/retained should be informed by the Dry Stone Wall Study currently underway and due for completion in May 2014;
• In the mean time permit applications could be considered for any proposed removals.

In closing submissions the MPA noted Council’s objections and advised that they will seek implementation of the proposed changes to the Schedule to Clause 52.37 through a separate amendment process, possibly in conjunction with the Tarneit North PSP. The MPA sought a recommendation to that effect from the Panel.

(iii) Discussion and conclusions

The Panel does not agree that the proposed change to the Schedule to Clause 52.37 would necessarily be ‘transformative’, but does believe that it would be good practice, and more in keeping with the principles of natural justice, if the opportunity was given for the public to review the proposed changes and make submissions.

Whilst the Panel supports the objective of ‘streamlining’ the identification of dry stone walls to be removed or retained to aid certainty and improve efficiency of development, it believes that care should be taken in identifying which walls can be removed, and that this should be decided on an informed basis.

The Panel therefore supports the MPA’s intention to pursue changes to the Schedule to Clause 52.37 via a separate amendment process, but believes that in making decisions about walls to be removed or retained, reference should be made, either in the Schedule or in the PSP, to the need to consider the Dry Wall Study when complete. The Panel agrees with Council that, in the mean time, permits should be required in accordance with Clause 52.37 as it is currently written. The Panel notes that the MPA has made the appropriate change to the PSP (as identified in the final list of changes Document 176) to reflect the requirement for a permit.

(iv) Recommendation

The Panel recommends the following changes to the PSPs:

Include a requirement in the Truganina PSP that the identification of any dry stone walls to be removed or altered must consider the Dry Wall Study (when complete).

The Panel recommends the following further work:

The MPA, in conjunction with Wyndham Council, review existing planning provisions in relation to dry stone walls with a view to more efficient and practical identification of walls that can be removed without a permit.

4.8 Issues Raised by Ms Overmars

(i) The issues

Mr Overmars raised the following issues on behalf of the Werribee District Society:
• Requests the retention of heritage and dry stone walls (Truganina PSP).
• Widening of the Skeleton Creek corridor to reflect area covered by native vegetation and other biodiversity and heritage values (Truganina PSP).
• Retention of biodiversity values of the Truganina Cemetery and other areas within the Truganina PSP.
• The passive open space between the three tributaries of Davis Creek and the native grassland locations on the PSP biodiversity maps do not match (Riverdale PSP).

(ii) Evidence and Submissions

Heritage Features and Dry Stone Walls

Ms Overmars presented to Panel and suggested that Skeleton Creek and Dry Creek within the Truganina PSP contain some of the most significant heritage features of early farming practices in Victoria. Of particular importance are the dry stone walls, the Robertson Farm House Ruins (HO28), the Wesleyan Church and bluestone well. Ms Overmars believes that these heritage features require better protection in the PSP’s than the exhibited version shows.

Widening of Skeleton Creek corridor

Ms Overmars suggests that ‘a wide waterway corridor that allows for the land form, the native vegetation, heritage assets and heritage trail and the habitat corridor will bring maximum benefit to this region’. It was submitted by Ms Overmars that the Skeleton Creek reserve should be widened to allow for the protection of these features, located within the Truganina PSP.

The MPA submitted that the Skeleton Creek corridor presented in the PSP provides significant setbacks to Skeleton Creek (between 150-200m wide in places) and because the creek is to be retained as a natural waterway (Plan 8 of the PSP), this will allow for retention of native vegetation within the waterway corridor.

Values of the area between the three tributaries of Davis Creek

In her submission to Panel regarding the Riverdale PSP, Ms Overmars presented that the confluence of the three Davis Creek tributaries is a direct result of the lava flows emanating from the volcanic cones of Cowies Hill (Black Hill), Greek Hill and Mt Cottrell. Ms Overmars submission points out that when looking at the biodiversity map of the Riverdale PSP (Plan 5) and the proposed Open Space (Plan 4 of Riverdale PSP), the two do not coincide in that the open space (P NO-08 and P NO-09) do not cover the entire area of biodiversity value shown on Plan 5 of the Riverdale PSP.

Ms Overmars asks ‘can these passive open space areas be re-examined to ensure that the northern steep sided banks, between the confluence of the North-West and North-East tributaries, and between the western and the short creek formed by the confluence of these tributaries are re-categorised into encumbered or passive open space in the areas where the distinctive red-kangaroo grasses dominate?’
Other Biodiversity Values

Ms Overmars also raised concerns in her submission about the need for DEPI to undertake flora and fauna studies to clarify the habitat values in the Skeleton Creek corridor prior to the design of drainage works, housing location and urban landscaping. Other issues raised by Ms Overmars regarding biodiversity are the need to protect the wildflowers located in Truganina Cemetery.

(iii) Discussion and Conclusions

Heritage Features and Dry Stone Walls

Ms Overmars took the Panel, MPA, Council and others to the bluestone well during the site visit on the 3 March 2014. The Panel also noted the various sections of dry stone walls on this property during the site visit. In response to Ms Overmars’ submission to the Panel, the MPA stated in their closing submission that they will amend the Truganina Heritage Network contained in Appendix F of the Truganina PSP to include the former Wesleyan Church and the bluestone well adjacent to Skeleton Creek. The Panel has previously noted that the Council is currently undertaking a comprehensive heritage assessment of the area and the Panel notes that these heritage items presented by Ms Overmars also be assessed as part of that broader study.

The MPA also proposed to show the dry stone walls running along Skeleton Creek north of Doherty’s Road and the stockyard north of Robertson Farm complex on Plan 3 with the notation ‘existing dry stone wall with the potential for retention’. The MPA explained that the Council removed the Heritage Overlay associated with these sites as part of Amendment C86. Mr Moore from Council confirmed that this was the case.

The Panel supports the proposed changes by MPA to reflect the former Wesleyan Church bluestone well adjacent to Skeleton Creek and acknowledge the dry stone walls north of Doherty’s Road.

The Panel refers to the recommendation under Section 4.7 regarding the process for identifying which dry stone walls shall be retained.

Values of the area between the three tributaries of Davis Creek

The Panel understands that the intent of the plans in the PSPs are to indicate the shape and form of the PSP and that, where possible, various features will be retained and new ones proposed. In terms of native vegetation, much of that shown in both the Riverdale and Truganina PSPs will be removed as part of residential development of the growth area. Developers will be subject to the offset requirements for any grassland and listed species habitat (such as the Golden Sun Moth or Growling Grass Frog). The Panel viewed this area on its site visit and noted the area of grassland that Ms Overmars refers to (which is located on Satterley’s land).

In its opening submission (document 18), the MPA emphasised that the Biodiversity Conservation Strategy has been approved for Melbourne’s growth areas and that the BCS outlines the native vegetation that is to be retained as part of conservation areas. The process of the approval of the BCS is discussed in Section 4.5 and it is not for this Panel to
reconsider areas for retention of native vegetation when the Melbourne Strategic Assessment under the Commonwealth EPBC Act has already been completed (over a period of 3 years) and has done just that. The MPA also note that a substantial grassland reserve will be established by DEPI to the west of the Wyndham Growth Corridor, which will provide for retention of large tracts of native grassland vegetation. This grassland reserve is to be funded by offset fees.

**Widening of Skeleton Creek corridor**

As Melbourne Water suggest in their submission, the Skeleton Creek is an ephemeral stream that provides an important corridor through the Truganina landscape. Melbourne Water also suggest that Skeleton Creek *largely retains a natural stream form with existing rock riffles, escarpment areas, pools and significant stands of native vegetation.*

The MPA consider that some of this native vegetation may be retained within the waterway corridor in this location and will be protected from urban development. The Panel notes that Melbourne Water has been working with the MPA and relevant landowners/developers to ‘ensure appropriate reserve widths are set aside in the PSP for natural and constructed waterways to cater for drainage requirements for urban development, and to achieve broader environmental, biodiversity, ecological, amenity and maintenance objectives’\(^5\). The Panel encourages the MPA to also consult with DEPI on the finalisation of the Skeleton Creek waterway setbacks (particularly in areas not already subject to the 96A applications before Panel) to ensure all of these objectives are met and that the proposed corridor widths are not detrimental to particularly species that may be present (refer also to Mr Booth’s submission regarding Striped Legless Lizards).

**Other Biodiversity Values**

In regard to protection of biodiversity values of Truganina Cemetery, the Panel understands that the area of concern to Ms Overmars is protected as part of the Truganina Cemetery Conservation Area, 10 and that a Conservation Management Plan will be prepared that details the management measures to protect it. The Panel also notes that Mr Brennan of the MPA described the process of the time-stamping project and DEPI’s assessment of native vegetation for the area to Ms Overmars. Ms Overmars was not previously aware of this process or the extent of the previous work that had been undertaken.

(iv) **Recommendation**

The Panel recommends the following changes to the PSPs:

- Amend the Truganina Heritage Network contained in Appendix F of the Truganina PSP to include the former Wesleyan Church and bluestone well adjacent to Skeleton Creek.

- Include the dry stone wall running along Skeleton Creek north of Doherty’s Road and the stockyard north of the Robertsons Farm complex on Plan 3 of the Truganina PSP and note the walls as ‘existing dry stone wall with the potential for retention’.

\(^5\) Melbourne Water submission
4.9 Issues Raised by Mr Booth

(i) The issues

Mr Booth raised the following issues:

- Requests the Growling Grass Frog Conservation Area be extended along the western Davis Creek tributary.
- Requests Woods Road Conservation Area be enlarged to encompass more existing native grassland.
- Requests the Conservation Management Plans for the Conservation Areas in the Riverdale and Truganina PSP be more detailed in terms of management actions.
- Requests Skeleton Creek corridor be widened.

(ii) Evidence and submissions

Mr Booth submitted that the GGF Conservation Area along Davis Creek is currently ‘inadequate and typically only about 25-40m wide along the western side and terminating before its confluence with the western tributary’. He suggested that it should be extended to account for its ‘significant environmental values’, including that Davis Creek is ‘likely to function as an important movement corridor for GGF’. Mr Booth referred to a report by Biosis (2011), undertaken as part of the earlier Melbourne Strategic Assessment process, as suggesting that ‘the best 50% of habitat’ for the GGF species has been mapped as occurring along the western tributary the lower reaches. Mr Booth submitted that a corridor of 50-100m would be more sufficient for the GGF as a conservation area and bases his submission on the assessments undertaken by Biosis.

The Panel was advised by the MPA that DEPI supports the amendments, subject to ensuring the documents are updated to reflect the approved BCS and associated documents.

In regard to the Woods Road Conservation Area (located on Hellier McFarland land), Mr Booth submitted that the conservation area is too small, ‘omitting about half of the high quality diverse rocky grassland patches. This reserve needs to be extended westwards by at least 10ha’.

MPA advised that the GGF Conservation area along the Werribee River and Davis Creek has been approved under the Biodiversity Conservation Strategy (BCS). The Panel notes that the Woods Road Conservation Area has also been approved under the BCS.

Mr Booth also requested that the Skeleton Creek corridor be widened to at least 100m due to its high quality native grasslands and habitat for the Striped Legless Lizard. In support of this issue, Mr Booth presented a letter from a specialist ecologist on the importance of the Skeleton Creek corridor for the Striped Legless Lizard (Document 130). The ecologist (Mr P Robertson of Wildlife Profiles Pty Ltd) suggests ‘the currently proposed 50 metres is largely lower-lying and not optimal for the species, whereas if the corridor were expanded to 100 metres, considerable areas of its preferred grassland habitat would be included – the 50 metres alone is unlikely to provide sufficient habitat to maintain the species. Naturally, any disturbances in this expanded corridor area, such as excavations and the like, would greatly impinge upon the remnant habitat and should be avoided’.

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Mr Booth submitted that the Conservation Management Plans for both Woods Road Conservation Area and Truganina Cemetery are far too brief and have not clearly specified the on-ground conservation management requirements (e.g. weed control, ecological burning, and fencing). The MPA stated in their closing submission that the Conservation Management Plans are ‘a higher level document that provides the policy background for the conservation area, confirms the extent and location of the conservation area, sets out general management considerations, and outlines options for securing the land’.

(iii) Discussion and conclusions

As mentioned in Section 3.6, the Panel is limited in what it can address regarding the approved BCS. The objectives and role of Conservation Management Plans prepared under the BCS are discussed in Section 4.5. The Panel suggests that Mr Booth take the particular issues up regarding appropriate and detailed management measures within the Conservation Management Plans with DEPI and/or the Commonwealth Department of Environment who approved the Conservation Management Plans in 2013.

The issue of the widening of Skeleton Creek corridor is discussed by the Panel in Section 4.9 (Ms Overmars submission) above. The Panel does see merit in further consultation between relevant authorities to review the waterway setback of Skeleton Creek beyond the 96A applications that are currently before this Panel.

The Panel suggests that the MPA and or DEPI provide updated information to stakeholders on the BCS, what its approval means and the process for making changes (if any) to approved Conservation Areas. This recommendation is not just about the Western Growth Corridor area, but would apply for all growth areas.

4.10 Issues Raised by Melbourne Water

(i) The issues

The submission from Melbourne Water raised the following issues:
- Requests amendments to waterway setbacks in the Riverdale PSP; and
- Requests a Stormwater Management Strategy be prepared and approved by Melbourne Water for each s96A application before the issue of permit.

(ii) Evidence and submissions

Werribee River Corridor at 1245 Sayers Road

The exhibited Riverdale PSP Plan 2 includes the approved GGF Conservation Area 14 along the Werribee River and Davis Creek. Melbourne Water presented a revised GGF Conservation Area Boundary and waterway setback corridor to the Panel as part of their submission (Document 147), which is different to the exhibited PSP BCS Boundary. Melbourne Water’s revised boundary includes the existing residence within the waterway setback and GGF Conservation Area. Melbourne Water advised that DEPI is in agreement with this revised boundary and that they believe there is benefit in the use of one waterway corridor line that meets both DEPI’s and Melbourne Water requirements. The reason put forward by Melbourne Water for the required changes to the boundary previously exhibited is that the revised boundary provides protection and enhancement of river health,
biodiversity and amenity values. Melbourne Water stated in their submission that ‘the proposed waterway corridor would ensure there is an adequate setback along the entire length of the Werribee River, removing the existing ‘pinch point’ at the location of the existing house which exists in the exhibition version of the Riverdale PSP.’ Melbourne Water confirmed during discussions on the site visit that the proposed widening would allow for the future cycle/pedestrian pathway.

The MPA and the landowner do not agree with the proposed boundary change. The MPA requests that the boundary remain as per the exhibited PSP, with the existing house outside of the GGF Conservation area. MPA advised the Panel in its closing submission that DEPI had previously agreed with the MPA’s approach of removing existing houses from the GGF Conservation Area. The landowner proposed an alternative ‘development boundary’ to that of the MPA and Melbourne Water.

Mr Cicero, on behalf of Ms Driver and Benneb Pty Ltd, provided a revised development boundary (refer to Document 167) based upon the evidence of Mr Mawson of Spiire and Mr Francis of Abzeco. Mr Mawson explained that the landowner’s development boundary generally follows the 44.5m contour rising to the 47m contour at the northern end of the subject area just south of the existing house (shown on the plan as the hashed green line). It then extends to the 49m contour as this contour is clear of the steeper land. He submitted that following this contour line will lead to minimal earthworks battering and retaining walls for edge roads and will reduce the visual intrusion of housing into the river corridor. He submitted that the 49m contour provides for a more manageable grade transition of the edge road boundary to the 47m contour south of the house. The 49m contour passes through the house. To avoid this, Mr Mawson suggests a minor deviation at this point of the boundary to the west so that the house and out buildings can be excluded from the waterway setback.

Mr Mawson assessed the development boundary against the Melbourne Water criteria described in the Healthy Waterways Strategy and concluded that ‘the proposed development boundary [proposed by the landowner] is in anyway more likely to inhibit the achievement of these objectives [within the Healthy Waterways Strategy] than the Melbourne Water proposed boundary’.

Mr Cicero also relied on the evidence of Mr Francis of Abzeco, a consultant ecologist, who assessed the site and boundary requirements for the Growling Grass Frog. Mr Francis’ expert witness report states that ‘based on the habitat suitability assessment we found that through the steep rocky escarpment section of the site the 46 metre contour represents the extent of area suitable for rehabilitation as habitat and buffer from proposed change in land use’, p10.

Mr Cicero said that the proposed boundary put forward by his clients responds to the overriding requirement of DEPI (and the Commonwealth’s approval decision) that there is no net loss in the GGF Conservation Area as set out in the BCS. Mr Cicero also stated that there is no real justification as to why the house should be excluded from land able to be developed for urban purposes.
Hogan’s Road adjacent to the Werribee River/Davis Creek floodplain

Melbourne Water has accepted minor modifications to the development line on land at Hogans Road Tarneit, adjacent to the Werribee River/Davis Creek floodplain, by accepting the smoothed development line alternative. Stockland has requested that Melbourne Water consider the use of culverts instead of a bridge construction at the Hogans Road crossing of Davis Creek. Melbourne Water submits that it requires further information before deciding on whether culverts will be sufficient. Melbourne Water requires DEPI to review the proposal to ensure aquatic fauna passage is not impeded. This issue is also discussed in Section 6.4 under issues raised by Stockland.

Stormwater Management Strategy

Melbourne Water submit that a surface/stormwater management strategy be prepared by all applicants to Melbourne Water’s satisfaction prior to the Amendments being finalised and planning permits issued. Melbourne Water submitted that this condition will ensure that the lot layout has made sufficient allowance for stormwater drainage infrastructure and water quality treatment assets, as well as ensuring protection of waterways through the designation of appropriate waterway corridors. The risk of not including a requirement for a stormwater management strategy is that the subdivision layout may need to change to accommodate stormwater drainage infrastructure after the permit has been issued.

Melbourne Water requested a condition be applied to all s96A applications requiring functional design of all drainage assets (including retarding basins, stormwater quality treatment and constructed waterways) prior to Certification of Plans of Subdivision. Similarly, Melbourne Water requested that a condition be applied to all relevant s96A applications requiring Melbourne Water approval of any works within or in proximity to waterways prior to Certification of Plans of Subdivision.

(iii) Discussion and conclusions

Werribee River Corridor at 1245 Sayers Road

The Panel must determine if the Melbourne Water proposed corridor is a better outcome for the GGF Conservation Area and waterway corridor (blue line on document 167) than either the exhibited revised GGF Boundary (yellow line) or the proposed development boundary of the landowner (hashed green line). The exhibited boundary and the landowner development boundary exclude the existing residence from the GGF Conservation Area.

The submission from Melbourne Water that proposes to change the waterway/GGF conservation area boundary from the one that was exhibited did not have sufficient assessment or enough information put to the Panel to accept such a change that may have consequences for the existing residence. The Panel notes that although DEPI agree with this revised Melbourne Water boundary, DEPI had also agreed to the exhibited boundary (that excludes the house).

The evidence of the two experts put a case forward for reducing the boundary around the house and to the south of the house due to the results of the GGF habitat assessment by Mr Francis and evidence of drainage and floodplain requirements from Mr Mawson. To ensure
a no net loss of GGF Conservation area, Mr Francis proposes a larger area of boundary to the north of the RRL.

The Panel concludes that on the basis that previous assessments had been undertaken and DEPI had previously accepted the revised GGF Conservation Boundary that was exhibited as part of the Riverdale PSP, that it is inclined to accept the exhibited boundary line. However, the Panel notes that the MPA, in its closing submission, states that it requests the Panel recommend a waterway setback be negotiated between the landowner, Melbourne Water and DEPI which excludes the existing house from the waterway setback/GGF Conservation Area and which achieves a no net loss of GGF Conservation Area on the property. The Panel agrees that this is a worthwhile exercise as there is merit in the changes also put forward by the landowner’s technical assessments.

Hogan’s Road adjacent to the Werribee River/Davis Creek floodplain

Refer to Section 6.4.

Stormwater Management Strategy

The Panel accepts that there be a condition requiring a Stormwater Management Strategy in permit applications.

(iv) Recommendation

The Panel recommends the following changes to the PSPs:

Retain the GGF Conservation Area/waterway setback boundary at 1245 Sayers Road as exhibited in the Riverdale PSP (which removes the house from within the GGF Conservation Area 14 boundary), or adopt an alternative alignment if agreed between MPA, Melbourne Water and the land owner (which also removes the house from the GGF conservation area).

The Panel recommends the following change to the s96A permit conditions:

Add Stormwater Management Strategy requirement as a condition of each s96A permit.

4.11 Issues Raised by City West Water

(i) The issues

The written submission from City West Water (CWW) raised the following issues:

- Requests amendments to the integrated water management requirement in the Truganina and Riverdale PSPs;
- Requests an additional requirement or guideline for utilities; and
- Requests a number of planning permit conditions.

(ii) Evidence and submissions

CWW submitted a request for the following additional requirements to the PSP’s:

Section 3.6 Integrated Water management & Utilities
An integrated water management plan must conform to Melbourne Water’s (MW), CWW’s and Council’s requirements for the affected catchment and be undertaken in consultation with and is subject to joint approval of MW, CWW and Council.

The Integrated Water Management Plan (IWMP), where practical must integrate WSUD and the active and passive use of stormwater throughout the precinct and integration with the existing dual pipe network. This includes but is not limited to:

- Directing runoff water into nature strips, medians and other planted areas
- Local stormwater harvesting for the irrigation of public open spaces
- Precinct scale stormwater harvesting for distribution via a dual pipe network.

The IWMP will incorporate MW’s drainage and waterway requirements (R65 – R71) and guidelines (G45-G51) along with CWW’s dual pipe network (R79, R80 and R81).

Section 3.4.1 Utilities

Note in this requirement that:

Should a localised harvested stormwater system be installed to supply public open space with harvested stormwater for irrigation uses then this system should be the first priority for irrigation backed up with recycled water from CWW’s reticulated alternative water supply system.

City West Water submitted that they consent to the permit applications (for both PSP’s) subject to a number of conditions.

(iii) Discussion and Conclusions

The Panel notes that the issues raised in City West Water’s submission have been addressed by the MPA during the course of the Hearings and that the MPA agrees to changes being made to the PSP to reflect CWW’s requirements where necessary.
5 Amendment C175 Truganina PSP and section 96A permit issues

5.1 Broiler farm buffer

(i) The issues

An existing broiler farm is located on the west side of Derrimut Road approximately 1.2km north of Leakes Road at 695 Derrimut Road. A broiler farm buffer area of 1000m extends across most of the proposed Tarneit Major Town Centre, and business and residential areas north and north-east of the Town Centre, as identified in Plan 2 of the Truganina PSP.

The issue of broiler farms is referenced in Requirement R87 of the PSP:

- Development of sensitive uses on land within the broiler farm buffer area shown in Plan 2 will not be permitted so long as the broiler farm remains operational.
- The area designated as a buffer may be adjusted where a risk assessment and environmental audit has been approved by the Responsible Authority.

The MPA advised that the broiler farm is no longer in operation and that the owner has confirmed that he has ceased operations and is selling equipment associated with the business. However, given that the existing use rights are not extinguished until after two continuous year’s non-activity, the MPA proposed to retain Condition 1 of Permit WYP6211/12, Version 4, and to remove the hatched buffer area on Plan 2 of the PSP and the associated UGZ Schedule requirements. It believed that given the small scale of the permitted broiler farm and taking account of the above information, the Responsible Authority can consider any significant effects of the environment on a development should a permit application be lodged.

The issue is whether the buffer distance of 1000m as set out in Measure E1.M1.1 of the Victorian Code for Broiler Farms, 2009, between sensitive uses and the existing broiler farm is appropriate given the intended location of residential development within the buffer area, which includes the Dacland, and a very small section of the Leakes North applications.

(ii) Submissions

Mr Barlow, called to give evidence for Leakes Pty Ltd, who own land partially affected by the buffer area, advised that the 1000m buffer distance does not respond to the actual circumstances of the broiler farm. Nor, he submitted, has the setback distance had regard to the maximum intensity of operations that can be achieved on the broiler farm and the calculation of reasonable setbacks based on that level of operation.

He considered that taking account of the total shed area of 2280m² the number of birds could increase to, 49,000, which would allow for a minimum setback under the Code’s formula of 220m., though with the Code’s required minimum of 250m, (Table 1, VCBF).

Mr Barlow stated:

- The difference between the two measures appears to indicate an acknowledgement that the 1000m buffer is highly likely to be excessive and
create unnecessary uncertainty around the assessment of future development opportunities within the buffer area.

and

The introduction of the 1000m buffer and the lack of clarity in the control is unnecessary and has the potential to sterilize, or at least create significant uncertainty about, the future development of a significant part of the Truganina PSP, in particular the introduction of higher density housing in conjunction with the development of the major town centre.

He concluded that a buffer of 250m can be reasonably imposed to protect the existing operations of the broiler farm and future residents and other occupants within the Truganina PSP. However, he considered that prior to the approval of the PSP further work should be carried out to determine the appropriate buffer distance between the broiler farm and the residential development.

(iii) Discussion and conclusions

The Panel notes that a broiler farm can potentially create adverse amenity implications to sensitive uses such as residential uses, proposed within the buffer area. This is recognised in Clauses 13.04 and 16.02 of the State Planning Policy Framework.

The Panel notes that within the Urban Growth Zone, Intensive Animal Husbandry, which includes a broiler farm, is a prohibited use. However, the broiler farm has existing use rights and subject to Section 63 of the Planning Scheme, and Section 6(3) and (4) of the Planning and Environment Act 1987, may lawfully continue.

In this context it is imperative that the continuation of such a use should not adversely affect the amenity of future residents of any nearby residential area, and it is for this reason that the Panel supports the retention of the permit condition.

The Panel notes that the EPA has addressed the relevant clauses of the Code. It concludes that it is clear that the 1000m buffer distance applies.

However given the advice from the MPA that the broiler farm is no longer in operation, and given that Condition 1 of the permit is proposed to be retained, the Panel concurs with the views of the MPA.

The Panel also notes that no parties objected to this condition, including Dacland, nor the owner of the broiler farm. However, the broiler farm should still be identified in the PSP and this is reflected in Condition 1 of the Dacland permit.

5.2 Villawood (Evans Family Property)

Villawood have an interest in approximately 53.5ha of south of Dohertys Road. The north-west portion of the land is severed by the RRL and the grade separation of Dohertys Road and the RRL compromises the Dohertys Road frontage to the land. Whilst draft subdivision plans have been prepared for the site, no subdivision permit application has yet been lodged.
(i) The issues

Mr De Silva of Mesh made submissions to the Panel on the following two key issues in relation to the site:

- Requests the re-location of the government primary school and community facilities shown south of the regional rail link on Plan 2 in the Truganina PSP to the east of Woods Road.
- Requests the adjustment of boundaries to sporting reserve A 90-04 shown on Plan 4 in the Truganina PSP.

(ii) Government primary school and community facilities

A government primary school and community facilities are currently proposed in the south eastern area of the exhibited Truganina PSP on the eastern side of Woods Road (on the northern side of the Melbourne Water pipe track) on Villawood’s land (refer to Truganina PSP Plan 2). The site is proposed to be a southern ‘hub’ and intended to serve the residential catchment to the south of the regional rail corridor. Villawood propose in their written submission (Submission 23) that the government primary school should be relocated to Leakes Pty Ltd land which is to the western side of Woods Road, closer to the designated local convenience centre site.

The Leakes land has a secondary school proposed and they submitted that moving the primary school onto their land (as proposed by Villawood) is not required, and should not occur as their net developable land has already been reduced by the proposed community infrastructure on their land, as well as a portion allocated to the RRL project. Leakes called expert evidence from Mr Barlow of Urbis that indicated the primary school location in the exhibited PSP is a better catchment for the primary school than relocating it to the proposed site put forward by Villawood. Mr Barlow submitted that relocating the P-6 school to the site suggested by Villawood would ‘significantly increase its overlap with the Truganina P-9 school proposed on Clearwood Drive south of Leakes Road, which would not be an efficient outcome’ (p14).

Mr De Silva of Mesh, on behalf of Villawood, submitted that the exhibited ‘southern hub’ has been located ‘on the periphery of the plan, and that land uses such as the school, community centre and activity centre, are separated from each other’. Mr De Silva submitted that the position of the government primary school and community centre are not in accordance with the PSP objectives of:

- Deliver an integrated network of local passive parks, active recreation reserves, and community infrastructure that meets the needs and aspirations of the new community;
- Create a series of neighbourhoods that cluster around public open space, community hubs, and town centres; and
- Develop a series of town centres that each has a civic focus and an ability to adapt and devolve with the community.

Mr De Silva submitted that the southern hub could be more centrally located within the catchment and that ‘land uses could be integrated more to maximise synergies between uses’.
As stated in Mr Barlow’s evidence (for Leakes Pty Ltd), ‘The co-location of community facilities, open spaces and retail centres is a laudable objective and has merit in the context of arranging land uses to optimise their accessibility to as broad a section of the community as possible’ (p13). However, Mr Barlow did not support the relocation onto Leakes land in this instance due to ‘a range of considerations’, such as an overlap of school catchments, and submitted in evidence that the relocation would not result in a better outcome for the community. Mr Barlow suggests that the three government primary schools proposed in the PSP are well spaced with a notional 1km walking catchment zone of each other ad are appropriately positioned.

At the clarification hearing day, it was submitted by the MPA that a response has been provided by the Department of Education and Early Childhood Development (DEECD) to this matter (document 215). The DEECD response is:

‘DEECD supports the MPA’s position that the Mesh proposal does not offer sufficient strategic benefit to justify moving away from the exhibited position. If anything the Mesh proposal is less optimal from DEECD’s perspective as it significantly restricts the opportunity for integration of education and community facilities, which is a strong desire of the current government.’

The Panel concludes that no change should be made to the location of the government primary school and community centre south of the regional rail corridor as presented in the exhibited Truganina PSP. Advice from DEECD that the Mesh proposal is less optimal from DEECD’s perspective has been given some weight in the Panel coming to this conclusion.

(iii) Adjustment to active open space reserve A90-04

Mr De Silva put forward a proposal to realign the northern boundary of the active open space reserve (with no net loss in area). The realignment is proposed in order to create a more regular interface between the developable area and the active opens space with good solar orientation and to increase the extent of the open space buffer to the Regional Rail Link. Mr De Silva demonstrated that the proposal could accommodate the MPA’s active open space provision (top 5 sports) within their revised area. The MPA, in response to the revised active open space area, advised the Panel that they have no objection to the proposed adjustment of boundaries where there is the agreement between all parties (Council, MPA and Villawood). Essentially, if Council are satisfied, then the MPA will make the change on the Plan within the PSP.

The Council’s position on the matter is to refer back to the evidence of Ms Hawes, Council’s open space planner. In Ms Hawes assessment of A90-04, the active open space reserve is recommended to be increased by 1.2ha to accommodate what the Council believe are the required sporting provision for the community (that it, 2 AFL/cricket ovals, 2 touch football fields, 3 cricket nets, 2 pavilions and 160 car parks). Ms Hawes assessment is based upon the WSIP 2040 documents, assessment of buffer requirements, passive recreation and associated infrastructure. Ms Hawes also recommended that the Community Facility be relocated to another location, but does not offer an assessment of where that may be.

The Panel concludes that the revised active open space reserve has merit for the reasons put forward by Mr De Silva and notes that the MPA agrees. The Panel encourages Villawood and
the MPA to work with Council to redesign the existing reserve to allow for the required active open space, although the Panel does not agree that the reserve should be increased in size by 1.2ha as discussed in Section 4.3.

5.3 Tarneit Development (Dacland Pty Ltd)

Dacland Pty Ltd control approximately 82ha of land east of Derrimut Road in two parcels north and south of Dohertys Road. The portion of the land south of Dohertys Road is the subject of Planning Permit application WYP6211/12, which has been opposed by Wyndham City Council. The area that is the subject of the permit application is shown in Figure 2.

The permit proposal is for the subdivision of the site into 297 lots, on 25.75ha total site area, south of Dohertys Road, and lying between the Skeleton Creek on the eastern boundary, and Dry Creek on the west.

(i) The issues

Mr Tweedie, representing Dacland, submitted that, whilst Dacland generally supports the PSP and the DCP, and many of the matters raised have now been resolved, there remain a number of unresolved matters between MPA and Dacland in relation to the PSP and DCP including:

- Development sequencing (this is addressed in Section 4.1 above).
- Opposition to retaining Table 1 (Housing type by lot size) in the PSP.
- Open space identified as PNW-05 in Plan 4 straddles a property boundary.
- Concerns about the wording of R56.
- Table 7 should show consistent timing for Dohertys Road intersection, bridge and upgrade projects.
- Request inclusion of a clause in the PSP that allows a permit to granted within the Tarneit town centre before the preparation of an Urban Design Framework.
- Objects to the removal of ‘to the satisfaction of the responsible authority’ from the end of R29.
- Modified layout for retarding basin and connector road north of Dohertys Road.
- Requests that the bridge over Dry Creek shown to the east of Derrimut Road on Plan 2 of the PSP be funded through the DCP. (This is dealt with in Chapter 7)

Mr Tweedie made submissions generally in support of the Planning Permit application and challenged the grounds for Council’s opposition.

The Panel has reviewed proposed permit conditions in the event that a permit is approved. Several changes have been proposed to the exhibited conditions by the parties as detailed below.

(ii) PSP Issues

Table 1 in the PSP

Mr Tweedie submitted that Table 1 in the PSP does not serve any useful purpose and does not achieve its intended purpose of assisting decision making in regard to providing housing
diversity as it is simply an example of how different lot sizes might accommodate different housing types. Dacland submitted that it should be left to the market and builders to deliver specific housing types.

MPA submitted that the Table provided guidance to Council planners at the subdivision stage and would assist in promoting housing diversity, which they submitted remains and important objective in growth areas.

The Panel agrees with Mr Tweedie that Table 1 will have limited value in terms of providing tangible direction for Council decision makers. It also agrees with the MPA that housing diversity ought to be an issue considered at the subdivision stage and, in that respect, believes that the Table does no harm. At the very least it may encourage developers to consider a range of housing options and its context is clarified in guideline G13. On balance the Panel concludes that Table 1 should be retained in the PSP.

**PNW-05 open space reserve and R30**

Mr Tweedie submitted that it not practical to deliver a park that straddles two separate properties and that if the two parcels were not developed concurrently, the park will be compromised. He further argued that there is no demonstrated need for a larger park as a large area of open space (A90-01) is proposed nearby.

R30 requires the first development proponent to undertake a master plan for the entire park. Mr Tweedie argued that it may be difficult to get two different owners (with different development timeframes) to agree on the layout.

Mr Tweedie submitted that the park should be split into two parks of one hectare each and relocated more centrally to the land holdings.

The MPA submitted that a larger two hectare park would achieve a greater diversity of open space in this location and should be retained. They submitted that ‘the decision to straddle the open space across the boundary was made on reflection of land owner equity with the acknowledgement that it would create some potential practical difficulties’. They suggested, however, that the wording of R30 be changed to require only an ‘indicative concept master plan’.

Council provided a letter to the Panel that articulates their position on this matter (document 90). Council state that they have made their position clear to the MPA on a number of occasions that it does not support the practice of straddling active and passive open space reserves across multiple property owners as it leads to fragmented delivery of the asset due to development occurring at different times. Council’s preference ‘would be for this park to be located on Dacland’s property given the proximity of PNW-04 – Robertson Farm heritage site, but Council would be satisfied if Panel recommends placement of the park on the northern boundary’.

The Panel notes that this particular park is the only example of a park split over a property boundary in this PSP. The Panel agrees that this is problematic and should be avoided if possible. The Panel was not provided with convincing arguments for the larger park to be retained and is inclined to agree with Mr Tweedie that the close proximity of A90-01 does seem to lessen the argument for a larger park in this sub-precinct. Having said that, the
Panel does not think it is overly onerous to require the first developer to prepare an indicative concept plan in situations where it is unavoidable to have a park straddle two ownerships.

On balance, the Panel believes that this situation can be reasonably avoided in this case by splitting the park into two separate parks, each contained within one ownership. The Panel does not believe the amenity or functionality of the area will suffer by deleting the larger park, particularly with the close proximity of the large open space area at A90-01. If this recommendation is adopted R30 may not be required to be retained in this PSP. If it is required, the suggested change to ‘indicative concept master plan’ rather than ‘master plan’ is preferred.

**Truganina PSP Requirement 56**

Mr Tweedie submitted that R56, which deals with frontage roads, ought to be more flexible and therefore should be changed to add ‘to the satisfaction of the responsible authority’ or alternatively be changed to a Guideline.

In its closing submission, the MPA proposed to adjust Requirement 56 of the Truganina PSP to read:

‘**Development must positively address all waterways through the use of frontage roads or lots with a direct frontage, to the satisfaction of Melbourne Water and the responsible authority**’.

The MPA also proposed to include a new guideline to read:

‘**Streets should be the primary interface between development and waterways. Where lots with direct frontage are provided, they should be set back up to 5.0 metres from the waterway corridor, to enable pedestrian and service vehicle access, to the satisfaction of Melbourne Water and the responsible authority**’.

The MPA consulted with Melbourne Water on these words and provided the Panel with further information at the clarification day (4 March 2014). Melbourne Water had concerns with the MPA words contained in their closing submission and provided the following as an alternative:

*Development must positively address all waterways to the satisfaction of Melbourne Water and the responsible authority*’

And guideline to read:

*Streets should be the primary interface between development and waterways. Public open space and allotments with direct frontages may be provided as a minor component of a waterway interface, to the satisfaction of Melbourne Water and the responsible authority.*

The MPA disagrees with Melbourne Water’s alternative wording as it believes that the Melbourne Water requested words leaves too much discretion to Melbourne Water. However, the MPA did offer an updated version of the guideline to read:

*Streets should be the primary interface between development and waterways. Public open space and lots with direct frontage may be provided as a minor component of the*
**waterway interface.** Where lots with direct frontage are provided, they should be set back up to 5.0 metres from the waterway corridor, to enable pedestrian and service vehicle access, to the satisfaction of Melbourne Water and the responsible authority’.

The Panel accepts that this wording is appropriate.

**Consistency of Dohertys Road projects timing in Table 7**

Mr Tweedie submitted that the column headed ‘timing’ in Table 7 (Precinct Infrastructure Plan) of the PSP serves no useful purpose, is potentially inconsistent with Table 10 in the DCP and should be removed. Alternatively, he submitted that RD-90-04 (Dohertys Road widening to 34m) should be identified as a short term project, consistent with Mr Turnbull’s evidence.

The MPA did not support the removal of the ‘timing’ column from Table 7 but did agree that project RD-90-04 should be shown as a short term project and this change has been made to the final form of the PSP.

The Panel believes that the retention of the ‘timing’ column in Table 7 assists the implementation of the DCP, particularly with respect to guiding works in kind arrangements and therefore should be retained. The Panel does agree with Mr Tweedie that Table 7 in the PSPs must be consistent with Table 10 in the DCP which in Section 7.5 of this report is recommended for retention. The Panel has identified a number of apparent inconsistencies between the two tables. It is of the view that Table 7 in the two PSPs should be amended to make them consistent with Table 10 as follows:

- RD91-07 - Timing of interim to be S
- RD90-03 - Timing of interim to be S
- RD91-05 – Timing of interim to be S
- RD91-04 – Timing of interim to be M
- RD89-04 - Add to Table 7 with interim timing M
- RD88-02 - Add to Table 7 with interim timing M

**Retarding basin and connector road north of Dohertys Road**

Mr McLean, in evidence called by Dacland, provided five alternatives for the retarding basin and connector road on the north side of Dohertys Road to the west of the proposed Dohertys Road crossing of Skeleton Creek. Melbourne Water advised that it believes either option 4 or 5 are viable. Dacland and the MPA agreed that option 5 had a number of advantages in terms of the functionality of the subdivision design and the design of the connector road intersection with Dohertys Road. The Panel prefers option 5 for the same reasons and considers option 4 to be unsatisfactory as it creates a staggered intersection for the connector road at Dohertys Road. This is undesirable and should be avoided. Option 5 requires a culvert causeway across the retarding basin to carry the connector road. Mr Tweedie submitted that the connector road causeway should be funded through the DCP. The Panel does not agree that local and connector road crossings of waterways should be funded by the DCP and this issue is discussed further in Chapter 7.
(iii) Planning Permit issues

The applicants primary concerns relate to the Condition Nos 3(d), 5(a), 8(i), and 11(b), Version 4. These are discussed below.

The Panel notes that the majority of other conditions have been resolved in discussion between Dacland, Melbourne Water and the MPA.

Condition 3 (d)

This condition requires the removal of one way streets.

The submitted layout plans illustrate a one-way road system with raised pavement on either side of the 0.21 ha open space reserve in the southern part of the site.

The MPA has provided no information as to why a two way street is any safer than a one-way street. The Panel notes that such a condition was not included in Version 1 of the draft permit.

Mr Tweedie, on behalf of Dacland, stated that one-way streets have been incorporated around the southern reserve to create a low traffic environment for the safe local pedestrian use of the park. He submitted that small one-way systems can create low traffic, low speed environments that are an appropriate element of an overall neighbourhood design. He advised that adequate width has been provided to comply with on-street parking requirements and access for garbage and emergency vehicles.

Mr De Young provided evidence that there were no engineering reasons why the one-way system cannot happen. He was satisfied that given the proposed 15 dwellings fronting the one-way street together with the open space reserve, a one-way traffic flow was appropriate.

The Panel notes the location and direction of the one-way arrows on the plan, and that the final road layout and traffic arrangements will, in any case, be subject to discussion with, and approval by, Council. The Panel believes that the applicant should be given the opportunity to make its case for a one-way street at that time and that the matter should not be pre-judged at this time.

The Panel concludes that Condition 3d should be removed.

Condition 5(a)

This condition requires that:

Where this permit is for part of what is a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

It was submitted by Mr Tweedie that the condition was inappropriate as there could not arguably be a nexus with tying up another parcel of land outside the application site into the PIP. Other parcels may be sold and any PIP requirement relating to another parcel should be dealt with at the time of the subdivision permit for that other parcel.
The Panel notes that the above condition is a model MPA condition, though modified by the removal of:

*If the permit is in respect of the first stage of what is a broader intended subdivision of land owned by the owner....*

The Panel is not aware of the future intention of the permit holder regarding a broader subdivision of land. However, it has taken account of the expression, *reasonably practicable*. In the circumstances it supports the retention of this condition given that the PIP will otherwise relate to the land the subject of this permit.

**Condition 8(i)**

This condition requires that the PIP include:

*Construction of the road crossing of Dry Creek before a Statement of Compliance is issued under the Subdivision Act for the second last stage of the subdivision.*

Mr Tweedie considered that this condition is beyond power as there is no nexus to require the road crossing as part of the application. In this context the condition is linked to Condition 5(a). He submitted that it is properly dealt with as part of the western land if the link is required at that time. He considered that the road crossing is a significant cost impost ($3.5-4m), to be delivered as part of a 300 lot subdivision, one which will not connect to anywhere until the Dennis Family Corporation develops the land to the south. He stated that there was no current application for development on that land and, therefore, the need for connection may be 10+ years away depending on the progress of the development.

Mr Tweedie argued that taking this into account the cost of such crossings should be included in the DCP as they will serve the wider community.

In considering a number of waterway crossings in the two PSPs including the present one, the MPA argued that such provision should be readily anticipated by development proponents.

The Panel notes that the indicative bridge crossing illustrated on the application plan would link the key access street running north-south through the site to the future business and residential area, and the Tarneit town centre. It considers that, unless there are exceptional circumstances, the condition should be retained, notwithstanding that the bridge is not included in the works to be funded by the Wyndham North DCP. The inclusion of bridge crossings of waterways in the DCP is discussed in Section 7.6.

The Panel supports the view of the MPA, that the bridge crossing, and its associated costs should have been anticipated by the applicants and that the bridge is an important future access link between the Dacland site and the land to the south.

**Condition 11(b)**

The condition states:

*The plan(s) of subdivision submitted for certification must be generally in accordance with the plans endorsed under this permit but modified to show the following to the satisfaction of the responsible authority:*
(b). A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies.

Mr Tweedie submitted that the condition was overly restrictive and could potentially lead to undesirable outcomes in the future if the small lot products change or evolve. He stated that some flexibility needs to be applied and that title restrictions are, by nature, too restrictive. He recommended that the condition states that restriction on title should state that the Code applies and that development must not be constructed otherwise than in accordance with the Code without further consent of the Responsible Authority.

The Panel notes that the standards in the Small Lot Housing Code are prescriptive for dwellings on lots of less than 300sq. m., though the current planning permit process can be used for dwellings that do not meet the standards. However, as the condition proposes a restriction on the plan of subdivision, the Panel considers that there should be flexibility in the consideration of applications for dwellings on sites less than 300 sq. m. in area, that are not in accordance with the provisions of the Small Lot Housing Code.

Taking account of the above, the Panel supports the amendment to Condition 11(b), for an addition at the end of the condition to read:

......without the further consent of the responsible authority.

Panel Preferred Version

Council has proposed a number of changes to the permit that have not been canvassed in the Hearings, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has considered these additional matters, which are either imprecisely drafted or are details which, subject to the wording in the final permit, can be addressed by Council as responsible authority, when plans are submitted in accordance with the relevant conditions.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position, but believes that the additional conditions proposed by Council should be discussed between the MPA and Council.

Dacland provided a final preferred version of their permit conditions to the Panel on 3 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.

The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version included in Appendix C. For convenience the Panel Preferred Version is marked up to show recommended changes from the MPA version 4 tabled on 4 March 2014.

(iv) Recommendations

The Panel recommends the following changes to the PSP:
Modify the Truganina PSP to split open space area PNW-05 into two one hectare areas each contained within the separate land ownerships and centrally located to the land parcels.

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permit WYP6211/12 as shown in the MPA Version 4 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

5.4 ID Land Pty Ltd

ID Land Pty Ltd owns approximately 104ha of land bounded by Woods Road to the east, Skeleton Creek to the west and Dohertys Road to the south. The land is in two parcels north and south of a connector road. The portion of the land south of the connector road and abutting Dohertys Road is the subject of Planning Permit application WYP6210/12, which has been opposed by Wyndham City Council. The area that is the subject of the permit application is shown in Figure 2.

The permit proposal is for the subdivision of the site into approximately 577 lots.

(i) The issues

Mr Finanzio, representing ID Land, submitted that, whilst ID Land generally supports the PSP and the DCP, and many of the matters raised have now been resolved, there remain a number of unresolved matters between MPA, ID Land (and Council) in relation to the PSP and DCP including:

- Development sequencing (This is addressed in Chapter 4).
- ID Land requests that the connector road bridge be included in the DCP or failing that, R58 be modified to make reference to the ID Land property and the property on the other end of the road bridge. The DCP issue is addressed in Section 7.6.
- ID Land requests that the dry stone wall shown on the ID Land property be removed from Plan 3 of the Truganina PSP.

Mr Finanzio made submissions generally in support of the Planning Permit application and challenged the grounds for Council’s opposition.

There are two permit conditions still unresolved between ID Land and the MPA. The Panel has reviewed proposed permit conditions in the event that a permit is approved.

(ii) PSP Issues

Dry Stone Wall

A dry stone wall is located along part of the northern boundary of the ID land which lies to the north of the ID Land application site. This wall is shown to be retained in Plans 1 and 3 of the PSP. Mr Finanzio, on behalf of ID Land, argued that the wall was not properly assessed at the time of its designation for retention in the PSP, and is of low historical value and in poor condition.

Mr Finanzio called Ms Andrea Murphy, an archaeologist and heritage advisor, who had prepared a statement on the heritage value of the wall. She advised that the wall may have
been modified up to three or four times. She advised that these modifications have damaged the original fabric of the wall and, along with general neglect over many decades, it is in poor condition. Based on the provisions of the Burra Charter, the wall was assessed as having local historical, low social, low aesthetic and low scientific significance, and had no archaeological potential. It was her opinion that there was no reason for the retention of the wall.

The MPA accepted the expert report from Ms Murphy that the wall is not of high value to justify its retention and requested that the Panel support the removal of the wall from Plan 3.

Council noted the provisions of Clause 52.37, which allows affected landowners to apply for a planning permit to remove dry stone walls. In considering each application, Council advised that it would consult with the MPA and its own heritage advisor to come to a decision that supports both the implementation of the PSP and the Dry Stone Wall Study due for completion in May 2014.

As stated in Section 4.7, the Panel believes that in making decisions about walls to be removed or retained, reference should be made, either in the Schedule or in the PSP, to the need to consider Council’s Dry Stone Wall Study following its completion. The Panel made a recommendation along these lines in Section 4.7.

The Panel agrees with Council that, in the meantime, a permit be required in accordance with Clause 52.37.

(iii) Planning Permit issues

The applicants’ primary concerns relate to the Conditions 20 and 35 contained in the MPA’s draft conditions, Version 4. They have also raised issues regarding Conditions 13(b) and 2(d). These are discussed below.

The Panel notes that the majority of other conditions have been resolved in discussion between ID Land and MPA.

**Condition 20**

This condition states,

> If the environmental site assessment recommends an environmental audit of all or part of the land, then:

> ……

> (c). before the development associated with the subdivision starts,

> whichever is the earlier in respect of all or that part of the land as the case may (stet), the following must be provided to the responsible authority, either:

> (d). A Certificate of Environmental Audit……, or

> (e). A Statement of Environmental Audit……

Mr Finanzio stated that the wording of the condition, concerning environmental audit triggers linked to the certification of a plan of subdivision, leaves open an interpretation
whereby the development of one stage of the application site without contamination is delayed while an audit is undertaken for a different stage of the land. In the circumstances, the applicant’s proposed amendment to the condition is:

\[c) \text{ before the certification of a plan of subdivision for the stage that includes an area of land identified as being impacted by contamination.}\]

The MPA submits that potential contaminants should be dealt with before any machinery and construction workers begin to transform the site. It advises that the use of parts of a site other than the stage under construction is common in development of a subdivision and such use of the site may disturb or possibly spread contaminants. To avoid this potential outcome, remediation should be addressed prior to all subdivision works across the site.

The application staging plan proposes 22 stages of development with the areas of each stage varying between 0.75ha and 3.14 ha and the number of lots within each stage varying between 12 and 41.

The Panel notes that Condition 19 of the permit states that before development associated with the subdivision starts (other than preliminary works), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken to provide information as set out in the condition.

The Panel raises no objection to the proposed amendment to the condition as it will not prejudice the requirement for a Certificate of Environment Audit, nor a Statement of Environmental Audit as relevant, and will allow development on uncontaminated land to proceed.

**Condition 35**

Condition 35 states:

\[\text{Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority.}...\]

Mr Finanzio submitted that this is an onerous condition that could potentially delay development and should, therefore, be limited to stages of the subdivision. He proposed the following amendment:

\[\text{Prior to the certification of a statement of compliance for each stage of the development, a landscape master plan for the stage must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.}...\]

Alternatively, he submitted that the condition should be split requiring two landscape master plans, one for the street network and the other for the parks. Practically, this will have the effect of the parks master plan not holding up the commencement of road construction. He gave the example of the first four stages of the site that do not require any parks and require only street trees. He considered that the condition should be amended as follows:
Before the commencement of works, a landscape master plan for the street network for the whole of the subdivision must be approved by the Responsible Authority.

Prior to the certification of a statement of compliance for the first stage a landscape master plan for the parks in the whole of the subdivision must be approved by the Responsible Authority.

When approved, each of the landscape master plans referred to above will be endorsed and will then form part of the permit. The master plans must be drawn to scale with dimensions and three copies must be provided. The master plans must show and include as relevant:

The MPA considers that the proposed alternative amendments to the condition are unnecessary as the condition requires only,

(e) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves, in relation to parks.

It considers this not an overly onerous requirement and should be able to be completed and considered in reasonable time so as not to hold up works commencing. It considers that the public space should be considered as a whole hence the master plan requirement.

So far as the first alternative proposed by Mr Finanzio is concerned, the Panel considers that, given that 22 stages of development are proposed, a landscape master plan for each stage would not be appropriate. Such a requirement could potentially lead to inconsistencies and poor relationship of landscaping between the stages. In effect there could be 22 master plans rather than a comprehensive master plan.

Concerning the second alternative, the Panel notes that two reserves of 0.74ha and 0.22ha are proposed. Additionally there is a future open space area abutting and beyond part of the north side of the residential development, together with encumbered open space either side of the Forsyth Drain and Skeleton Creek. The rest of the application site is to be residentially developed with an associated road network. Given the relatively small area of the proposed reserves the Panel considers it unnecessary to require a condition for two master plans to be submitted and approved by the Responsible Authority, given that most landscaping will be required in relation to the street network. The Panel is not convinced that two master plans are required in this instance and therefore recommends that the permit condition remain as exhibited.

**Condition 13(b) Inclusion of Memorandum of Common Provisions**

The Panel notes that the applicant’s amended condition 15(b) in Version 3 of the permit, includes reference to the Small Lot Housing Code or the application of a Memorandum of Common Provisions and building envelopes. The applicant proposes to replace Condition 13(b) of the MPA’s most recent draft Version 4 or the permit to include reference to the Memorandum.

This matter is addressed in relation to the Stockland permit, WYP6217/12, (Clause 6.4).
The Panel supports the retention of the MPA’s Condition 13(b), without amendment for the reasons set out in the Stockland section of this report.

Condition 2(d) Extend Stages to Waterway Corridor.

This condition requires the staging plan be revised so that all stages abutting a waterway/drainage corridor be extended to the centre of the waterway/drainage corridor.

The applicants have requested the deletion of the condition on the grounds that the staging plan should reflect the Storm Water Strategy approved by Melbourne Water under Condition 1 of this permit.

ID advises that the majority of stages will not drain into Skeleton Creek and applying this condition will mean that the corridor is delivered in a piecemeal fashion.

In relation to the Forsyth Drain, ID stated that it provides a drainage function for many properties to the north so stages may be delivered independent of the waterway. ID Land submitted that this will result in a more efficient, cost effective and better outcome through the delivery of the waterway in one line,

Additionally, the applicants consider that increasing the stage areas unnecessarily brings forward ID’s GAIC liability. ID considers that the condition should be deleted.

The Panel notes that the extension of the stages to the centre of the waterway corridor will provide the opportunity for the improvement of environmental values and the health of waterway systems. It will assist in ensuring that future amenity and ongoing management and maintenance of the waterway are taken into account.

Regarding the bringing forward of ID Land’s GAIC liability, if applicable, staged payment arrangements may be available, aligned with the specified subdivision stage.

The Panel considers that the condition should remain.

Dry stone walls

The Panel notes that the permit citation includes ‘…demolition, removal or alteration of dry stone walls’… However, no information or plans have been provided regarding such walls to be demolished etc. In the circumstances, an additional Condition 3(t) is proposed to read:

(t) dry stone walls to be demolished, removed or altered.

Such condition is aimed to achieve consistency between the process required under Clause 52.37 and the nature of the permit now under consideration.

The Panel also proposes a further condition in line with the MPA’s condition in the Leakes North permit, which states:

(u. Final details of dry stone walls to be retained near roads and intersections.

Panel Preferred Version

The Panel notes that the applicant shows a number of tracked changes to the permit. Many of these changes represent minor modifications and relocations of conditions within the permit, but may also include some amendments, additions and removal of conditions. They
have been considered by the Panel and have been accepted where worthy of inclusion in the permit, though a number are matters that can be addressed by the MPA.

Council has also proposed a number of changes to the permit that have not been canvassed, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has noted these additional matters, which are either imprecisely drafted or are details which, for simplicity’s sake have not been considered by the Panel. Subject to the wording of the conditions in the final permit, these matters can be addressed by Council as responsible authority, when plans are submitted.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed in the first instance between the MPA and Council.

ID Land provided a final preferred version of their permit conditions to the Panel on 4 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.

The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience the Panel Preferred Version is marked up to show recommended changes from the MPA version 4 tabled on 4 March 2014.

(iv) Recommendation

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permit WYP6210/12 as shown in the MPA Version 4 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

5.5 Leakes Pty Ltd

Leakes Pty Ltd control a large site within the Truganina precinct as shown on Figure 2. The site is the subject of two Section 96A planning permit applications as follows.

The Southern Site - Planning Application WYP6216/12

The proposal is for the subdivision of the site into 871 lots on land immediately north of Leakes Road and lying between the Woods Road on its eastern boundary and Skeleton Creek to the west. The RRL runs along the northern boundary of the site. It is proposed to extend Morris Road northwards across the RRL into the northern Leakes site. The application is supported by Wyndham City Council.

The Northern Site - Planning Application WYP6744/13

The proposal is for the subdivision of the site into 927 lots on 104.33 ha immediately south of Dohertys Road and lying between the Forsyth Drainage Reserve on its eastern boundary and Skeleton Creek to the west. The RRL runs along the southern boundary of the site. The application is conditionally supported by Wyndham City Council.
(i) The issues

Mr Townshend and Mr Chiappi, representing Leakes Pty Ltd, submitted that, whilst Leakes generally supports the PSP, and some of the matters raised by Leakes have now been resolved, there remain a number of unresolved matters raised by Leakes and which are not agreed with the MPA including:

- Objects to the relocation of the government primary school as proposed by Mesh for Villawood (Addressed in section 5.2 above)
- Submits that the northern bridge crossing of Skeleton Creek is not required and should be deleted from the PSP.

Leakes made an extensive submission in relation to the DCP, including the following points:

- Requests a review of the standard of intersection works in the DCP.
- Requests a review of the standard of DCP funded bridge projects.
- Requests removal of the DCP implementation strategy.
- Prefers site specific land valuations for community facility and active open space land funded through the DCP.
- Requests 10% contingency on all non-bridge projects in the DCP.
- Requests the inclusion of a connector road bridge over Skeleton Creek in the DCP.
- Requests review of the design of DCP funded intersections IN-88-04 and IN-88-10.
- Changes to Truganina Cemetery Conservation Area buffer.

Theses issues are addressed in Chapter 7.

Mr Townshend made submissions generally in support of the Planning Permit applications.

(ii) PSP Issues

Northern Skeleton Creek crossing

Leakes Pty Ltd requests the removal of the road crossing of Skeleton Creek shown north of the confluence with Dry Creek and south of Doherty’s Road on Plan 2 of the Truganina PSP.

There are two crossings of Skeleton Creek and one crossing of Dry Creek shown on the exhibited Truganina PSP on Leakes land. Leakes submission is that the second (northern) bridge crossing of Skeleton Creek is not required and should be removed from the PSP.

In Leakes submission, it states ‘our examination of the road network and traffic movement patterns has found that this movement is not essential. If the road bridge is removed [from] the road network, then traffic is able to re-distribute via the arterial road network and Bridge 3 [southern Skeleton Creek crossing] without undue stress on road users. Therefore, Leakes does not support the retention of this link unless it is included in the DCP’.

Mr Whalen from GHD, on behalf of Leakes Pty Ltd, suggests in his expert witness statement that the cost of the disputed Skeleton Creek crossing bridge is approximately $5.1 million. This estimate includes preliminaries for site establishment, the approach embankment, pavements, drainage, conduits, lighting, landscaping, bridge beams, reinforced earth walls and the associated bridge components. Leakes submit that this cost is excessive for a bridge it believes is not required.
In his expert evidence to Panel, Mr Turnbull suggested that the northern Skeleton Creek crossing is desirable from a road network perspective and allows access to the school site in close proximity. In forming this view, Mr Turnbull looked at the bridge crossing from a traffic assessment analysis and the traffic implications for the surrounding communities of not having the vehicle bridge.

Mr Hunt submitted in his evidence that the northerly crossing is likely to predominantly attract local traffic movements related to the school site, which can be accommodated by a pedestrian/bicycle link. He concluded by stating that the northerly crossing could be removed as part of the proposed PSP network, although the inclusion of a pedestrian and bicycle route would be an appropriate replacement.

The Panel notes that Plan 6 of the PSP shows the east-west access street 2 crossing the site, including the bridge, to be a key access street.

The Panel considers that the bridge crossing is an important future access link between the Leakes site and the land to the south and west. In time, the bridge will permit connection with a N-S connector street to the west of Skeleton Creek linking the Leakes site with the Tarneit town centre and the station. In this context, the Panel notes G 38 of the PSP which states:

Street layouts should provide multiple convenient routes to major destinations such as the Tarneit Railway station and Tarneit major town centre, the future Truganina railway station site and Truganina local town centre and the arterial road network.

Additionally, a secondary school is proposed immediately south of the access street and west of Morris Road. The proposed bridge will permit appropriate access (vehicular, bicycle and pedestrian), to and from future development either side of Skeleton Creek.

The Panel considers that the permit condition proposed by the MPA is appropriate, but agrees that, given the low traffic volumes and proposed use of the bridge, it can be significantly scaled down to a two lane, two way bridge with a shared bicycle path.

The Panel believes that local and connector road crossings of waterways should not be DCP items. This is discussed in Chapter 7.

(iii) Planning Permit issues

The applicant’s primary remaining concern in relation to permit conditions is to ensure that approval is included in the permits for the removal of dry stone walls not identified for retention.

The Panel notes that the majority of other conditions have been resolved in discussion between Leakes and MPA.

Preamble to permit

Minter Ellison wrote to the Panel on 28 February 2014 seeking to change the preamble to the two permits to include:
.......associated buildings and works under Public Conservation and Resource Zone and DDO10; removal of native vegetation; and create or alter access to Road Zone (Category 1).

MPA responded that:

1. It agreed to the inclusion of the Public Parks and Recreation Zone in the citation as this was a late change that the MPA agreed to in response to Melbourne Water.

2. The MPA disagreed with the inclusion of the DDO10 in the citation, as the draft permit includes a condition requiring a restriction on the plan of subdivision to address noise matters.

3. Regarding the inclusion of native vegetation in the citation, the MPA has reserved its opinion on this matter. This is until such time as it makes a recommendation for adoption of the Amendment, with regard to whether the relevant provisions of the Scheme have been amended to remove the need for the removal of native vegetation.

4. In connection with the citation referring to the creation or altering access to the Road Zone 1, although the applicants consider that a permit is required, the MPA disagrees with its inclusion in the permit, stating that the permit is to subdivide land under Clause 37.07-10 of the UGZ.

5. The MPA agreed that the demolition, removal and alteration of the dry stone walls required a permit and that this should be included in the citation.

The Panel notes the views of the applicants and the MPA and makes the following observations:

1. The applied zone provisions contained in the Table to the exhibited version of Clause 2.2 of the UGZ10 do not contain the PCRZ as an applied zone, though this was subsequently included in the later version dated 19th November 2013. The Panel notes that a permit is not required under Clause 36.03-2 of the PCRZ for a building or works carried out by or on behalf of a public land manager or Parks Victoria under various legislation, although a permit would otherwise be required.

   It is not clear to the Panel what associated buildings and works are proposed in the PCRZ as applied to these permits.

The Panel is not convinced that the PCRZ should be included in the citation. The land was originally exhibited as lying within the UGZ10, not the PCRZ, though the MPA subsequently included the PCRZ as an applied zone in November 2013. Notwithstanding that the PCRZ is apparently a late change agreed to in response to Melbourne Water, the Panel is not prepared to support the change to the permit description so far as it applies to the PCRZ. The Panel notes that the most recent MPA Version 4 of the permits only includes reference to subdivision of land, (and the demolition, removal and alteration to dry stone walls). It does not include reference to the PCRZ even though it was an applied zone in the later version of UGZ10.
2. The Panel agrees with the MPA that it is not necessary to include DDO10 in the citation. Condition 9(d) of the Leakes South permit and Condition 10(d) of the Leakes North permit include the noise requirements contained in Clause 2.0 of DDO10. It also notes in DDO10 that a permit is not required to construct a building or carry out works for accommodation if there is a restriction on title to the land requiring compliance with the requirement.

3. The Panel notes that the MPA will consider the matter further when making recommendations for adoption of the amendment. The Panel notes that there are many exemptions to the need for a permit to remove native vegetation contained in Clause 52.16 and 52.17 of the Planning Scheme. Otherwise a permit is required for the removal of native vegetation.

The Panel considers that it would be inappropriate to include the removal of native vegetation in the citation until detailed plans are submitted to the responsible authority that illustrate the vegetation to be removed, and the justification for such removal.

The Panel also notes that in Condition 4(f) of each permit, the functional layout plan must incorporate any trees proposed for removal from the site to be clearly designated.

4. The application is for the subdivision of land adjacent to the applied Road Zone 1 in the UGZ10. The Panel notes that VicRoads may not have been consulted as Referral Authority on the applications, or if it was, no referral conditions were placed on the permit. The Panel agrees with the MPA that the application should be limited to subdivision.

5. The Panel notes the views of the MPA that a permit is required to demolish, remove or alter dry stone walls and that the citation has been included in the permits. However, the Panel proposes to include an additional sub-condition in the permits requiring plans to be submitted showing the dry stone walls to be demolished, removed or altered, as explained below.

In summary, the Panel recommends that the permit citation should not be amended to include the additional matters proposed by the applicants.

**Condition 2(b), Leakes North.**

This condition states in relation to the submission of a modified plan of subdivision that it show:

......

**(b) The northern local street bridge over the Skeleton Creek designed with a 6 metre wide carriageway and a 3 metre wide (minimum) shared path and otherwise to the satisfaction of the responsible authority.**

*The applicants wish to amend the condition to read,*
The northernmost local bridge across the Skeleton Creek designed as a 3 metre wide (minimum) shared bicycle and pedestrian path and otherwise to the satisfaction of the responsible authority.

As discussed under the heading of PSP Issues above, the Panel supports the retention of the bridge and the permit condition.

Conditions 7(g), (h), (i) and 8.

Condition 7 relates to the construction of the overpass over the RRL, the timing and construction of the connector street between Skeleton Creek and Morris Road, and the construction of the northern local road crossing of Skeleton Creek. Condition 8 requires the owner to enter a s173 agreement subject to the collecting agency having previously consented to the DCP infrastructure works in Clauses 7(g), (h) and (i) being provided in lieu of development contributions in accordance with the DCP.

The Panel understands that agreement has been reached between Council and Leakes that Conditions 7 (g), (h) and (i), and 8 of the Leakes North permit be amended as set out in the Panel Preferred Version of the permit in Appendix C.

Dry Stone Walls

The two applications relate to the introduction of further approval for the alteration and removal of dry stone walls. The PSP, Plan Nos 1 and 3, delineate existing dry stone walls to be retained and those with potential for retention. Two walls which are required to be retained are located within the site. Under the Schedule to Clause 52.37 of the Planning Scheme, all alterations or removal, of dry stone walls constructed before 1940 require a permit.

Mr Barlow, providing evidence for Leakes, recommended that, as a planning permit is now required to alter or remove any dry stone wall, the permit citation be modified to include the alteration and removal of non-significant dry stone walls and that a condition be included in the permit requiring the submission of a plan showing the walls to be modified to the satisfaction of the responsible authority.

The Panel notes that the draft versions 6 and 7 of the permits include the following in the citation:

THE PERMIT ALLOWS

......demolition, removal or alteration to dry stone walls, all in accordance with the plan(s) endorsed under this permit and subject to the conditions set out in this permit.

With regard to the inclusion of a condition requiring a plan showing the walls to be modified to the satisfaction of the responsible authority, the Panel notes that both permits include the following conditions:-

...The construction plans must be drawn to scale, with dimensions, and must include as appropriate:
Appropriate methods for protecting environmental and heritage assets (including retained dry stone walls), during the construction phase of the subdivision.

and,

Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

How the subdivision will retain the existing dry stone walls identified in the Precinct Structure Plan.

Further, the Panel notes that an additional identical condition is included in each permit setting out the requirements for dry stone walls that are to be retained, that is Condition 31 of the Leakes South permit, and Condition 33 of the Leakes North permit.

The Panel notes that Condition, 2(s) has been included by the MPA in Version 6 of the Leakes North permit to read:

s) Final details of dry stone walls to be retained near roads and intersections

The Panel considers that the same condition, Condition 2(m), should also be added to Version 7 of the Leakes South permit.

Taking account of the above conditions which are limited to the retention and protection of dry stone walls, the Panel considers it appropriate, in light of the requirements of Clause 52.37 of the Planning Scheme, to insert an additional condition 2(t), (WYP6744/13), and 2(n), (WYP6216/12), to each permit to read:

(t) & (n) dry stone walls to be demolished, removed or altered.

Panel Preferred Version

The Panel notes that Council has proposed a number of changes to the permit that have not been canvassed, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has considered these additional matters, which are either imprecisely drafted or are details which, subject to the wording in the final permit, can be addressed by Council as responsible authority, when plans are submitted in accordance with the relevant conditions.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed between the MPA and Council.

Leakes provided a final preferred version of their permit conditions to the Panel on 4 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.
The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience, the Panel Preferred Version is marked up to show recommended changes from the MPA versions tabled on 4 March 2014.

(iv) Recommendation

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permits WYP6216/12 and WYP6744/13 as shown in the MPA Version 7 (Leakes South) and Version 6 (Leakes North) tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

5.6 80 Woods Road, Truganina (Resimax)

Resimax have an interest in approximately 52ha of land at 80 Woods Road, Truganina. The site is bounded by Woods Road to the west, Leakes Road to the south and the Villawood land to the north. Approximately 22ha on the eastern side of the site is encumbered by the Woods Road Conservation Area (within the BCS) and retarding basin. The balance of the site is the subject of Planning Permit application WYP6214/12. Wyndham City Council supports the permit application (with proposed changes to conditions).

The area that is the subject of the permit application is shown in Figure 2. The permit proposal is for the subdivision of the site into approximately 389 lots over 12 stages.

(i) The issues

Mr Fridberg, representing Resimax, submitted that Resimax generally supports the PSP and the DCP, and the vast majority of the matters raised in their written submission have now been resolved.

The remaining unresolved issues to be finalised are:

- Resimax requests the land area for the Woods Road conservation area shown in the PSP be corrected to 21.91 hectares, consistent with the exhibited Conservation Management Plan. MPA have agreed to this and the change has been made in the final form of the documents.

- Objects to the re-location of the government primary school shown south of the regional rail link on Plan 2 in the Truganina PSP, as proposed by Mesh Planning on behalf of Villawood properties.

The Panel has reviewed the broader question of whether the development of the site that is the subject of the s96A permit application should be supported on the basis of the assessment criteria established by the MPA.

The one remaining permit condition that is unresolved is:

- Resimax requests the removal of the condition requiring the whole of the central open space to be included in a single stage of the subdivision.
(ii) **PSP issues**

**Relocation of the government primary school as proposed by Villawood**

Resimax oppose the proposal by Mesh Planning regarding the relocation of the primary school. For the reasons set out in this report under Section 5.3 above, the Panel also does not support this proposal.

(iii) **Planning permit issues**

**Open space reserve**

Resimax requests the removal of the condition requiring the whole of the central open space to be delivered through Stage 12 of the development.

The applicant’s concern relates to Condition 4(f) of Permit WYP6214/12, Version 5, which states,

\[
f) \text{The entire central open space included in a single stage of the subdivision.}
\]

The submitted plan shows that the central public open space measuring 0.91 ha in area, lies within two stages of development, Stage 10 and Stage 13. The lion’s share is included within Stage 10, while the smaller part in Stage 13, sits on a separate title. Mr Fridberg, on behalf of the applicant, states that the small part was deliberately associated with another stage, (and different title), in order to deal with separate ownership.

Mr Fridberg believes that the condition is redundant as most of the open space will be delivered in one go and the rest will follow soon after, in line with a consistent, coherent landscape plan.

The MPA advised that it disagreed with the rationale presented by the submitter and has requested that the Panel endorse the inclusion of the condition.

The Panel notes that the planning application form for the subdivision of the land was signed and dated 12th June 2013, and at that time all the land was in the ownership of 80 Woods Road Pty Ltd. Notwithstanding that the area of open space lies within two titles, the Panel does not recognise an insurmountable issue regarding compliance with the condition. It considers that staging boundaries can be adjusted to comply with the condition, particularly given, as Mr Fridberg states, that most of the open space will be delivered in one go and the rest will follow soon after, in line with a landscape plan.

**Dry stone walls**

As with the ID Land and Leakes applications, the permit citation includes the demolition, removal or alteration of dry stone walls. No condition has been included on the draft permit regarding the submission of plans that would be the normal requirement when submitting an application under Clause 52.37 of the Planning Scheme. In the circumstances, the Panel proposes to include a further Condition 4(i) to read:-

\[
(i). \text{Dry stone walls to be demolished, removed or altered.}
\]

Additionally, a further condition is proposed, as with the ID Land, and the two Leakes permits, to include the following:
(j). Final details of dry stone walls to be retained near roads and intersections.

Panel Preferred Version

The Panel notes that Council has proposed a number of changes to the permit that have not been canvassed, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has considered these additional matters, which are either imprecisely drafted or are details which, subject to the wording in the final permit, can be addressed by Council as responsible authority, when plans are submitted in accordance with the relevant conditions.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed between the MPA and Council.

Resimex provided a final preferred version of their permit conditions to the Panel on 12 March 2014, which included comments on the final MPA and Council versions of the permit conditions.

The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience, the Panel Preferred Version is marked up to show recommended changes from the MPA version tabled on 4 March 2014.

(iv) Recommendation

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permit WYP6214/12 as shown in the MPA Version 5 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

5.7 Rose Grange

Rose Grange Commercial Pty Ltd is a subsidiary of Dennis Family Holdings who are the owner and developer of the Rose Grange Town Centre located opposite the Truganina PSP area on the south-east corner of Leakes Road and Derrimut Road.

(i) The issues

The key matters raised by Rose Grange Commercial Pty Ltd are:

- Objects to reference in the PSP describing the Rose Grange Town Centre as a Neighbourhood Centre, and wants the PSP to be amended to identify the Rose Grange Town Centre as a Major Town Centre in accordance with its function and its retail catchment;
- Objects to the location of the Indoor Sports Facility proposed on the corner of Leakes Road and Derrimut Road and suggests this facility should be relocated to the edge of the town centre;
Objects to the off road shared path being shown to continue south of Leakes Road which is not within the PSP area (as it is within the Rose Grange Commercial site); and

An additional pedestrian crossing of Leakes Road should be provided between Sunset Boulevard (east) and Derrimut Road (west) to provide a main street continuation between the Rose Grange Commercial Town Centre and the Tarneit Town Centre.

(ii) Rose Grange Town Centre

In early planning for the area immediately south of the Truganina precinct in the 1990s, according to the Dennis Family Corporation on behalf of Rose Grange Commercial Pty Ltd, provision had been made for some 50,000m² of retail floor space on the south-east corner of Derrimut and Leakes Roads. The Panel understands that this planning took place at a time prior to the extension of the UGB from Leakes Road further to the north. The Panel notes that this is in addition to retail floor space of a similar amount now proposed for the proposed Tarneit Town Centre north of Leakes Road. Rose Grange submit that these two centres serve two different catchments and that there is a need to develop retail facilities on the Rose Grange site in the short term and that the Tarneit Town Centre will not be developed until there is residential development in its catchment. No evidence was led on the need for the proposed Rose Grange retail floor space and how it will fit with the proposed Tarneit Town Centre. For this reason the Panel is unable to comment on the Rose Grange submission.

(iii) Off road shared path south of Leakes Road

Rose Grange submitted that Plan 7 of the PSP shows a continuation of a shared path network along the pipe track south of Leakes Road. They submitted that the path does not exist south of Leakes Road and that the plan should be amended accordingly. MPA advised that the PSP has been amended as proposed.

(iv) Pedestrian Crossing

MPA forwarded the Rose Grange request to VicRoads regarding the inclusion of an additional pedestrian crossing on Leakes Road between Sunset Boulevard (east) and Derrimut Road (west). VicRoads responded that it did not support the additional crossing and the matter has not been pursued further. The Panel was not provided with convincing arguments supporting the additional crossing and does not support its inclusion.

5.8 Mikulic and Bilaver

This submission relates to the property shown as 90-NE-02 at 190 Woods Road Truganina, represented by Mr Mikulic and Mr Bilaver. The land is part of the Truganina Town Centre.

(i) The issue

Mr Mikulic and Mr Bilaver’s submission generally supports the PSP and provided more detailed comments on the proposed Truganina Local Town Centre concept (Figure 2 in the PSP).
(ii) Evidence and submissions

Mr Mikulic and Mr Bilaver made a written submission requesting that ‘the bulk of the retail, including the major retail tenant should be to the east of Woods Road with the west portion acting as a buffer of mixed uses between the residential and town centre.’

Mr Doyle, appearing for the submitters at the Hearing, submitted that flexibility was needed in interpreting the Truganina Local Town Centre Concept Plan with respect to, for example, the location of small line or full line supermarkets. He asked that the Panel note that Figure 2 in the PSP is in concept form.

The submission also offered support for the Section 96A permit application by ID Land for the site immediately to the west of the 190 Woods Road site.

In their closing submission, the MPA noted that the submission did not request any changes to the amendments.

(iii) Discussion and conclusions

The Panel notes the submission and notes that Figure 2 in the Truganina PSP is a concept plan. The Panel understands that, as such, it should afford the flexibility sought by Mr Mikulik and Mr Bilaver.

5.9 Truganina Cemetery Issues

This submission relates to the Truganina Cemetery located on Woods Road that is heritage listed (HO 62) and protected under the Biodiversity Conservation Strategy and known as Conservation Area 10 – Truganina Cemetery Grassland (discussed further in Section 3.6).

(i) The issue

The issue is that some submitters believe that the Greater Melbourne Cemeteries Trust is proposing to expand the existing heritage listed Truganina Cemetery which may have effects on its heritage and biodiversity values.

(ii) Evidence and submissions

Written submissions from Ms Carole Boundy, Mr Robert Lawler, and the Truganina Progress Association Inc., raised concerns about a proposed extension of the Truganina Cemetery. The Truganina Progress Association Inc. believed that the Truganina PSP indicates an expansion of the Truganina Cemetery by 40 hectares and is concerned about the effect such a development will have on the surrounding area, community and heritage values.

A written submission to C175 was provided by the Greater Metropolitan Cemeteries Trust (GMCT) which notes the intent of the GMCT to establish a new expanded regional cemetery facility and specifically states ‘the GMCT aims to be in a position to provide more information about the cemetery proposal in the period leading up to and during the Truganina PSP Panel Hearing’. The submission also noted that the land required for such a regional cemetery would be approximately 32ha and that a range of further strategic and site specific investigations would need to be undertaken before a firm proposal is considered by the GMCT.
A submission from the Western Melbourne Catchments Network Inc. raised concerns that the buffer proposed around the Truganina Cemetery has been reduced and the Western Melbourne Catchments Network Inc. requested that the buffer be expanded back to that presented in the draft Biodiversity Conservation Strategy.

At the Directions Hearing, Mr Vines, representing the GMCT, advised that the GMCT were investigating an expansion of the Truganina Cemetery by 34 hectares onto Leakes Pty Ltd’s land and he acknowledged that, if pursued, this would require a change to the PSP.

Subsequent to the Directions Hearing, advice was received from the GMCT that they did not wish to pursue the matter as part of this Amendment and advised that, if it is to be pursued in the future, a separate planning process would need to be undertaken at the time.

(iii) Discussion and conclusions

The exhibited Truganina PSP did not indicate an extended Truganina Cemetery, however Plan 5-Biodiversity and Threatened Species Action Plan, does show the conservation area that extends beyond the current Cemetery boundary.

The Conservation Management Plan for Area 10 – Truganina Cemetery Grassland and Buffer - aims to protect a small area of very high quality native grassland that contains nationally listed species such as the Button Wrinklewort, Golden Sun Moth and the Spiny Rice Flower. The PSP also states in R43 that:

A 20 metre buffer is to be provided around all edges of the Truganina Cemetery Conservation Area. This buffer zone is to exclude buildings, but may include roads, paths, nature strips, public open space and drainage infrastructure....

The Panel notes that the Management Plan covers an area of 7.82Ha and includes, not only the 1.63Ha cemetery, but also a 1.61Ha restoration area for the planting of native grasses, and 4.58Ha interface area to minimise the impact of adjacent uses, including urban development, on the biodiversity values of the conservation area.

This 7.82Ha area of land is reflected in the area covered by the cemetery, conservation area and passive open space illustrated in Plans 2, 4 and 5 of the PSP.

The submitters on this issue did not present at the Hearing and the Panel are not aware if the submitters have received advice from the MPA or the GMCT that plans to expand the Truganina Cemetery are now not part of this Amendment.

The Conservation Plan for Area 10 – Truganina Cemetery Grassland and Buffer has been approved by the Commonwealth Department of Environment and DEPI under the Biodiversity Conservation Strategy in September 2013. .

The Panel notes that the proposition by the Western Melbourne Catchments Network Inc. for the buffer of the Truganina Cemetery Conservation Area be changed would need to be considered within the framework of the approved Biodiversity Conservation Strategy. Any proposed changes to the Conservation Plan for Area 10 would potentially require both the Commonwealth Department of Environment and DEPI’s approval to make such changes (refer to section 3.6).
5.10 Issues Raised by Catholic Education Office (Melbourne)

(i) The issues

The Catholic Education Office (Melbourne) raised the following issues:

- Recognition of site 90-NW-05 in the Truganina PSP for a Catholic primary school and Catholic Secondary school as opposed to the land identified as 90-NW-12 further to the north west on the PSP;
- Requests an increase from 8 hectares to 9.6 hectares for the primary and secondary school site;
- Requests the addition of a guideline to ensure safe car parking and drop off pick up arrangements on streets adjacent to school sites;
- Requests the legend change the wording from ‘potential non-government school’ to ‘non-government school’; and
- Requests that the Catholic Education Office be identified as a Lead Agency in Table 7 Precinct Infrastructure Plan.

(ii) Evidence and submissions

The Catholic Education Office Melbourne (CEO) request that the school site shown in the Truganina PSP as 90-NW-05 be shown in the PSP as a catholic primary and secondary school instead of 90-NW-12 which is located further to the north west on the PSP. The CEO submitted that this change in location is important to the CEO because it is central to the catchment it wants to serve.

The CEO also suggest in their submission that the allocated 8ha set aside for the school site at 90-NW-05 is not a sufficient size for this purpose and requests a total area of 9.6ha to be set aside in the Land Budget Table.

The CEO submit that they be included as a Lead Agency in Table 7 Precinct Infrastructure Plan, similar to the approach taken for the Westbrook PSP 1092. It is also requested that the wording in the legend ‘potential non-government school’ be changed to ‘non-government school’ to reduce uncertainty for this provision.

The CEO would like to be reassured that there are adequate measures incorporated within the PSP to ensure that the road design adjacent to the intended catholic school site will promote safe traffic and car parking arrangements in association with school use and in particular peak traffic times, more specifically at drop-off/pick up. It is submitted that a specific guideline or design standard should be included in the PSP.

In response to the above issues raised by the CEO, the MPA have informed the Panel that the matters raised by the CEO have been resolved. The MPA submitted that, in regard to identifying 90-NW-05 for a Catholic primary and secondary school instead of 90-NW-12, this change is accepted and the PIP will be updated to recognise the CEO. The MPA also agreed, after consultation with the landholder, that the area should be increased from 8ha to 9.6ha.

Other matters raised by the CEO have either been agreed in part and changes will be made to the amendment documentation, or the MPA advise that the matters have been resolved.
through the Westbrook and Ballan Road process (for example the change to the legend from ‘potential non-government school’ to ‘non-government school’.

(iii) Discussion and conclusions

The Panel is satisfied that the issues raised by the CEO have been resolved through and concludes that the proposed changes, as agreed by the MPA, are satisfactory and allow the certainty that the CEO desires.

(iv) Recommendation

The Panel recommends that the Truganina PSP be amended as follows:

Identify 90-NW-5 as the site for a Catholic primary school site instead of 90-NW-12, and increase the size of 90-NW-5 to 9.6ha.
6 Amendment C176 Riverdale PSP and section 96A permit issues

6.1 Almeg

Almeg Development Pty Ltd act for the owners of the northern part of 1070 Sayers Road Tarneit, identified as property 91-NO-05 in Plan 10 of the Riverdale PSP.

The land is bounded by Leakes Road and the RRL to the north, the Golden Group site to the south, YourLand site to the east and the Wyndham Council site (1160 Sayers Road) to the west. The site has very limited access to Leakes Road via a farm gate access adjacent to the RRL overpass. To the west the land abuts the unconstructed Sewells Road, part of which is identified as the Sewells Road Conservation Reserve 12 in the BCS, because of the presence of the Spiny Rice flower. There is no other direct road access to the site other than via future connector roads to be constructed on adjoining developments (Golden Group and YourLand).

No application for development of the site has been lodged to date.

(i) The issues

There are two outstanding issues remaining in relation to the Almeg land:

- Almeg requests that the primary school proposed on the Almeg land be moved to abut the southern boundary of the Almeg land.
- Almeg requests vehicle access to their landholding be provided through conditions on the 96A permits for the YourLand and Golden Group properties.

Both of these requests are opposed by the MPA.

(ii) Primary School location

Evidence and submissions

Plan 2 of the PSP proposes a Government primary school on a 3.5ha site located on the north-west side of the proposed connector street within the Almeg land. Table 7 of the PSP identifies the school to be delivered in the short to medium (2016-2025) term. The Panel also notes that R28 of the PSP states:

_Schools and community centres must be designed to front, and be directly accessed from, a public street with car parks located to the side and rear of the allotment._

In response to a request from Almeg, the MPA agreed to realign the school and surrounding roads to a more regular north-south orientation.

Mr Woodland, on behalf of Almeg, submitted that the school ought to be relocated further south to abut the southern boundary of the Almeg land.

The MPA submitted that the relocated school proposed by Mr Woodland would result in rear fences of the lots fronting the connector road to the south abutting the school boundary. The MPA sought to achieve active interfaces between schools and adjacent...
residential properties, which provide for passive surveillance of the school. The MPA advised that DEECD does not support outcomes where residences back on to a school as this can lead to damaging affects on the amenity of residents.

The MPA recommended that the Panel not support the relocation of the school as proposed by Mr Woodland.

Discussion and Conclusions
The Panel agrees with the MPA that rear fences abutting the school site should be avoided and the school location as illustrated in the PSP should be retained as proposed (re-orientated) by the MPA.

(iii) Access to the Almeg site

Evidence and Submissions
The MPA proposed conditions in the earlier Version 3 of the draft permits for YourLand, (Condition 14), and Golden Group (Condition 9) that state:

YourLand

14 The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

(b) At the first stage of subdivision a road reserve for the whole of the connector street shown on the land between Davis Road and the shared property boundary with Lot 2, PS 701129 in the Precinct Structure Plan applying to the land).

Golden Group

9(b) At the first stage of subdivision a road reserve for the whole of the connector street shown on the land between Sayers Road and the shared property boundary with Lot 2 PS 701129 in the Precinct Structure Plan applying to the land.

The intended purpose of these clauses was to ensure road access through to the Almeg site from the YourLand and Golden Group sites from an early stage of the development.

The MPA has removed the above conditions in the most recent Version 4 of each permit.

With regard to access to Sayers Road through the Golden Group land, Ms Sharp on behalf of Almeg, advised the Panel that the Almeg land and Golden Group land were both in the ownership of JP Wyndham P/L. However, a contract of sale had been entered into between J.P. Wyndham P/L and Citytime Investments P/L for the Golden Group land, with settlement due on 14th March 2014.

The Panel understands that the contract does not provide for access through to Sayers Road or to Sewells Road. Ms Sharp advised that Golden Group do not agree to provide immediate access through their property.
By email dated 28th March 2014, the lawyer acting on behalf of the Golden Group advised that settlement had occurred with the Golden Group in relation to the purchase of Lot 2, LP 142708, at 1070 Sayers Road.

The Panel was advised by the MPA that access via Sewells Road abutting the Almeg land is not possible given the conservation reservation over the road reserve.

There is a 3.5m farm access gate to Leakes Road to the north. Ms Sharp stated that at the time of acquisition no opportunity to negotiate long-term access suitable for future redevelopment of the land was provided by the RRL Authority.

Ms Sharp advised that Almeg is still investigating whether appropriate access can be provided to Leakes Road, either by utilising the farm access or investigating the option proposed by Mr Lamont, on behalf of Golden Group. She highlighted a number of shortcomings of this access option including sight distance concerns from the overpass. Almeg also proposed an option of interim access from Leakes Road via the north-south connector road on the YourLand site. It was submitted that while this access would not replace future connector road access to the Almeg land as shown on the PSP, it would allow for some limited development of Almeg land.

Ms Sharp submitted that the connector roads as envisaged by the PSP are not provided for in the current YourLand and Golden Group permit applications. Neither intends to construct and make connection to the Almeg land until later stages of their development. She submitted that this restricts the development of the Almeg land and its role in the development of the PSP area generally, in terms of access to a primary school, active open space and convenient connections to the Tarneit West town centre from the YourLand land.

Ms Sharp noted that the applications and the staging of development potentially puts the development of the land at the ‘whim’ of the development of the adjoining lots with increasingly prohibitive infrastructure and other costs. She submitted that the suggested use of Section 36 of the Subdivision Act 1988 as a possible solution for access to the land is, in her opinion, inappropriate given the cumbersome, adversarial and expensive process, which also requires strict legal tests to be met.

Ms Sharp advised that Almeg supports the conditions proposed by MPA in Version 3 of the permits for the following reasons:

- The conditions will mean that the access through the land is provided at an early stage in the development of the PSP area, thereby opening up access for the active open space, the primary school and connectivity through the area.

- The conditions are supported by Clause 11.02-4 of the Planning Scheme, the objective of which is to manage the sequence of development in growth areas so that services are available from early in the life of the new communities.

- The conditions address R82, R77, R46, and G48 of the PSP, which generally relate to the timely provision and delivery of connector streets

- The conditions are appropriately related to the grant of a permit for residential subdivision in the context of a developing suburb in the PSP.
• The first stage of subdivision is a logical time for the connector road land to be reserved given the uncertainty of when further stages will occur and the possible amendment to the permits over time, altering staging and development layouts.

• The staging of the permits refers much of the more costly infrastructure provision to the later stages of development and, consequently, the reservation of the connector road at an early stage addresses the cost prior to the later stages, which will be substantially more costly.

Mr Woodland gave evidence that the YourLand and Golden Group applications did not address Requirements R43 and R82 of the Riverdale PSP as they did not provide the timely connection of roads.

Mr Woodland noted that neither the current YourLand nor Golden Group applications provide for residential development across the Davis Creek line and nor do they propose to create the relevant connector road reserves or construct the connector road or creek crossings. In short, no provision has been made for the facilitation of the connector road link in a timely manner as, he submits, is required by the PSP.

Mr Jones of Verve Projects, in written evidence provided by Almeg, advised that it was a primary concern that neither the PSP, DCP nor s96A applications provide any effective mechanism for the timely delivery of the community infrastructure, in this case, the primary school. This is because, in his view, they do not address the process for the delivery of the connector roads and bridge crossings required to be delivered to create lawful access to the Almeg land.

Ms Sharp proposed three possible solutions for overcoming the landlocked nature of the site and providing appropriate access. These are:

• Conditions on the YourLand and Golden Group permits.

• Amendment to the DCP to include the connector road construction and bridges.

• Provision of interim access through the YourLand land.

Ms Sharp also advised that in the event that Council does not accept the reservation of the road reserve without a commitment to construct the road reserve, Almeg submits that a s173 agreement could be placed on the applicable permits which would allow for the future road construction, including a provision that if Almeg or a developer of the land wished to construct the road before the landowners do, that party may do so. Ms Sharp proposed the following condition to address this matter:

_The permit holder, Council and the owner of Lot 2, PS 701129N enter into a section 173 agreement that provides that:_

_i) The owner of the land agrees to construct the connector street shown on the land between Davis Road and the shared property boundary with Lot 2, PS 701129N in the precinct structure plan applying to the land at a time agreed with the responsible authority._

_ii) In the event that the connector street is not constructed and the owner or developer of Lot 2, PS 701129N requires the connector street for access to Lot 2, the owner or developer agrees to construct the road at its own cost._
iii) The parties agree that the reservation of the connector street in Council does not render Council liable to construct the connector road.

As stated above, Almeg supported the conditions placed on the YourLand and Golden Group permits which require that road reserves be created for the connector streets at the first stage of the respective subdivisions, to provide access to the Almeg site. However, the MPA has removed these conditions from Version 4 of the permits.

Ms Brennan, on behalf of YourLand, submitted in relation to the provision of a road reserve between Davis Road and the Almeg site, that there was no proper need or nexus between YourLand’s proposed subdivision and the reservation of the connector road to support the condition having regard to:

- The absence of any need for the road to be constructed to facilitate access to the subdivision.
- The existing 3.5m farm access to the Almeg land from Leakes Road, which is sufficient to meet the current access requirements.
- The absence of any readiness by Almeg to subdivide its land at this time.
- The absence of any basis to find that the timely provision of road connections requires a reservation at Stage 1 of the subdivision of the YourLand site.
- The condition relates to land outside the application site reinforcing the absence of a sufficient nexus between the application and the condition.

Ms Brennan considered it premature to require a road reservation to be vested in Council at Stage 1 of the subdivision. She advised that it is Council’s practice to refuse road reservations vested in Council without an obligation to construct the road. If Council refuses to accept the road reservation without a commitment to construction of that road and Almeg is not subject to a legally binding obligation to pay for it. YourLand will not be able to proceed with its subdivision without paying for the construction of the road long before it is needed to serve the YourLand subdivision.

She referred to s36 of the Subdivision Act 1988, which is the proper mechanism for obtaining access over a landlocked site by way of application to VCAT.

In any event, she advised that it is likely that the connector road will be designed and finalised in conjunction with development of Stage 9 and that, as development proceeds westward, the connector road will be constructed by YourLand.

Ms Brennan noted that the relevant provisions of the PSP require that development staging must provide for the timely provision of road connections, (R82), and does not support road connections before the subject or adjacent parcels are ready for development. She submitted that it is inconsistent with the principles of fair, economic and orderly planning to require a private landowner to provide access to a landlocked parcel of land without compensation, by imposing a premature obligation on that landowner to provide or construct a connection to adjoining land when the need for that connection has not arisen.

Regarding the landlocked nature of the site, Ms Brennan submitted that:
• It abuts Sewells Road. The conservation area adjacent to the road does not prohibit transport infrastructure but requires permission of the DEPI and possibly the Commonwealth with appropriate design and conservation impact mitigation processes. No information has been provided to demonstrate that permission has been sought from DEPI.

• The site has access to Leakes Road over RRL land. Though there is access to Leakes Road via a 3.5m farm access track, no material has been produced to demonstrate any negotiations or investigations regarding permanent access to Leakes Road and scope for design of the RRL to retain the access.

• The site remains in the same ownership as the land to the south (J.P. Wyndham P/L). As soon as it became apparent to the purchaser of the Almeg land that access to its site was constrained, it was incumbent on Almeg to seek to renegotiate the contract to secure alternative access including through the land to the south in the same ownership. (Since the Hearing, the Panel has been advised that the purchase of the Lot 2 LP 142708 by Golden Group has now been settled.)

• Finally, Ms Brennan did not support the condition proposed by Ms Sharp regarding a s173 Agreement to allow for future construction of the connector street from Davis Road to the Almeg land. She submitted that the condition was misconceived, including because it is uncertain which ‘owner of land’ is referred to, because it does not create obligations which bind the owner of the Almeg land, and because it leaves the fundamental question of timing of the provision of the connector street unresolved.

Mr Lamont, on behalf of the Golden Group, also objected to the condition on its permit requiring a road reserve for the connector street between Sayers Road and the boundary with the Almeg land. He considered that the north-east corner of the Almeg site is the most appropriate location for access to the land as it is furthest from the RRL overpass and creek crossing. Following discussion with civil engineers he believed that a suitable access can be accommodated with appropriate passing and turning lanes. He submitted a sketch plan to address a possible intersection with Leakes Road.

In summary, Golden Group considers it not appropriate to encumber its land when it has not been adequately demonstrated that alternative access arrangements are possible, and when a legislative process is in place that is intended to achieve the desired outcome.

The MPA’s opening submission considered that the Almeg land was significantly landlocked and, as planning authority, the MPA had an obligation to ensure that access to the site was provided. In that context, it proposed that a condition be placed on each of the Version 3 permits as set out above, to be circulated to the affected landowners.

In its subsequent closing submission, the MPA noted a number of factors in the course of the Almeg submission to Panel that:

• Both the Almeg and Golden Group properties are owned by the one entity.

• All options to provide access to the Almeg land from Leakes Road have not yet been fully explored or exhausted.

• There are servicing constraints affecting the Almeg land that would not allow the land to be developed for a number of years.
It concluded that the Almeg land could not be said to be conclusively landlocked, nor is it immediately developable.

Additionally, the MPA did not support the reasoning that early access to the Almeg site was needed to allow the proposed primary school on the site to be delivered. It stated that the school was intended to support the residential catchment generally located between Davis Road, Sayers Road and the RRL, however, the three planning applications proposed in this area would not deliver more than half the residential catchment located in this area. Therefore, demand for early delivery of the school was not expected.

In conclusion, the MPA was no longer of the view that there was adequate justification or a reasonable and defensible impost on YourLand and Golden Group to include such conditions on the permit.

The Panel notes that Council does not support the removal the two conditions from Version 3 of the permit.

Mr Montebello stated:

*Council submits that the planning controls make it mandatory that the Requirements of the PSP are given effect. In this regard, Requirements R46 and R 47 are relevant, noting that R46 envisages that the responsible authority, (which is now for all intents and purposes this Panel), will specify a timing point for the inter-parcel connection to be made. The Panel should note that the YourLand land has no schools or active open space in its vicinity save for those to be constructed on the Almeg’s land. The timely provision of that infrastructure must be facilitated. The Section 36 applications are not a suitable measure to deal with this as it effectively requires compulsory acquisition where normally, none would ever be contemplated. We disagree with the submissions of Ms Brennan SC on the legal basis or lack of legal basis for this condition. To the contrary, the Requirements must be given effect.*

**Discussion and Conclusions**

The Panel notes that Plan 2 of the Riverdale PSP illustrates the connector street connecting Davis Road and Sayers Road through the Almeg land. However, the proposed subdivision of the YourLand site extends from Davis Road to the eastern environs of the Davis Creek, and no subdivision is proposed westwards to the western boundary of the land adjoining the Almeg land.

Similarly, with regard to the Golden Group site, the application for subdivision is for Precinct A, south of a tributary of the Davis Creek, with no subdivision proposed in Precinct B, north of the creek to the boundary of the Almeg land.

The issue relates to the *timely* provision of the connector road link as required by R43, R82 and G48 of the PSP. The Panel considers that in normal circumstances it would be appropriate for there to be a road link constructed to the property boundary as required by the relevant requirements of the PSP. However, the YourLand and Golden Group
subdivision applications do not extend to the western or northern boundaries of the site respectively.

Additionally, the Panel notes that Condition 64 of the Golden Group permit and Condition 73 of the YourLand permit state that the permits will expire if the first stage of the subdivision is not certified within 5 years of the date of issue of the permit or within 10 years if the last stage is not certified. In the circumstances, subject to the intent of the applicants, some time may elapse before subdivision and development takes place on the ground.

The Panel also notes that no application has been lodged by Almeg for the subdivision of its land, so the Panel believes there is no urgency for gaining access to the Almeg site. In this context, it may still be possible to address potential access to the land, either via Leakes Road or across Sewells Road (avoiding the conservation area), in addition to the longer term connection to the Plan 2 PSP connector street either via the YourLand land or the Golden Group land.

The Panel believes that there is little ‘risk’ in not including the suggested permit conditions as a future developer of the Almeg site has the option of obtaining early road access to the site via processes included in the Subdivision Act 1988. The PSP appropriately shows the alignment of the connector roads, and that is all that is required at this stage. Subdivision plans will need to be prepared in accordance with the PSP, ensuring that connector road alignments are reserved, ultimately providing connection to the Almeg site.

The Panel concludes that:

- The additional condition proposed by Ms Sharp for a s173 Agreement in relation to the construction of the connector street to Lot 2, PS 701129N is not appropriate for the reasons given by Ms Brennan.
- It is premature to include permit conditions requiring the provision of a road reserve connecting the western and northern boundaries of the YourLand land and the Golden Group land to the Almeg land.
- If and when future developers of the Almeg land do resolve servicing issues, and the land becomes ready for development, the Panel believes that the Subdivision Act 1988 is the proper mechanism for obtaining early access to the Almeg site, if required.

(iv) Recommendation

The Panel makes the following recommendation in relation to the Planning Permits:

Remove permit conditions included in permit numbers WYP6215/12 (YourLand) and WYP6213/12 (Golden Group) requiring the provision of a road reserve for the connector street from Davis Road and Sayers Road to the Almeg land.

6.2 YourLand

YourLand Developments Pty Ltd have an interest in approximately 67ha of land on the corner of Leakes Road and Davis Road, Tarneit. The portion of the land to the north and east of the site is the subject of Planning Permit application WYP6215/12. Wyndham City Council supports the permit application (with proposed changes to conditions).
The area that is the subject of the permit application is shown in Figure 4. The permit proposal is for the subdivision of the site into approximately 550 lots over 16 stages.

(i) The issues

Ms Brennan, representing YourLand, submitted that YourLand generally supports the PSP and the DCP, and the vast majority of matters raised with MPA have now been resolved. Ms Brennan submitted that YourLand supports the submissions of others in relation to a number of DCP matters. This is referenced in Chapter 7. YourLand opposed Council’s submission requesting additional open space provision over that proposed in the exhibited Amendments.

YourLand had requested that the DCP-funded road project RD-91-01 (Davis Road) be extended to Lamington Drive. This has now been agreed by MPA.

Ms Brennan made submissions generally in support of the Planning Permit application and challenged a number of additional permit conditions proposed by Council.

(ii) Planning Permit issues

The applicant’s primary concern related to road access to the Almeg site as discussed in Section 6.1 of this report. The Panel notes that the majority of other conditions have been resolved in discussion between YourLand and MPA. YourLand oppose two additional permit conditions proposed by Council in relation to:

- Funding a bus route to Tarneit station.
- Stage 1a entrance to Leakes Road.
- Traffic management treatments.

Council request for a bus route to Tarneit station

Council requested the inclusion of a permit condition requiring YourLand to enter into an agreement that provides for a bus route to be established to connect the site to Tarneit station. Council submitted that a similar requirement had been included for the recent Eynesbury development and ought to be supported in Wyndham North until public transport services are provided by PTV.

A similar request was made in relation to the Golden Group, Stockland and Satterley planning permits.

The inclusion of such a requirement was not supported by MPA on the basis that the operation of such a service would be problematic in terms of timetabling and ticketing, and that it cuts across the role of PTV in providing services in these areas. Whilst PTV advised that it would not oppose a proposal for a private shuttle service between the Riverdale area and Tarneit station, it did express concerns regarding the continuity of services. If services are commenced by developers, PTV could not guarantee that it would pick up the service at any given point in time. PTV advised the Panel that services would be provided as demand arises and as funding allows.

The Panel agrees with the MPA position and does not support any requirement for such services. If a developer was inclined to offer a free shuttle of their own accord as a marketing tool, that, in the view of the Panel, should be up to the developer to decide.
Condition 1(a) Stage 1a entrance of Leakes Road

Condition 1(a) of the permit states: that a modified plan of subdivision be lodged to show:

(a). Any modification in response to the recommendations of a Traffic Impact Assessment on the operation of the Stage 1a entry road and intersection with Leakes Road.

The staging plan illustrating Stage 1a shows the access onto Leakes Road to be located approximately 130m west of the junction of Leakes Road and Davis Road. Traffic likely to utilise this access will be generated from higher density residential areas in Stages 10, 11 and 14, as well as from other residential areas within the site.

YourLand submitted that it does not support a further traffic impact assessment as the Functional Layout Plan and Public Infrastructure Plan will deal with the details required in this regard.

The Panel notes that Condition 2(n) specifically addresses the intersections with Leakes Road. It states that the Functional Layout Plan incorporate the following:

(n). Intersections with Davis and Leakes Road showing interim and ultimate treatments.

Additionally, Condition 8(a) states:

The PIP must specifically address the following to the satisfaction to the responsible authority:

(a). The construction and timing of works, including relevant parts of Davis and Leakes Roads, and their intersections, as appropriate to the development, plus associated paths and other works required to access the development.

The Panel considers that, taking account of the conditions referred to above, it is not necessary to retain Condition 1(a) in the permit.

Condition 1(h) Appropriate traffic management

The condition requires:

(h) Subdivision plan to be updated to show appropriate traffic management devised such as roundabouts where cross intersections are proposed.

The applicants object to this condition as they are concerned that it may be interpreted by the responsible authority as an opportunity to request roundabouts in locations that do not require them.

The Panel notes YourLand’s views and is prepared to support the removal of the reference to roundabouts, as this does not prevent consideration of them by the responsible authority, as appropriate.

Other Conditions

Regarding Council’s proposed conditions contained in the modified subdivision plan requirements, the Panel notes that Council’s condition relating to the removal of the internal
layout design of the proposed Village Centre subject to a future permit application, has been included in the most recent Version 4 of the MPA’s permit. YourLand has raised no objection to this condition.

However, YourLand does object to most of the other conditions relating to detailed modifications which may be considered by the MPA and Council as responsible authority. YourLand also object to certain new conditions proposed by Council on the basis that they are new submissions, not raised during the course of the Panel hearing.

**Panel Preferred Version**

YourLand provided a final preferred version of their permit conditions to the Panel on 3 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.

The Panel notes that Council has proposed a number of changes to the permit that have not been canvassed at the Hearings, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has considered these additional matters, which are either imprecisely drafted or are details which, subject to the wording in the final permit, can be addressed by Council as responsible authority, when plans are submitted in accordance with the relevant conditions.

The Panel notes the comments of Ms Brennan, acting on behalf of YourLand, who submitted:

> In summary, our client’s position is that all proposed ‘major’ changes to the permit conditions which effectively result in a transformation of the permit or plans are unacceptable. Consequently, we respectfully request the panel not to agree to the inclusion of such amendments. We note that a number of the amendments proposed by Council were not raised during the course of the Panel hearing and, therefore, our client is unable to make further submissions in relation to this ‘new’ material.

The Panel concurs with this view.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed between the MPA and Council.

The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience the Panel Preferred Version is marked up to show recommended changes from the MPA version 4 tabled on 4 March 2014.

**(iii) Recommendation**

The Panel makes the following recommendation in relation to the Planning Permit:
Approve Planning Permit WYP6215/12 as shown in the MPA Version 4 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

6.3 Golden Group

Golden Group Pty Ltd has an interest in the southern part of 1070 Sayers Road Tarneit, identified as property 91-NO-03 in the Riverdale PSP. The land is bounded by Sayers Road to the south, the Almeg site to the north, Satterley land to the east and the Wyndham Council land (1160 Sayers Road) to the west.

The portion of the site south of the waterway is the subject of Planning Permit application WYP6213/12. Wyndham City Council opposes the permit application.

The area that is the subject of the permit application is shown in Figure 4. The permit proposal is for the subdivision of the site into approximately 540 lots over 9 stages.

(i) The issues

Mr Lamont, representing Golden Group, submitted that Golden Group generally supports the PSP and the DCP, and all remaining matters raised with MPA have now been resolved.

Golden Group opposed Council’s submissions on sequencing, open space and the Riverdale major town centre structure plan. These issues are referenced elsewhere in the report.

The Panel has reviewed the broader question of whether the development of the site that is the subject of the s96A permit application should be supported on the basis of the assessment criteria established by the MPA. This is discussed in Chapter 4.

Mr Lamont made submissions generally in support of the Planning Permit application and challenged Council’s opposition to the application. The Panel has reviewed the permit conditions that should apply in the event that the permit is approved.

(ii) Planning Permit issues

The applicant’s primary concern related to road access to the Almeg site as discussed in Section 6.1 of this report. The Panel notes that the majority of other conditions have been resolved in discussion between Golden Group and MPA.

Other permit issues raised by Golden Group are as follows:

**Condition 2 (a) Removal of Stages 7, 8 and Western part of Stage 5**

Condition 2 (a) states that a modified plan of subdivision be submitted to show:

(a). Removal of the area of Stages 7, 8 and the western part of Stage 5 south of the east-west 20.5m street from the application.

Mr Lamont, on behalf of Golden Group, submitted that:

……having reviewed the PSP diversity objectives and holding further discussions with MPA, our client has instructed the deletion of the majority of stages 7 and 8 and part of 5 from the southwest corner of the site. The plan will retain the east-west connection but to the south of this will create a superlot for further higher
density and potentially mixed use development once the town centre establishes and demand is created.

Mr Lamont objected to the wording of the condition requiring removal of the stages shown as a superlot on the plan attached to the submission. He submitted that this area should be retained in the application but be shown as one lot for future development.

The Panel notes the wish of Golden Group to retain the land within the application. The subdivision plan illustrates residential lots within the affected stages measuring between approximately 350-480sqm. The applicants intend to develop the land at a higher density with potential mixed use development. In the circumstances, the Panel considers that it would be inappropriate to retain the affected area within the application site, given the significant material change to the future development of the site. The applicants may wish to submit a new application once the town centre is established.

**Condition 2(l) Extend stages to waterway corridor.**

The condition states that a modified subdivision plan be submitted and approved by the responsible authority to show:

(l). *Revise the staging to show all stages abutting a waterway to the centre of the waterway corridor.*

The proposed subdivision plan in Precinct A, illustrates a tributary of the Davis Creek generally running east-west, north of the application site. Proposed wetland reserves abut the 30m creek offset line which closely follows the northern boundary of the site. The northern edge of Stages 3, 4, 6 and 9 abut this northern boundary. The condition requires that these stages be extended to the centre of the waterway corridor, which lies in Precinct B as shown on the plan.

The applicant submits that the extension of staging under the condition cannot be shown on the plan for endorsement as it is outside the site.

The Panel notes that the watercourse does not lie within the application site, though it does lie within Lot 2, PS 142708, within which the proposed subdivision is to take place.

The Panel presumes that the condition has been included in the permit, as with the ID Land and Satterley permits, in order that the staging conditions apply to the additional land, as relevant. The extension of the stages to the centre of the waterway corridor will provide the opportunity for the improvement of environmental values and the health of waterway systems. It will assist in ensuring that future amenity and ongoing management and maintenance of the waterway are taken into account.

The Panel considers that the condition should remain, though it should be amended to accord with the ID Land condition to read .... *abutting a waterway/drainage corridor extended to the centre of the waterway corridor.*

**Condition 35 Construction of Sayers Road**

Condition 35 of the permit states:
35). Before a Statement of Compliance is issued for Stage 1 of the subdivision, the developer must:

a). Construct an intersection at the intersection of Davis and Sayers Road

b). Construct an intersection at the 28.0m. connector entry road and Sayers Road

c). Construct Sayers Road to an urban standard from Davis Road to Stage 1 entry road

as approved under this permit and to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works in lieu under the Wyndham North Development Contributions Plan).

The applicant proposes the deletion of the condition as noted in its comments dated 11th March 2014. Additionally, it proposes the deletion of Condition 2(n) of the permit which also relates to the construction of the intersection of Sayers and Davis Roads.

Regarding Condition 35(a), traffic generated by the development will use Sayers Road to leave, or gain access to the land. The Panel considers that the improvement to the intersection of Sayers Road and Davis Road will be of significant benefit to users of Sayers Road. Such improvement is essential given the additional traffic generated by the development and the potential impact of flooding. The Panel notes that the Stockland development similarly includes Conditions, 2(l) and 56(a), regarding the construction of the intersection of Sayers and Davis Roads.

In connection with Condition 35(b), no justification has been provided by the applicant regarding its deletion. The proposed 28m connector road will not only service Precinct A of the site, but in the longer term, Precinct B together with the Almeg and YourLand sites. The Panel also notes that a primary school and an 11.78ha active open space are proposed to cover parts of the three sites with frontage onto the connector road system linking Sayers Road, the Tarneit West Town Centre and the Davis Road Local Town Centre.

With regard to Condition 35(c), the Panel notes that Stage 1 of the development is located at the south-east corner of the site closest to the intersection of Sayers Road with Davis Road. The southern section of the north-south connector road and its junction with Sayers Road is also located in Stage 1. By removing Condition 35 but retaining Condition 36, would mean that Sayers Road may not be built to an urban standard to the Stage 5 entry until a Statement of Compliance is issued for Stage 5 of the subdivision. The access road into Stage 5 is located approximately 200m west of Stage 1. In effect, should Condition 35(c) be removed, it is possible that a large number of dwellings would be constructed and occupied with no guarantee that Sayers Road would be upgraded to address the increase in traffic until the Statement of Compliance is issued for Stage 5. The Panel supports the retention of Condition 35(c).

Panel Preferred Version

The Panel notes that the applicants show a number of tracked changes to the permit. Many of these changes represent minor modifications and relocations of conditions within the permit, but may also include some amendments, additions and removal of conditions. They
have been considered by the Panel and have been accepted where worthy of inclusion in the permit, though a number are matters that can be addressed by the MPA.

Council has also proposed a number of changes to the permit that have not been canvassed in the Panel Hearings, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has noted these additional matters, which are either imprecisely drafted or are details which, for simplicity's sake have not been considered by the Panel. Subject to the wording of the conditions in the final permit, these matters can be addressed by Council as responsible authority, when plans are submitted.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed in the first instance between the MPA and Council.

Golden Group provided a final preferred version of their permit conditions to the Panel on 3 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.

The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience the Panel Preferred Version is marked up to show recommended changes from the MPA version 4 tabled on 4 March 2014.

(iii) Recommendation

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permit WYP6213/12 as shown in the MPA Version 4 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

6.4 Stockland Pty Ltd

Stockland Pty Ltd has an interest in a 234ha site within the Riverdale precinct located at 23 and 180 Davis Road and 540, 542, and 534 Hogans Road, Tarneit. The eastern part of the land is the subject of a Section 96A planning permit application, WYP6217/12, as shown on Figure 2. The permit proposal is for the subdivision of the site into approximately 1000 lots on land east of Davis Road, west of Davis Creek and north of Hogans Road.

(i) The issues

Stockland made an extensive written submission. and have continued to work with the MPA to resolve the majority of their issues. Where issues have been agreed and included in the final documentation they are as shown in the final Panel version of the PSP and permits. The following issues raised by Stockland in relation to the PSP and DCP remain unresolved or require comment by the Panel:

- Adjustment to the Stockland development interface with the Werribee River.
• Requests Figure 3 of the Riverdale PSP be updated to reflect the diagram of the Davis Road south local town centre tabled at the hearing by Stockland.

• Requests a Public Acquisition Overlay (PAO) be included in the C176 Amendment for the south-west corner of the Sayers Road/Davis Road intersection.

• Requests changes to the design of the Sayers Road/Davis Road intersection in the interim.

• Requests the Bethany Road (connector) crossing of Davis Creek be included in the DCP.

• Requests Hogans Road crossing of Davis Creek be constructed as a culvert crossing rather than clear span bridge.

Mr Gobbo, on behalf of Stockland, also made submissions in response to Council’s position on sequencing of development and public open space. These issues are dealt with in Chapter 4 of this report.

Stockland made a number of submissions in relation to road cross sections and the DCP. These issues are addressed in Chapters 4 and 7 respectively.

Mr Gobbo made submissions generally in support of the Planning Permit application.

Stockland oppose the permit condition proposed by Council regarding the provision of a bus service. For the reasons stated in the discussion of the YourLand permit conditions, the Panel does not support this condition and no further comments are made at this point.

There are several further changes to permit conditions proposed by Stockland. The Panel has reviewed proposed permit conditions in the event that a permit is approved.

(ii) PSP and DCP issues

Werribee River interface

Stockland has proposed that the PSP be amended to show adjusted setbacks to the Werribee River (GGF Conservation Area 14) on their site on the western side of Davis Road. The proposal involves modification of the floodplain and approved conservation area at the southern end of the site in order to utilise for development some of the land set aside as ‘encumbered for drainage purposes’. The proposal would require Melbourne Water approval as well as adjustment to the Growling Grass Frog conservation area and adjustments to the boundaries of the future Werribee Regional Township Park.

Stockland presented expert evidence in support of the proposal from Mr Jonathon McLean of Alluvium on flood management and drainage, and Mr Brett Lane of Brett Lane and Associates on Growling Grass Frog habitat. Stockland also tabled a letter at the Hearing from Terra Culture heritage consultants advising that a Cultural Heritage Management Plan is currently being prepared for the site and that particular attention will be paid to the area proposed to be modified.

The MPA advised that Melbourne Water have provided in-principle support to the proposal, contingent on the position of other relevant State agencies, and have advised that the MPA is also prepared to support the proposal if it is considered acceptable to DEPI, Parks Victoria and Aboriginal Affairs Victoria.

The MPA, in their closing submission advised:
DEPI have recently advised that it is not currently in a position to support the proposed adjustment to the GGF conservation area, as it has not received sufficient information to enable it to make this decision. DEPI has confirmed it needs to be satisfied there will be no reduction in corridor function or management objectives especially regarding the provision of at least one GGF breeding wetland in this area.

As a result MPA requested that the Panel not approve the requested changes on the basis that DEPI, Parks Victoria and AAV have not confirmed their support. MPA requested that the ‘Panel recommend that discussions continue between the parties with the aim of identifying an acceptable outcome’.

The Panel notes that there is agreement in principle to the Stockland proposal but also notes that not all statutory bodies have yet given formal agreement. The options for the Panel are to either recommend a change to the PSP with the inclusion of a note to say ‘subject to approval’ or to recommend the PSP be left as is but a note inserted to the effect that the area in question is currently under review.

On balance the Panel prefers to adopt the MPA advice and leave the PSP as is but include a recommendation that the area be noted in the PSP as under review. A recommendation to that effect is included at the end of this section.

If the necessary agreements are obtained before the PSP is finalised, the PSP could be modified to show the revised Werribee River interface as proposed by Stockland.

**Davis Road South Local Town Centre**

Stockland submitted an alternative layout for the Davis Road South Local Town Centre aimed at providing a more efficient use of developable land. Stockland requested that Figure 3 of the PSP be altered to accord with the revised layout. This was supported by MPA and the revised layout is included in the final Panel version of the PSP.

**Sayers Road/Davis Road intersection - Public Acquisition Overlay (PAO)**

The permit for the development of the Stockland site (and the Golden Group and Satterley land) requires the early construction of Sayers Road/Davis Road intersection, including considerable earthworks and culverts. The land on the south-west corner of the intersection (owned by Trukeel Pty Ltd) is not expected to be developed in the short term. It is therefore unlikely that the land will be transferred to Council in a timeframe that would coincide with when Stockland (or other developer) is required to build the intersection.

The MPA supports the inclusion of a PAO in order to facilitate the early transfer of the land and made the following comments in support of the proposal:

- *Only one property owner would be affected by the PAO.*
- *The owner has been made aware of the MPA’s intention to support the PAO as a party to the panel hearing.*
- *The portion of the property that would be affected by the PAO is also affected by the Growling Grass Frog Conservation Area (it is expected the GGF Conservation Area would make up all or most of the PAO area).*
The MPA will provide the owner with the opportunity of reviewing the PAO area prior to finalisation of the Amendment. The PAO is supported by Stockland and has not been opposed by any other parties. The Panel agrees that a PAO is a sensible option and supports its inclusion in Amendment C176. A recommendation has been made to this affect.

**Sayers Road/Davis Road intersection – interim works**

The DCP requires the ‘interim’ intersection to be constructed as a locally duplicated signalised intersection tapering back to a single carriageway to the south, east and west. The ‘interim’ layout also requires that extensive earthworks be carried out to manage streamflow and flooding issues. In expert evidence presented by Mr Hunt, it was proposed that an ‘interim interim’ layout would operate satisfactorily as a roundabout for some time (approximately eight years) before the interim signalised layout would be required.

Stockland submitted that the ‘interim interim’ roundabout treatment (but including all earthworks for the ultimate treatment) be constructed in the first instance with DCP credits available for the earthworks and for any pavement works reusable in the ‘interim’ signalised treatment when constructed. A change to the relevant permit condition was also proposed to reflect this changed requirement.

The MPA and Council did not express any opposition to this proposal provided that the ‘interim’ signalised intersection is constructed when required as per the DCP and the cost of any redundant works for the ‘interim interim’ roundabout are borne by the developer.

The Panel has no objection to the ‘interim interim’ roundabout being employed in the first instance provided that it does not compromise the ability to fund (through the DCP) the ‘interim’ signalised intersection when it is required.

The Panel notes that no change is required to the permit condition that refers to this (Condition 56a in MPA version 4) as no intersection form is specified. This leaves it to the Responsible Authority to determine the appropriate form of the intersection. Likewise no change is required to the PSP as the ‘interim’ intersection to be funded by the DCP remains unchanged.

**Davis Creek Crossing – Bethany Road**

Stockland, in their initial written submission, objected to paying half the cost of the connector road bridge across Davis Creek at Bethany Road (the other half is to be paid by Council as it is outside the PSP area). Stockland did not mention this in its submission to the Panel Hearing and it is not clear to the Panel if they continue to pursue this matter. In any case, the Panel believes that connector road crossings of waterways should be funded by the developer (or in this case half funded). This issue is further discussed in Chapter 7.

The Panel concludes that the permit condition that refers to this (Condition 62 in MPA version 4) should remain unchanged.

**Davis Creek Crossing – Hogans Road**

Stockland noted that the Hogans Road crossing of Davis Creek is costed in the DCP as a span bridge structure and proposed a significantly less expensive alternative culvert design be adopted.
Mr Gobbo relied upon the evidence of Mr Brett Lane of Brett Lane and Associates (ecological consultants) that a culvert crossing of such narrow width will still provide a sufficient corridor for the movement of aquatic fauna including the GGF.

Mr Lane, in his expert evidence suggests that due to the current condition of Davis Creek, frogs (including the GGF) may use the creek to move across the landscape but would be unlikely to remain as residents due to the intermittent nature of the Davis Creek and its distance from any suitable dry season refuge or permanent breeding habitat.

Mr Lane assessed the culvert design for the Davis and Sayers Road intersection in his expert witness report (discussed above), however not the requirements for a culvert crossing versus a bridge crossing of Davis Creek. Through questions from the Panel, Mr Lane confirmed that as long as the culverts are shorter and designed for GGF movement, then culverts instead of a bridge crossing ‘should be ok’. Mr Kelly (expert witness for Ms Craig and Casabene Nominees) was also asked this question by the Panel, and Mr Kelly replied that providing refuge for the GGF in the approaches to and from the culverts will be important for the GGF to reduce the risk of predation as well as ensuring maintenance of the culverts is ongoing.

Stockland requested that the Panel endorse a culvert crossing subject to flood plain modelling being carried out to determine a suitable design.

Melbourne Water commented as follows:

> Until such time that Melbourne Water receives further information to demonstrate acceptable hydraulic performance of an alternative option Melbourne Water cannot approve such a proposal. Melbourne Water would also review the proposal from a maintenance perspective, and to ensure it does not impede the passage of aquatic and terrestrial fauna. In addition, DEPI would need to review the proposal from a GGF passage perspective.

The Panel supports the alternative culvert design on the basis of the projected $800,000 saving to the DCP but only on the condition that if a culvert design is to be adopted it would need to be subject to:

- Demonstrating acceptable hydraulic performance and maintenance performance to the satisfaction of Melbourne Water; and demonstrating that the design can accommodate a Growling Grass Frog passage to the satisfaction of DEPI.

(iii) Planning permit issues

Stockland has sought various detailed amendments to conditions, added further conditions and relocated conditions in the MPA’s permit, Version 3, which the Panel have been requested to consider. These have generally not been accepted in the MPA’s final Version 4 of the permit.

Condition 1 Stormwater Management Strategy.

The Panel notes that Stockland disagrees with the wording of Condition 1 of the permit, which relates to the preparation of a Stormwater Management Strategy, (SMS), to the satisfaction of Melbourne Water. Stockland would prefer that Condition 1 be amended as it has proposed in Version 3. There is reference in Stockland’s amended Condition 1 to the
report prepared by Jonathan McLean of Alluvium Consulting dated January 2014. This includes that the preparation of an SMS take place before the certification of each stage of the subdivision.

Stockland also objects to Council’s proposed amendment to Condition 1, that the SMS be prepared to the satisfaction of Council, in addition to Melbourne Water.

The Panel supports Condition 1 as included in Version 4 of the permit, given that the SMS is required to be to the satisfaction of Melbourne Water, which is also a Referral Authority under the Act.

Refer also to the Panel’s conclusions on this issue in Section 4.10 of this report.

Condition 12 Inclusion of Memorandum of Common Provision

The applicants proposed to amend the former Condition 11 of Version 3 of the permit, now Condition 12, to read:

A restriction on title that shows:

(i). the Small Lot Housing Code or the application of a Memorandum of Common Provisions and building envelopes; and

(ii) the lot(s) to which it applies; and

(iii). That development must not be constructed otherwise than in accordance with the Small Lot Housing Code or the Memorandum of Common Provisions to lots to which it applies.

The MPA’s Condition 12 states:

(12). A restriction on the Plan of Subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code to which it applies.

The Panel notes that the Small Lot Housing Code contains 21 prescriptive standards for dwellings and fences. It is an Incorporated Document in the Wyndham Planning Scheme which carries the same weight as other parts of the Scheme, and must be taken into account by the responsible authority in the decision making process. It applies to the Urban Growth Zone in relation to lots less than 300 sq. m. in area, and is referred to in Clause 2.6 of the proposed UGZ11.

The Memorandum of Common Provisions, is referred to in S 91A of the Transfer of Land Act, 1958. It contains provisions relating to building envelopes that can be included in instruments, to be lodged for registration with the Registrar of Titles. The Memorandum contains standards required to be complied with, such as building setbacks, building heights, overlooking and overshadowing.

The Panel considers that the proposed MPA condition relating to the Small Lot Housing Code is appropriate and adequate in addressing the standards to be adhered to for residential development in cases where the Code applies.
The Panel considers that the same arguments apply in relation to the ID Land permit, WYP6210/12, (Section 5.4), and the Satterley permit, WYP6212/12, (Section 6.5), where the applicants propose to also include reference to the Memorandum.

Finally, the Panel believes that Condition Nos 10(a), 11, 12 and 13 of the permit should be replaced with (a), (b), (c) and (d) under Condition No 10, as with the Satterley Condition 23(a), (b), (c) and (d), and the ID Land Condition 13(a), (b), (c) and (d).

Stockland proposed Condition 15

Stockland has proposed the inclusion of an additional condition as follows:

_The use and development must be managed so that the amenity of the area is not detrimentally affected through the:_

_a) Transport of materials, goods or commodities to and from the land;_

_b) Appearance of any building, works or materials; and_

_c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste, water, waste products, grit or oil._

The Panel notes that this condition is included with minor variations in, for example, Clause 33-02 of the Industrial 3 Zone and certain other non-residential zones. The Panel does not consider it necessary to include such a condition when the clear intent is to provide residential development on the site.

Panel Preferred Version

The Panel notes that the applicants show a number of tracked changes to the permit. Many of these changes represent minor modifications and relocations of conditions within the permit, but may also include some amendments, additions and removal of conditions. They have been considered by the Panel and have been accepted where worthy of inclusion in the permit, though a number are matters that can be addressed by the MPA.

Council has also proposed a number of changes to the permit that have not been canvassed in the Hearings, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has noted these additional matters, which are either imprecisely drafted or are details which, for simplicity’s sake have not been considered by the Panel. Subject to the wording of the conditions in the final permit, these matters can be addressed by Council as responsible authority, when plans are submitted.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed in the first instance between the MPA and Council.

Stockland provided a final preferred version of their permit conditions to the Panel on 3 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.
The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience the Panel Preferred Version is marked up to show recommended changes from the MPA version 4 tabled on 4 March 2014.

(iv) Recommendation

The Panel recommends the following changes to the PSP and DCP:

Include a note on Plan 2 of the Riverdale PSP that marks the southern area of the Stockland site (where it interfaces with the Werribee River) as ‘Alternative waterway treatment under review in conjunction with relevant authorities’.

Include a Public Acquisition Overlay in Amendment C176 for land required for the construction of the south-west corner of the Davis Road/ Sayers Road intersection.

Amend the DCP to provide for an alternative culvert crossing of Hogans Road over the Davis Creek subject to:
- Demonstrating acceptable hydraulic performance and maintenance performance to the satisfaction of Melbourne Water; and
- Demonstrating that the design can accommodate a Growling Grass Frog passage to the satisfaction of DEPI.

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permit WYP6217/12 as shown in the MPA Version 4 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

6.5 Satterley Property Group

Satterley Property Group Pty Ltd own a 64ha site within the Riverdale precinct located at 990 Sayers Road, Tarneit. Part of the site is the subject of a Section 96A planning permit application, WYP6212/12, as shown on Figure 2. The permit proposal is for the subdivision of the site into approximately 236 lots on land west of Davis Road and east of Davis Creek.

(i) The issues

Mr Gobbo and Mr O’Farrell made submissions to the Panel on behalf of both Satterley and Stockland in relation to broader PSP and DCP matters. Where they are common to both they are not repeated here.

Mr Gobbo made submissions generally in support of the Planning Permit application.

Satterley oppose the permit condition proposed by Council regarding the provision of a bus service. For the reasons stated in the discussion of the YourLand permit conditions, the Panel does not support this condition and no further comments are made at this point.

The following issues raised by Satterley in relation to permit conditions remain unresolved or require comment by the Panel:

- Satterley requests deferral of the upgrade of Sayers Road/Davis Road intersection in the permit.
• Requests condition requiring sealing of Davis Road be removed from the Satterley permit.
• Requests the rear loaded lot condition be removed from the permit.

There are several further changes to permit conditions proposed by Satterley. The Panel has reviewed proposed permit conditions in the event that a permit is approved.

(ii) Planning permit issues

Deferral of Sayers Road/Davis Road intersection

A condition (Condition 65a) in MPA version 4) on the Satterley permit requires that before a certificate of compliance can be issued for Stage 1 of the development, the developer must construct the intersection of Davis Road/ Sayers Road, including works to protect form a 1:100 year flood event.

Mr Gobbo, on behalf of Satterley, submitted that there is no nexus between Stage 1 of the Satterley and the need for that intersection. He called evidence from Mr Hunt who gave evidence that he did not believe the permit condition should remain for the following reasons:
• The Satterley development that is the subject of the permit application does not generate sufficient traffic to warrant an upgraded intersection at Davis Road/Sayers Road;
• Traffic will access the subdivision from other routes; and
• In the event of the Davis Road/Sayers Road intersection being cut off by flood waters (as is likely under the current conditions in a 1:100 year flood event) alternate access is available to the Satterley development via Davis Road to the north and through the existing street network to the east.

The Panel agrees with Mr Hunt’s assessment and agrees that the condition 65a) (and related Melbourne Water conditions) should be removed.

Sealing of Davis Road

The planning permit conditions required that Davis Road be constructed to an urban standard. Satterley requested that this condition be removed on the basis that the road was already constructed and the MPA have accepted this and changed the permit accordingly.

Condition 23(d) Changes to the Small Lot Housing Code.

The condition states:

\[d\) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way, and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:

....
iii). the rear garages shall use a variety of roof lines, and may include pitched roof lines and reversed angled rooflines.

Satterley proposed that Condition 23(d) read:

d) A restriction for all lots proposed to be accessed by a rear access way, and which are not identified to be developed under the Small Lot Housing Code. The design guidelines must include:

....

iii). The rear garages may use alternative roof lines, and may include pitched rooflines and reversed angled rooflines.

Satterley also proposed to remove the last line of the condition which reads::

......all to the satisfaction of the responsible authority.

The Panel notes the views of Satterley but is satisfied with the condition as proposed by the MPA. The condition provides a degree of flexibility in the design process of rear loaded lots. Additionally, the responsible authority should have the opportunity of addressing proposed development in accordance with the design guidelines.

**Condition 23(b) Inclusion of Memorandum of Common Provisions.**

The Panel notes that the applicant’s amended Condition 8(b) in Version 3 of the permit, includes reference to the Small Lot Housing Code or the application of a Memorandum of Common Provisions and building envelopes. The applicant proposes to replace Condition 23(b) of the MPA’s most recent draft permit to include reference to the Memorandum.

This matter is addressed in relation to the Stockland permit, WYP6217/12, (Clause 6.4).

For the reasons set out in the Stockland report, the Panel supports the retention of the MPA’s Condition 23(b), without amendment.

**Condition 1(a) Extend Stages to Waterway Corridor.**

This condition requires the staging plan to be revised to extend all stages abutting a waterway to the centre of the waterway corridor.

The applicants have requested the deletion of the condition on the grounds that the staging plan should reflect the Storm Water Strategy approved by Melbourne Water, which discharges and treats all storm water via Stage 1 as reflected in the applicant’s subdivision plan. Additionally, the applicants consider that increasing the stage areas unnecessarily brings forward Satterley’s GAIC liability. Satterley considers that the condition is unnecessary and onerous.

The Panel notes that the application plan illustrates the extension of Stage 1 to the centreline of the Davis Creek waterway. The Panel also notes that the extension of the stages to the centre of the waterway corridor will provide the opportunity for the improvement of environmental values and the health of waterway systems. It will assist in ensuring that future amenity and ongoing management and maintenance of the waterway are taken into account. Regarding the bringing forward of Satterley’s GAIC liability, if
applicable, staged payment arrangements may be available, aligned with the specified subdivision stage.

The Panel considers that the condition should remain, though it should be amended to accord with the ID condition to read ....to extend all stages abutting a waterway/drainage corridor to the centre....

Panel Preferred Version

The Panel notes that the applicants show a number of tracked changes to the permit. Many of these changes represent minor modifications and relocations of conditions within the permit, but may also include some amendments, additions and removal of conditions. They have been considered by the Panel and have been accepted where worthy of inclusion in the permit, though a number are matters that can be addressed by the MPA.

Council has also proposed a number of changes to the permit that have not been canvassed at the Hearings, particularly in relation to additional provisions to the modified subdivision plan and the functional layout plan. The Panel has noted these additional matters, which are either imprecisely drafted or are details which, for simplicity’s sake have not been considered by the Panel. Subject to the wording of the conditions in the final permit, these matters can be addressed by Council as responsible authority, when plans are submitted.

The MPA has advised that updates have been made to the permits and it has endeavoured to retain consistency in wording of standard conditions between permits. It advised that permit specific adjustments have been avoided unless considered necessary. The Panel supports the MPA’s position but believes that the additional conditions proposed by Council should be discussed in the first instance between the MPA and Council.

Satterley provided a final preferred version of their permit conditions to the Panel on 3 March 2014 and provided comments on the final MPA and Council versions of the permit conditions on 12 March 2014.

The Panel has reviewed all versions and incorporated its conclusions on the issues as discussed above as well as a number of minor drafting changes into the Preferred Panel Version shown in Appendix C. For convenience the Panel Preferred Version is marked up to show recommended changes from the MPA version 4 tabled on 4 March 2014.

(iii) Recommendation

The Panel makes the following recommendation in relation to the Planning Permit:

Approve Planning Permit WYP6212/12 as shown in the MPA Version 4 tabled on 4 March 2014, subject to the changes as shown in the Panel Preferred Version included in Appendix C to this report.

6.6 Wyndham City Council (landowner) 1160 Sayers Road

In 2010 Wyndham City Council purchased approximately 113 hectares of land at 1160 Sayers Road. The land is broadly rectangular, but is encumbered by the RRL and the Davis Creek and its tributaries. The encumbrances reduce the developable land to some 83 hectares.

At the time of purchase the Officer report to the Council meeting of 30 August 2010 stated:
The purchase of the 1160 Sayers Road site is a major milestone for the City and will provide much needed open space and flexibility for future development.

(i) The issues

During the Hearing, the purpose of the purchase of this site and the planning for the Riverdale Town Centre which will occupy part of the southern section of the site were the subject of a number of submissions. There were two key issues addressed:

1. The extent to which the site should be used to provide what the Council submitted was much needed active open space.

2. The structure planning for the proposed Riverdale Town Centre.

The first of these issues is dealt with in the context of the provision of open space throughout the area covered by the Wyndham North DCP and is addressed in Section 4.3. With respect to the second issue, the Panel has identified the following issues which are in contention:

- Whether the structure plan proposed by the MPA or that proposed by the Council is more appropriate to include in the PSP;
- The appropriate process for incorporating the structure plan for both the proposed Town Centre and the remainder of the subject site, given that part of the site is in the yet to be developed Oakdale PSP;
- Whether a proposed indoor recreation facility should be located in the proposed town centre, or on adjacent land as proposed by Council;
- Whether the proposed railway station should be moved some 250m north from its current proposed location;
- Locating the town centre on both sides of the railway line and more closely integrating it with the railway station;
- Bus access to the proposed railway station and integrating bus access to the station with the proposed RRL overpass;
- The provision of a proposed education facility in the town centre;
- The town centre interface with Davis Creek; and
- The shape and location of the proposed active open space and the splitting of it by an arterial road.

(ii) Evidence and submissions

In the exhibited PSP, the MPA have included a draft structure plan for the Riverdale Town Centre. It shows a pedestrian focussed Main Street running at right angles to the RRL and a High Street parallel to the RRL.

Subsequent to the purchase of the land, in late 2012 the Council secured significant funding from the Federal Government’s Liveable Cities Program to undertake master planning of the entire site. Significant Council funds have also been allocated to this $1 million plus project. The master planning project is being overseen by SJB Urban and runs for 12 months from July 2013.
Although this master planning project is only partly completed, the draft structure plan for the site provided to the Panel has the following features which differ significantly from that included in the Riverdale PSP:

- The proposed Riverdale railway station has been relocated;
- The town centre is located both sides of the railway line;
- Closer integration of RRL overpass and station providing for more direct bus access;
- Active open space integrated with town centre; and
- The indoor recreation facility has been re-located on adjoining land owned by Ms Amanda Driver (1245 Sayers Road)

Detailed submissions were made on many of these issues by a number of submitters. Because of the approach that the Panel proposes be taken with this issue, these are not reported in detail here. Some submissions are referred to in passing in the discussion below.

From the Panel’s perspective a significant one sentence comment on this issue from Mr Montebello was telling, and that was that there is no great urgency to resolve the issues associated with this land or indeed the structure plan for the Riverdale Town Centre.

In Council’s closing submission, Mr Montebello drew the following conclusion:

_The Panel should recommend that the Council site at 1160 Sayers Road is separated into a separate PSP, along with the surrounding belt of mostly private land, about 400 to 800m wide depending on logical boundaries._

In the Hearing, Council submitted that the area to be excised from the PSP should include the western end of the Golden Group site. As discussed in Section 6.3 above, Council requested that the Golden Group permit condition 2(a) be modified to show:

(a) _Removal of the area of Stages 7, 8 and the western part of Stage 5 south of the east-west 20.5m street from the application._

The Panel supported this condition.

(iii) _Discussion_

The Panel agrees with Mr Montebello in that it can see no real urgency to address the issue of the planning for the subject site and for the Riverdale Town Centre, in particular in the context of this PSP, other than to give some certainty about the support for and the function and size of the proposed town centre.

Schedule 11 currently proposes a maximum of 25,000m$^2$ of retail floor space in the centre, without the need for a permit. Mr Lee in evidence for Trukeyel proposed that this be lifted to 35,000m$^2$ as he believes that the size of the catchment justifies this. Council supported this and the MPA were not opposed to the change. Detailed retail evidence was not presented, but, based on Mr Lee’s assessment, and Council’s proposal for higher residential densities in 1160 Sayers Road precinct, the Panel is also not opposed to this.

The Panel agrees that the entire site at 1160 Sayers Road, including any reference and plan for the Riverdale Town Centre be removed from the Riverdale PSP, with the exception of noting that a Major Town Centre will be co-located with the proposed Riverdale station.
The Panel proposes that the area to be removed from the Riverdale PSP include:
- All land north of the existing Sayers Road alignment and west of Sewells Road, including all of 1160 Sayers Road;
- Land immediately south of Sayers Road shown on the exhibited PSP as part of the Riverdale Town Centre or community facilities; and
- The western end of the Golden Group land, shown in the subdivision application as Stages 7, 8 and the western part of Stage 5 south of the east-west 20.5m street.

In addition to the relative lack of urgency in resolving this issue, the reasons that the Panel proposes this course of action are as follows:
- The Council is part way through a thorough and detailed structure planning process to which significant public funds have been committed, and to pre-empt the outcomes of that process at this stage would not be a responsible outcome.
- If the Riverdale Town Centre is to be located both sides of the railway station it may just as logically be considered in the context of the Oakbank PSP, as the Riverdale PSP.
- The possible relocation of the proposed Riverdale railway station, whilst not opposed in principle by the RRL, will, as the Panel understands, be an issue for PTV, and its location should be more certain than it is currently before the structure plan for the precinct is finalised.
- The MPA and Council proposed structure plans have quite different approaches to the way in which the railway station might be integrated with surrounding uses and functions. While the Council vision has some appealing, but as yet un-costed, aspects to it, the Panel believes that these should be worked through before a structure plan becomes an incorporated part of the Scheme.
- This approach will enable more considered planning of the western edge of the Golden Group site in the context of the future design of the Town Centre.
- This approach will enable Council to fully consider how 1160 Sayers Road can be best utilised to achieve the most balanced outcome for the Riverdale Major Town Centre (MTC).
- This approach will enable the MPA and Council to consider how the land at 1160 Sayers Road might be employed (either side of the RRL) to achieve both local and regional open space requirements in light of the Panel’s recommendations on open space in this report.
- This approach will enable the Town Centre, the station, community facilities, local and district open space and regional open space requirements to be considered more holistically across the Oakbank and Riverdale PSP boundary.

The Panel sees two possible ways to deal with a structure plan for this area in the future:
- To consider it as a separate Amendment; or
- To consider it in conjunction with the Oakbank PSP.

There would appear to be no strong rationale for favouring either approach but timing may be a significant determinant. The removal of the site of the Riverdale Town centre from the PSP may or may not have implications for the Wyndham North DCP. The DCP may need to be amended at a later date.
The Panel has formed some views on the issues around the Riverdale Town Centre which have been the subject of submissions, and these are set out below to both inform the structure planning for 1160 Sayers Road and the relevant parts of the Riverdale PSP.

**Indoor Recreation Facility**

The facility is proposed by Council to be located on the south east corner of the Driver land at 1245 Sayers Road. Submissions on this were made by Mr Kane for the Council and Mr Cicero for Ms Driver. Mr Kane called expert evidence on the matter from Mr McPherson, Mr Arcaro and Mr Carter, and Mr Cicero called on evidence from Mr Black. Key points made for relocating the facility to the Driver land were:

- Being able to locate the facility close to active open space, albeit on the opposite side of an arterial road;
- Claimed uplift in residential values, but no evidence was provided; and
- It will allow the town centre land to be more effectively used.

Key points for retaining the facility on the Council owned land were:

- The site was purchased by Council at least in part for these types of facilities;
- Residential interface challenges on the proposed site at 1245 Sayers Road;
- Greater certainty of delivery of the facility if located on Council land; and
- Closer to the public transport node;

The Panel is of the view that the proposed indoor recreation facility should be located on the Council owned land, preferably co-located with or near active open space and preferably at the periphery of the proposed Town Centre. The facility should not be included in the PSP at 1245 Sayers Road or any other abutting property. In drawing this conclusion, the Panel is aware of Mr McPherson’s comment under cross examination that the basic structure for the Town Centre that they are proposing is now ‘fixed’ and that the timing of this report is such that accommodating the indoor recreation facility within that design may be difficult at this late stage. However, the Panel is aware that the construction of the facility and the town centre are a number of years away and that there is time to accommodate this recommendation, particularly in the context of the Panel’s recommendations about incorporating a structure plan for the whole of the site at 1160 Sayers Road.

**Moving of the proposed Riverdale Railway Station**

There were no submissions specifically opposing the proposal by Council to move the proposed Riverdale station some 250m north from its current proposed location. However, it was acknowledged that there were a number of complex issues to work through, including: the location of car parking; integration of the station into the town centre, particularly given that the town centre is likely to be delivered ahead of the railway station; and integrating the station and a bus interchange. These issues will take some time to work through. The Panel supports a review of the most appropriate location for the railway station in the context of the structure plan for the Town Centre.
Locating the Town Centre both sides of the railway line

In commenting on this issue the Panel is conscious that successfully integrating the proposed railway station with town centre development on both sides of the railway station will be a challenge, particularly with the railway line at grade. However, the Panel is of the view that this, together with the public transport integration discussed below, will be a challenge. This challenge will not be made any easier with significant uncertainty about the timing of the delivery of the railway station and the staging of town centre development in the absence of the station, but the existence of the rail line which will be a significant physical barrier. As Mr Lee states in his evidence, it is important to plan for the long term and the Panel strongly supports Council’s intentions if they can be realised in an economically viable way. The Panel believes that if the Council is able to effectively and closely integrate a railway station, town centre development both sides of the railway line and achieve public transport integration, it would be a significant step forward, and deserves support.

Physical integration of a bus interchange with the RRL overpass and the Station

The possibility of integrating a bus interchange into a yet to be constructed RRL overpass that provides direct access to the railway platforms was raised as a possibility by Mr McPherson. No economic assessment has been undertaken to date but it is an option that may have merit, and the Panel believes the option should be examined as part of the structure planning process.

Layout of the proposed Active Open Space

The modified shape of the active open space reserve as proposed by Council, and the fact that an arterial road bisects it is of concern to the Panel. It was acknowledged by Mr McPherson that the proposed shape of the active open space would result in triangles of land that would be difficult to use for active open space purposes. Mr Black also pointed out in evidence that having to locate pavilions on each side of the arterial road is something to be avoided if possible because of the significant cost of these facilities.

The Panel observes that what is proposed appears to be a far from optimum open space outcome both in terms of the shape of the open space and the need to duplicate expensive facilities because of the location each side of an arterial road. Given the Council’s concern about appropriate planning for open space, particularly active open space, the Panel observes that their position on this is a little surprising and contrary to Council’s own submissions on open space.

(iv) Recommendation

The Panel recommends the following changes to the PSP:

Amend the Riverdale PSP to show the proposed indoor recreation facility located on the Council owned land at 1160 Sayers Road.

Remove the following area around the proposed Riverdale Town Centre from the Riverdale PSP:

○ All land north of the existing Sayers Road alignment and west of Sewells Road, including all of 1160 Sayers Road;
- Land immediately south of Sayers Road shown on the exhibited PSP as part of the Riverdale Town Centre or community facilities; and
- The western end of the Golden Group land, shown in the subdivision application as Stages 7, 8 and the western part of Stage 5 south of the east-west 20.5m street.

The Panel recommends the following further work be undertaken:

The MPA engage with Council to complete the structure plan for the Riverdale Town Centre after the Council initiated structure planning exercise is completed.

Council consider how best to utilise the land at 1160 Sayers Road to meet the objectives of the Riverdale Town Centre structure plan and regional open space objectives.

The MPA engage with the Council to agree a process and timing for the incorporation of the Riverdale Town Centre structure plan into the Wyndham Planning Scheme, and make appropriate amendments to the Wyndham North DCP, if required.

6.7 Amanda Driver and Benneb Pty Ltd

This submission relates to the property owned by Ms Driver at 1245 Sayers Road, Tarneit and Benneb Pty Ltd, owners of the land at 1170 Sayers Road, Tarneit. There is not currently a subdivision application for the land.

(i) The issue

Ms Driver and Benneb Pty Ltd raised the following issues:

- Objection to the relocation of the indoor recreation facility onto their land at 1245 Sayers Road shown east of the major activity centre on Plan 2 of the Riverdale PSP as proposed by Council as owners of 1160 Sayers Road.
- Objection to the adjustment of the extent of the Werribee River waterway/GGF corridor as proposed by Melbourne Water and proposes their own development/GGF and waterway boundary that is different to that shown in the exhibited PSP;
- Requests the inclusion of a new provision to allow some flexibility in the Riverdale Schedule to the UGZ schedule in relation to biodiversity matters.

(ii) Relocation of Indoor Recreation Facility

Mr Cicero, representing Ms Driver and Benneb Pty Ltd, supports the location of the Indoor Recreation Facility as shown in the exhibited PSP and submits that there is no justification for it to be relocated onto land at 1245 Sayers Road as proposed by the Council as landowner of 1160 Sayers Road. Mr Cicero relied upon the evidence of Mr Black and suggested to the Panel that there has been no compelling reason put forward by the Council, firstly as to why the Indoor Recreation Facility should be relocated from its position shown in the exhibited PSP, and secondly, why it should be relocated to 1245 Sayers Road. Mr Cicero stated ‘where’s the evidence of the good outcomes?’.

Mr Cicero stated that the land in question is ready to be developed and that this corner is critical for the development of the subdivision. He noted that if the Indoor Recreation Facility were to be moved on to his clients land at the location proposed by Council as
landowner of 1160 Sayers Road, ‘this corner would be a blight to the client for years to come’.

The Panel is of the view that the proposed indoor recreation facility should be located on the Council owned land, preferably co-located with or near active open space and preferably at the periphery of the proposed Town Centre. The facility should not be included in the PSP at 1245 Sayers Road or any other abutting property.

This matter is further discussed in detail in Section 6.6 of this report.

(iii) Werribee River Corridor Realignment

Mr Cicero submitted a revised development boundary put forward by his clients that are in contrast to the revised waterway corridor submitted to Panel by Melbourne Water as part of Melbourne Water’s submission on the 7th February 2014. Both proposed revised boundaries are different to the exhibited PSP waterway/GGF conservation area boundary. Detailed discussion and a recommendation on which boundary should proceed is found at Section 4.10 of this report.

(iv) Biodiversity issues and New Provision to the Schedule to the UGZ

Mr Cicero relied upon the expert evidence presented by Mr Francis of Abzeco (ecological consultants). Mr Francis assessed the site for its potential extent of suitable habitat for the GGF along the Werribee River corridor and across the site. In his expert evidence, Mr Francis states:

‘None of the Category 2 [GGF] habitat predicted by DEPI modelling was found to occur on the subject land in this study. No water bodies or waterways suitable to support the GGF are present in these areas and no records are known from the subject land...

Abzeco concurs with the findings of Paul Kelly (PKA 2011) that areas on the study site designated as Category 2 [GGF] Habitat are not potential GGF habitat and do not meet the criteria for Category 2 habitat...These areas have been cultivated and cropped over several decades, do not hold water for an extended period or support a suitable habitat structure for GGF.

To allow flexibility in providing required offsets where a landowner has assessed these requirements differently to DEPI, Mr Cicero suggests that there should be the following words included in the Schedule to the UGZ:

‘Prior to the issue of a Statement of Compliance under the Subdivision Act 1988, fees for the clearing of threatened species habitat and/or native vegetation within the lot, must be provided in accordance with the (compensatory habitat fee document) subject to any variation to the extent of native vegetation, or threatened species habitat to be offset as approved by the Secretary to the Department of Environment and Primary Industries and the Minister responsible for the administration of the Environment Protection Biodiversity Conservation Act 1999 or his delegate...’.

The current requirement for protection and offset for the Natural Temperate Grassland of the Victorian Volcanic Plain, Golden Sun Moth habitat, GGF habitat, Striped Legless Lizard habitat and threatened flora, including Spiny Rice Flower is outlined in the Biodiversity Conservation Strategy.
The issue raised by Mr Cicero on behalf of his clients is about the insertion of a new provision to the Schedule to the UGZ that allows for some flexibility in relation to native vegetation and habitat offset requirements.

The MPA requested clarification from the DEPI and the Commonwealth Department of Environment in regards to including a provision in the UGZ that provides for variation to the extent of native vegetation or threatened species habitat to be offset. DEPI and the Commonwealth Department of Environment stated that such flexibility would not be allowed when it comes to the time stamping of native vegetation. This matter is discussed in more detail in section 4.4.

6.8 Craig and Casabene Nominees Pty Ltd

Ms Craig is the property owner of the land at 555 Hogans Road, Tarneit) and Casabene Nominees Pty Ltd is the owner of 605 Hogans Road, Tarneit). There is not currently a subdivision application for the land.

The eastern boundary of Ms Craig’s property adjoins Davis Creek; the western boundary adjoins the site at 605 Hogans Road (Casabene Nominees); the southern boundary of the site adjoins active market gardens; and the northern boundary is Hogans Road. The site is approximately 11.1ha and is used for grazing of livestock.

The Casabene property is located on the south eastern corner of the intersection of Hogans Road and Davis Road and adjoins Ms Craig’s to the east. The site is approximately 17.3ha and is currently used for grazing of livestock and vegetable production.

Mr Cicero, representing both parties, collectively referred to both Ms Craig and Casabene Nominees Pty Ltd as the landowners.

(i) The issue

Mr Cicero raised the following issues on behalf of Ms Craig and Casabene Nominees:

- The landowners’ request the inclusion of a new provision in the Riverdale UGZ schedule in relation to biodiversity matters.
- Requests that DCP-funded project BR-91-04 be design as a culvert structure rather than clear-span bridge or the DCP be adjusted to ensure that the appropriate structure can be determined at the time of subdivision.

(ii) Biodiversity issues and New Provision to the Schedule to the UGZ

Mr Cicero submitted that the landowners do not believe that their properties contain native vegetation or fauna, which would require payment of habitat compensation offsets in the event that the land is developed. Mr Cicero relied upon the expert evidence presented by Mr Kelly of Paul Kelly & Associates (ecological consultants) to support this position.

Mr Kelly assessed both the 555 and 605 Hogans Road sites for their flora and fauna values with a particular emphasis on the requirements of the DEPI Habitat Compensation requirements of the BCS.

In his expert evidence reports, Mr Kelly stated:

*555 Hogans Road (Ms Craig):*
The majority of the vegetation on site is classed as Degraded Treeless Vegetation and as such is not by definition remnant native vegetation.

No flora or fauna of conservation significance was recorded on the site at the time of the assessments...

It is considered that the site has not provided high quality Golden Sun Moth or Growling Grass Frog habitat for a considerable period.

The requirement for habitat compensation to develop the majority of the site is not substantiated, as the majority of the site has not contained native vegetation or suitable threatened species habitat for a considerable period.

605 Hogans Road (Casabene Nominees):

It is considered that the designation of remnant native vegetation on the site is based on assessments that used inappropriate benchmarks and the time stamping data was collected at a time when the quality was not representative of the long and enduring vegetation quality on the site for several decades.

It is considered that the site has not provided high quality Golden Sun Moth or Growling Grass Frog habitat for a considerable period.

The requirement for habitat compensation to develop the majority of the site is not substantiated, as the majority of the site has not contained native vegetation or suitable threatened species habitat for a considerable period.

Mr Kelly disagreed with the findings of the previous ecological assessments of the 605 Hogans Road site that had been undertaken as part of the time stamping data project and suggests that the previous assessments used the incorrect EVC benchmark of EVC 132-63 Low Rainfall Plains Grassy Woodland in the Victorian Volcanic Plain when they should have used EVC 55 Plains Grassy Woodland for the Otway Bioregion. In Mr Kelly’s expert opinion, the vegetation on the site is not as significant as it had been assessed previously and that the Habitat Compensation requirements are therefore inappropriate.

The matter of previous ecological assessments and findings as part of the Time Stamping projects are dealt with in Sections 3.6 and 4.4 of this report.

Regarding the submissions by Mr Cicero on a new provision to the Schedule to the UGZ, this matter is also raised in submissions by Trukeel as well as Ms Driver and Benneb (all Mr Cicero’s clients) and the matter is discussed in Section 6.7 of this report.

As previously discussed, the MPA requested clarification from the DEPI and the Commonwealth Department of Environment in regards to including a provision in the UGZ that provides for variation to the extent of native vegetation or threatened species habitat to be offset. DEPI and the Commonwealth Department of Environment stated that such flexibility would not be allowed when it comes to the time stamping of native vegetation. This matter is discussed in more detail in Section 4.4.

(iii) Culverts v Bridge Crossings

Mr Cicero submitted that the landowners support the position advanced by Stockland and Satterley to the Panel that requests the Hogans Road crossing of Davis Creek be constructed
as a culvert crossing rather than a clear span bridge. Mr Cicero suggested that ‘the cost difference between a bridge and culverts is significant and would have a substantial impact upon the cost of delivering lots to the community at an affordable price’.

The MPA note in their submission that a culvert crossing would represent a significant construction cost saving and may also represent an acceptable outcome in terms of hydraulic conveyance.

The Panel has discussed the matter of culverts versus bridges and whether the DCP funds these works in Section 7.6. The potential impacts to GGF regarding culverts and the Davis Creek crossing is discussed in Section 6.4, in response to Stockland’s submissions.

The Panel notes the letter from Melbourne Water in Attachment 2 of Craig and Casabene submissions in which Melbourne Water notes the landowners request for the use of culverts as opposed to bridges. Melbourne Water states in this letter that:

\[ \text{Until such time that Melbourne Water receives further information to demonstrate acceptable hydraulic performance of an alternative option Melbourne Water cannot approve such a proposal. Melbourne Water would also review the proposal from a maintenance perspective, and to ensure it does not impede the passage of aquatic and terrestrial fauna. In addition, DEPI would need to review the proposal from a Growling Grass Frog passage perspective} \]

The Panel agree with the MPA that this issue is best resolved through discussions between the MPA, the submitter(s), Melbourne Water and the Panel would add DEPI to ensure adequate passage is provided for the GGF once appropriate assessments of this issue have been undertaken.

(iv) Recommendation

The Panel recommends the following further work be undertaken and any subsequent changes incorporated into the Riverdale PSP and Wyndham North DCP:

The MPA to engage with Melbourne Water, DEPI and landowners to determine where culverts may be able to be used for waterway crossings, whilst ensuring adequate passage is provided for aquatic fauna.

6.9 Trukeel Pty Ltd

Trukeel Pty Ltd own two lots of land south of Sayers Road in Tarneit. The ownership extends from Sayers Road to the Werribee River on its western side and is bounded by Stockland to the south-east. There is not currently a subdivision application for the land.

(i) The issues

The Panel has identified the following unresolved issues raised in submissions by Trukeel:

- That non-residential uses be allowed on the southern frontage to Sayers Road on the Trukeel property;
- That the PSP make allowance for a local convenience centre to be located along the western boundary of the Trukeel property located on a proposed east west collector road; and
- Biodiversity offsets.
(ii) Sayers Road frontage

Mr Cicero for Truokeel submitted that the PSP should be amended to provide for a range of commercial uses along Sayers Road to the east of Sewells Road. This was supported by expert evidence from Mr Lee who recommended:

Provide addition (sic) provision of local employment uses along Sayers Road East of Sewells Road, to accommodate commercial activities not suited to the new Sayers Road Boulevard through the Town Centre...

Mr Cicero gave as examples of uses that could be located here as car washes and building supplies, that is the types of uses that you do not want to see located on a boulevard leading into a centre.

Under cross examination of Mr Lee about the uses he proposed for Sayers Road that would have a detrimental impact on the boulevard entry to the town centre, Mr Lee indicated that these types of uses need to be planned for as they need to locate somewhere.

Ms Patterson submitted that the Riverdale MTC, as proposed, provided for commercial uses with a frontage to Sayers Road on the perimeter of the town centre. This is not in the location proposed by Mr Cicero.

The Panel does not support the provision of further space for commercial uses with a frontage to Sayers Road east of Sewells Road. The Panel supports the MPA’s wish to concentrate these uses in appropriate locations on the periphery of the Riverdale MTC. A strip development along Sayers Road would do little for the impact of the boulevard treatment proposed and would create interface challenges for the residential areas to the rear of any such commercial development.

(iii) Werribee Bend LCC

Mr Cicero further submitted that the proposed Werribee Bend LCC would not be viable because of the limited nature and shape of its catchment and because of its co-location with significant open space. He proposed a new Local Town Centre on a proposed east west connector road some 800m south east of the Riverdale Town Centre on the edge of the Truokeel property. In evidence, Mr Lee indicated that his analysis showed that there was a possible under provision of retail floor space in Riverdale and a supermarket based Local Town Centre of up to 4000m$^2$ could be supported in this location. Mr Lee further acknowledged that reducing the size of the Werribee Bend LCC could make it less viable and that he ‘wouldn’t disagree’ with a proposal to leave it at its current proposed size and let the market determine the extent to which it developed.

Ms Patterson submitted that the LCC in the location proposed by Mr Lee, at some 800m separation, was too close to the Riverdale MTC. Ms Patterson did submit that the MPA acknowledged the potential under provision of retail floor space in the Riverdale PSP and proposed that the Werribee Bend LCC floor space be increased to 4000m$^2$ to accommodate this shortfall.

The Panel notes with respect to the provision of local shopping, Mr Lee’s evidence is uncontested. The Panel also notes that with the exception of the Werribee Bend LCC, retail provision in the south west segment of the Riverdale PSP will leave many residents
significant distances from retail opportunities. The Panel accepts the MPA submission that the location for a LCC proposed by Mr Lee is undesirably close to the Riverdale MTC and, if developed first, may hinder the early development of the MTC. Alternative locations for an LCC to address possible undersupply were canvassed at the Hearing and none could be identified that meet the MPA requirement to locate such centres on a connector road. For these reasons the Panel does not support the inclusion of a further Local Town Centre in the PSP as proposed by Mr Cicero. The Panel accepts the MPA suggestion to increase the permissible floor space at the Werribee Bend LCC to 4000m² of retail. However, it agrees with Mr Lee that this location is not optimal for a centre of this size.

The Panel, however, sees no viable alternative and therefore concludes that the Werribee Bend LCC should remain as shown in the PSP.

(iv) Biodiversity Offsets

Evidence submitted by Mr Cicero included an expert witness report by Mr Kelly of Paul Kelly and Associates that suggests that the Trukeel Pty Ltd land does not contain native vegetation or fauna that would require payment of habitat compensation offsets in the event of the development of its land. Mr Kelly’s assessment of the site is that the native vegetation assessment undertaken as part of the native vegetation Time Stamping Data project by DEPI inaccurately assessed the site and that in Mr Kelly’s assessment of the site, there is no native vegetation present that warrants offsets requirements.

Mr Cicero also suggested wording to be inserted in the Schedule to the UGZ that allows some flexibility in assessing native vegetation or threatened species offsets (this matter has been raised previously by Mr Cicero and discussed in Section 6.7 of this report).

The issue raised by Mr Cicero and presented in the written evidence from Mr Kelly, is that the landowner should not be required to provide the biodiversity offsets since Mr Kelly has assessed the site as not having native vegetation present. The Panel has discussed the role of the DEPI Time Stamping Data project as part of the Melbourne Strategic Assessment for Growth Areas in Section 3.6 and its importance to achieving the objectives of the approved Biodiversity Conservation Strategy (see Section 4.4). As noted by Mr Cicero, the Panel has limited powers in regard to these matters.

The other biodiversity related matter raised by Mr Cicero is about the insertion of a new provision to the Schedule to the UGZ that allows for some flexibility in relation to native vegetation and habitat offset requirements. DEPI and the Commonwealth Department of Environment have made it clear that such flexibility will not be allowed when it comes to the time stamping of native vegetation. This matter is discussed in more detail in Section 4.4.

6.10 Gina Farrugia Property, 1080 Leakes Road

Ms Farrugia owns land within the Riverdale precinct located at 1080 Leakes Road, Tarneit. Part of the property has been compulsorily acquired for the Regional Rail Link project. There is not currently a subdivision application for the land.
(i) The issue

Ms Farrugia objects to the location of passive open space on her land, shown on the Riverdale PSP Plan 4 as P NO-01 and is concerned that the location of passive open space will devalue the land.

(ii) Evidence and submissions

Ms Farrugia suggests the passive open space be placed on land on the north-west corner of the property on the corner of Leakes and Davis Road as it is prone to annual flooding and may be more suitable or a neighbouring property with a large excavated dam to the west of 1080 Leakes Road may also be suitable.

The MPA is of the view that the proposed passive open space (P NO-01) location as shown in the Riverdale PSP, is the most suitable location for a local park. The MPA suggest that the exhibited location achieves the best balance between land owners in this area and being reasonably central to the future residential community that will be located between the Regional Rail Link, Leakes Road and Davis Road, and is placed in the wider section of this area so that residential development surround it on all sides.

The MPA suggest that because of the smaller sized properties found within this area compared to the rest of the PSP, placing the local park across three properties is considered by the MPA to be the most equitable arrangement. However, in response to Ms Farrugia’s submission, the MPA has reduced the size of the park proposed on 1080 Leakes Road to be equal to the area proposed on the adjoining property at 435 Davis Road, thereby reducing the land subject to the passive open space from 0.3384ha to 0.1317ha. This has reduced the overall size of the park to 0.49ha, which the MPA considers to be a minimum size for this location and does not support reducing the size of the park further.

The MPA suggested to Panel that Ms Farrugia has indicated that reducing the size of passive open space on her property would address her submission; however, the MPA is yet to receive written confirmation from Ms Farrugia on the matter.

The MPA reiterates in their submission that the land proposed for the passive open space would only be provided to Council if the landowner chose to develop the land in the future and that this land [unlike the Regional Rail Link] would not be compulsorily acquired. Council would also reimburse the landowner for any land required for the passive open space beyond 3% of the net developable area of the property.

(iii) Discussion and conclusions

As discussed in detail in Section 4.3, the amount of passive open space provided in the Riverdale PSP is just under the agreed provision of 3% of NDA-R. The Panel agrees with the MPA that reducing the passive open space provision even further than now proposed would be an unsatisfactory outcome.

The Panel understands that the submitter has been through a compulsory acquisition process due to the Regional Rail Link project, has the property for sale and is concerned that further property value decreases may occur because of the proposed passive open space on their property.
The MPA has put forward a revised position and reduced the P NO-01 in size to reflect the concerns of Ms Farrugia, whilst at the same time providing a local park that still meets the requirements of passive open space in the PSP. The Panel concludes that this is an acceptable and equitable outcome. It is noted that the change was not included in the final list of changes to the PSP provided by the MPA (Document 277).

(iv) Recommendation

The Panel recommends the following change to the PSP:

Amend P NO-01 shown on Plan 4 - Open Space in the Riverdale PSP to reflect the MPA’s revised size of this local park to 0.49ha.

6.11 Russell Crichton Property, 435 Davis Road

Mr Crichton owns land within the Riverdale precinct located at 435 Davis Road, Tarneit. Part of the property to the north and east has been compulsorily acquired for the Regional Rail Link project. There is not currently a subdivision application for the land.

(i) The issue

Mr Crichton objects to the location of passive open space on his land, shown on the Riverdale PSP Plan 4 as P NO-01 and is concerned that more of his property will be compulsorily acquired.

(ii) Evidence and submissions

The landowner has lost part of the property to the north and east through the compulsory acquisition of land for the Regional Rail Link project and is concerned that with the PSP, which shows a proposed passive open space reserve (P NO-01) on part of his property, will result in further compulsory acquisition.

As outlined in MPA’s response to Ms Farrugia above, the MPA is of the view that the proposed location of P NO-01 is the most appropriate and equitable location for a local park.

The MPA notes that the Mr Crichton’s property has a high percentage of developable land (96.3%) and 3.85% of the site’s NDA is provided as passive open space, and therefore the MPA does not believe the submitter is being unfairly treated regarding open space provision.

In response to Mr Crichton’s concerns, the MPA notes that:

All landowners in the Precinct are required to provide a contribution (either as land or cash) equivalent to 3% of net developable area (NDA) as unencumbered local (passive) open space via the schedule to Clause 52.01 of the planning scheme. Further, landowners in residential areas will also be contributing 7% of NDA in land (or cash via the Wyndham North DCP) for active (sports field) open space. Thus all landowners ultimately must contribute a total of 10% of NDA either as land or cash for unencumbered local open space.

(iii) Discussion and conclusions

As discussed above in Section 6.10, the land proposed for the passive open space on the submitter’s land at 435 Davis Road would only be provided to Council if the land owner chose to develop the land in the future and that this land, unlike the RRL, would not be
compulsorily acquired. Council would also reimburse the landowner for any land required for the passive open space beyond 3% of the net developable area of the property.

The Panel concludes that it is an equitable outcome that approximately 0.1317ha of passive open space provision is shown on the submitter’s property as part of P OP-01 for the reasons submitted by the MPA. These are that the exhibited location achieves the best balance between land owners in this area and is reasonably central to the future residential community being located between the Regional Rail Link, Leakes Road and Davis Road. Additionally, it is placed in the wider section of this area so that residential development will surround it on all sides.

The Panel also reiterates the MPA’s advice that land shown as passive open space in the PSP will not be compulsorily acquired and it will be up to the landowner if and when they want to develop the land for residential purposes.

The Panel concludes that there should be no change to the open space provision (P OP-01) shown in the exhibited Riverdale PSP on land at 435 Davis Road, Tarneit.

6.12 Maureen Pengelly Property, 1122 Sayers Road

Ms Pengelly owns 0.089 hectares of land within the Riverdale precinct located at 1122 Sayers Road, Tarneit. Amendment C176 seeks to apply a Public Acquisition Overlay (PAO) on the land to allow for the construction of the future intersection at Sayers Road and proposed north-west arterial road. The land at 1122 Sayers Road and the adjoining leased land (road reserve) currently have a horse agistment/stabling operation. There is not currently a subdivision application for the land.

(i) The issue

Ms Pengelly, in her written submission, objects to the PAO being placed over her property and requests the opportunity to further investigate development opportunities for the land at 1122 Sayers Road.

(ii) Evidence and submissions

SBA Law, on behalf of Ms Pengelly, made the following submissions on behalf of their client:

- The client’s land is privately owned land.
- As a private land owner Ms Pengelly expects to be permitted to explore wider land use options and use and develop her land for residential purposes.
- SBA Law reserved the right to submit further grounds in the future.

In response to the matter, the MPA stated that they met with the landowner and their legal representative to discuss the future PAO and its impact on Ms Pengelly’s land. The MPA has submitted to Panel that the landowner agreed that the proposed future development of the area would not be complementary to the existing operation of the horse agistment/stabling currently conducted at 1122 Sayers Road and the adjoining leased land (road reserve), and as such, the landowner has accepted the application of the PAO. However, the landowner has requested that Council consider early acquisition of the land to allow relocation from the site.
• The MPA discussed the possibility of early acquisition with Wyndham City Council, who advised that all acquisition processes need to be provided for within the Council’s Capital Works programs for the upcoming financial year. Council also advised that a business case would need to be prepared and that a request for a business case is the responsibility of the landowner.

• The MPA said that they support the landowner’s request for early acquisition of the site and note that the PSP and associated planning controls do not have the ability to control the timing of acquisition by other authorities.

(iii) Discussion and conclusions

Plan 6-Street Network of the PSP shows a signalised intersection to be constructed at the intersection of Sayers and Sewells Road. Sayers Road is proposed to be a 4 lane arterial road.

The Amendment proposes the PAO over the site to allow for the widening and construction of the intersection of Sayers and Sewells Road.

The Panel agrees that, where possible, in circumstances where property is to be acquired for the purpose of infrastructure as this site is, efforts should be encouraged for early acquisition to allow for relocation by the current landowner from the site.

The Panel concludes that there be no change to the exhibited PAO at this location.
7 Amendment C177 Wyndham North DCP Issues

7.1 Introduction

The Wyndham North DCP, which is the subject of Amendment C177 to the Wyndham Planning Scheme, is broadly bounded by Boundary Road in the north, the Outer Metropolitan Ring road reserve, the Werribee River and Davis Road in the west, Leakes Road in the south and Forsyth Road in the east. It includes some 4000 hectares of land which it is proposed will eventually house approximately 118,000 residents. The exhibited DCP provides for the funding of some $770 million of transport, community and related infrastructure, including land.

Figure 9 Wyndham North DCP area

It is the first time in Victoria that a DCP of this scale has been prepared, covering four contiguous PSP areas. One of the driving rationales for this approach has been the desire to internalise as many costs as possible, particularly those associated with the arterial road network and associated major intersection works. This means that cost apportionment between the DCP and surrounding development, which is a significant issue in many recent DCPs, is reduced significantly. This is in line with the views of the SDCAC in their Report 1, Setting the Framework.

The downside of this approach is that over such a large area there is inevitably some cross subsidisation between the four PSPs as the nature of the PSPs is such that the infrastructure requirements and the location of it varies between them. Some submitters have raised this
as an issue but not to the extent that this is regarded as major. It is noted that a DCP covering just a single PSP will inevitably involve some cross subsidisation within the PSP, particularly if it is a single charge area.

In his expert evidence on behalf of Satterley and Stockland, Mr Ainsaar addressed this issue and made an estimate of the Development Infrastructure Levies which would apply if each of the four PSP areas was the subject of a precinct specific DCP. That analysis shows that Truganina subsidises each of the other PSP areas to some extent. If Mr Ainsaar's calculations are correct, and the Panel has no reason to believe that they are not, the extent of the cross subsidy does not cause the Panel any significant concern.

In a variant of this theme Ms Forsyth, for Peet, expressed concern that because the community facilities to be provided in the Tarneit North and Oakbank PSPs are unknown at this stage, each PSP should have community facilities of equal value. The Panel does not support this and believes that such facilities should be planned on the basis of need and catchments, regardless of the PSP boundaries, which are to a large extent arbitrary in respect of relevant catchments.

The DCP provides for two charge areas, the first of which includes all residential land and covers some 2,689 hectares NDA. The second much smaller charge area includes some 302 hectares of employment land.

There was relatively little negative comment about the large charge areas, apart from a few comments on the issue of cross subsidisation as discussed above. The Panel believes that the approach used by the MPA in this instance, of a ‘super DCP’ and essentially a single charge area, is a good one. It is recognised that there is likely to be relatively limited scope in the future for a DCP of such magnitude, but the Panel urges the MPA to continue this approach where possible. This said, the Panel is acutely aware of the significant resources involved in preparing this DCP and its approval process.

The exhibited DCP levies are as follows:
- Residential Contribution per NDHa = $256,150. (or $272,350 per NDHa including the $900 per dwelling Community Infrastructure Levy)
- Employment Contribution per NDHa = $164,366.

The approach taken by the Panel in addressing DCP issues mirrors that taken by the MPA in its submission. This report concentrates on issues which have not able to be resolved between the MPA and submitters. General issues are addressed first, followed by submitter specific issues. The general issues are as follows:
- The way in which arterial roads and intersections are addressed in the DCP;
- The list of project priorities included in the exhibited DCP;
- Scope creep in the approved DCP;
- Road crossings over the Regional Rail Link;
- The crossing of small waterways within the PSP areas;
- The provision and funding of regional active open space;
- Apportionment of external costs; and
- The valuation of public land.
There are a number of other DCP issues which are addressed in Section 7.10.

7.2 Roads and intersections in the DCP

(i) The issues

The key issues raised by submitters relating to arterial roads and intersections in the DCP are:

- Is the traffic modelling that is the basis of developing interim road and intersection designs appropriate?
- Is the proposed arterial road network appropriate?
- Which roads in the DCP area are, or are planned to be, VicRoads declared arterial roads?
- How should the Draft Arterial Road Protocol be interpreted and applied to the DCP?
- What is the appropriate scope of works for arterial road intersections in the interim?
- Are the road cross sections proposed appropriate?
- What is the appropriate scope of works for intersections of local or connector roads with arterial roads?

(ii) Background

The MPA described the approach taken to determining the design of the road network, noting that it is a different approach to that normally taken in most previous DCPs:

- Rather than doing detailed SIDRA analysis of each component of the road network, development of the road network has been carried out based on first principles, and tested using traffic modelling only at selected locations to ensure proper performance.
- Except where constraints exist, or where the local road network is already in place, the road network has been based on a 1.6km (or one mile) grid of arterial roads, with collector roads linking development to the arterial road network.
- Arterial roads have generally been developed as an alternating primary and secondary road grid.

- Primary arterials are assumed to be:
  - Providing a principal traffic function;
  - Ultimately managed by the State (VicRoads); and
  - Ultimately six lane divided roads, requiring a road reservation of 41m with some local variations where cut or fill is required or trunk services are required.

- Secondary arterials are assumed to be:
  - Providing a mixed function for through traffic and access to key land uses such as town centres;
  - Likely to remain as Council roads; and
  - Usually four lane divided roads, requiring a road reservation of 34m with some local variations.

Figure 10 shows the arterial road network proposed.
Under the Draft Arterial Roads Protocol the DCP generally provides funding for land for the ultimate road cross sections and the construction of the first carriageway. Second carriageways may be funded if required to accommodate the traffic generated by the proposed development in the interim period. Figure 11 shows the proposed arterial road projects in the Wyndham North DCP. Existing declared arterial roads are the responsibility of VicRoads and are not included in the DCP. Future declared roads are regarded as Council roads in the interim and are therefore included in the DCP.

There was some contention in the Panel Hearing regarding which roads are currently, or soon to become, VicRoads roads. This mainly centred around the future of Dohertys Road. Council advised that Dohertys Road had been flagged as a future VicRoads declared arterial, and in fact the Minister for Roads had recently written to the Council advising that the declaration was to occur by mid-2014. During the course of the Hearing this situation changed. Council advised that it no longer sought Dohertys Road to be declared and VicRoads confirmed that it would remain as a local arterial. The impact for the DCP is that future upgrades of Dohertys Road can, as exhibited, or recommended by the Panel be included in the DCP.

Developers who submitted to the Hearing expressed some dissatisfaction with this as it potentially adds to the cost of the DCP rather than being a cost for VicRoads.
Intersection designs have been developed using template designs based on the range of traffic movements required to be catered for. The templates used for Wyndham North were developed by MPA in collaboration with VicRoads and Wyndham and Melton Councils. There was wide support by all parties for the use of template designs.

The practice in recent years in preparing DCPs is for the DCP to fund land for the ultimate intersection layout and construction of an interim layout. The Wyndham North DCP continues this practice.

The MPA provided the following description of the approach adopted in developing interim intersection templates:

*Interim intersections template configurations were developed using a standards-based approach following these broad principles:*

- Interim works should be as compatible as is reasonable with the ultimate intersection works to minimise sacrificial works and wasted investment;
- The number of lanes should reflect broadly the expected traffic volumes at 10 years after development, which is usually at least one lane less than ultimate;
• VicRoads requires a minimum of two stand-up lanes at signalised intersections on arterial roads for reliability and in case of a break-down, although one lane can be of a lesser length;
• Left turn slip lanes will generally not be provided unless they are in the ultimate location, and as a consequence interim works tend to be provided on the outside of intersections, leaving a wide median that permits the provision of extra traffic lanes with minimal re-work;
• Asphalt pavement strengthening is required on the approaches to and through signalised intersections to cope with vehicle braking;
• Consideration is given to the likely timing of future road upgrades, and if early duplication is likely, the ultimate intersection may be required to constructed up front (for example see intersection of Doherty's and Tarneit Roads);
• In some cases modelling and SIDRA analysis may be required to confirm treatments where unusual traffic patterns exist or higher modelled volumes may indicate additional provision is required.

In the case of the Truganina and Riverdale PSPs, SIDRA analysis based on modelled volumes has only been undertaken to inform the interim intersection scope for two intersections. These have generally been modified through the inclusion of double right turn lanes on some legs of these intersections.

The approach is generally in accordance with the VicRoads Draft Arterial Roads Protocol. The most contentious aspect of this approach is the requirement for the ultimate intersection, or in some cases partial flaring, at some locations. The MPA submitted that the use of templates has received support from VicRoads and Councils and has eliminated the need for expensive site specific designs.

The road and bridge projects proposed for inclusion in the DCP are listed in Table 3 of the DCP and shown on Plan 3. Intersections are listed in Table 4 and shown on Plan 4.

The DCP excludes State funded items such as works on VicRoads declared arterial roads and all works related to the RRL project. The issue of the crossing of the RRL by connector roads and pedestrian bridges is addressed in Chapter 7.5.

Submitters generally supported the template approach, but raised a number of general and localised concerns including:
• Conservative traffic generation models have led to some road projects being incorrectly deemed interim.
• Construction of components of ultimate intersection layouts up front places unnecessary and unfair additional costs on the DCP.
• Requests for inclusion or deletion of road or intersection projects in the DCP.
• Scope of road works proposed for inclusion in the DCP.
• Accuracy of costings included in the DCP

These issues are discussed in the following sections.
(iii) Interim traffic modelling and demand levels

The issues
Several submitters submitted that the demand level in the interim traffic model is too high, resulting in over-specifying the road infrastructure requirements in the interim, and therefore over-stating what is required in the DCP.

Background
AECOM were commissioned by the GAA to model future traffic volumes on roads within the Wyndham North Growth Area. The modelling was used as an input into the arterial road and intersection design process.

Modelling was undertaken using the Melbourne Integrated Transport Model (MITM), extending the work developed for Wyndham West.

Two scenarios were modelled for the Wyndham North Growth Area as follows:
- Interim model based on 2021 conditions incorporating an interim road network, with full development of the Wyndham North DCP area and ten years of growth on the surrounding traffic network.
- Ultimate model based on 2046 conditions, and assuming completion of the OMR.

Evidence and Submissions
Mr Finanzio, for ID Land, submitted that extent of development in the interim traffic scenario used to justify the scope of road works is too high.

Mr Townshend, for Leakes, submitted that ‘the consequence of the AECOM report assumptions and the 100% build out scenario for the interim road works scoping is that the scale of the road works in the DCP are not appropriate.’

Mr Tobin, for the MPA, submitted that the broad approach taken by the MPA, in consultation with VicRoads and the Councils was reasonable and pragmatic in such a large DCP. Mr Hitchens, in his evidence called by the MPA, stated that he is unable to comment on the validity of the AECOM model assumptions and noted that the intersection design had been developed through consultation between MPA, VicRoads and the Councils.

Mr Hunt, in his evidence called by Stockland, Satterley and Leakes, made the following observations about the Aecom modelling:

- It is noted that the modelling, as reported, does not appear to have been used to test various road network provision scenarios but simply reflects, with some limitations due to the links not included, projected volumes on the road network with the DCP works, as derived through the previously agreed protocol of works, in place.

- Modelling outputs prepared by Aecom include estimates of AM and PM peak hour network volumes, which can be converted to design intersection turning movements for analysis of intersection requirements and future performance.
Despite the modelling undertaken, limited reliance has been placed on it in establishing the extent of works for DCP intersections, with a generic “template” of treatments being adopted depending on the function of intersecting roads. Only two intersections were specifically designed around modelled volumes being:

- Dohertys / Derrimut
- Leakes / Tarneit

The functional design of analysis and subsequent recommended functional layout of these intersections appears reasonable, given the modelled volumes being assessed.

Mr Turnbull, in his evidence called by Council, provided the Panel with an analysis of the modelling outputs and gave evidence that there were, in his opinion, several anomalies in the way that the model allocated traffic to existing and proposed roads including:

- Too much traffic allocated to some sections;
- Inconsistencies between the modelled network and the proposed interim works; and
- Unexplained volume losses across some segments.

As a result, Mr Turnbull recommended a number of changes to the interim works included in the DCP and presented these in Table 11 of his report. These proposed changes are discussed the following section under Arterial Road Network.

With these qualifications, Mr Turnbull nevertheless concluded that ‘the interim traffic volumes are consistent with my first principles estimate of traffic likely to be generated by the DCP area’.

Mr De Young, in evidence called by ID Land and Dacland, stated that, in his opinion, the traffic modelling approach of assuming a full build out of the DCP area in determining the interim road network was conservative. He added that the assumptions in the model that abutting arterials would not be duplicated and the absence of some of the road connections to the south led to an inflated level of demand utilising east-west roads. Mr De Young concluded that, as a result, the road network developed is overly conservative.

Discussion and conclusions

The Panel agrees that the basis for the traffic modelling is conservative. The use of ‘full build out’ creates slightly higher volumes than could be argued to be the norm for determining interim works. If a detailed approach of reviewing the design of each individual element of the road network was being employed, the Panel would expect that the network could be overdesigned. However, as presented by the MPA, and confirmed in the comments in Mr Hunt’s evidence, there has not been a heavy reliance on the detailed traffic modelling to determine the elements of the road network. Rather, the broader, more pragmatic methodology described by the MPA has been adopted in collaboration with VicRoads and the Councils. Mr Turnbull concluded that, subject to a number of qualifications, the traffic volumes used and the resulting interim road network are appropriate. Mr Turnbull did not review intersection designs. Mr Hunt did review the approach taken to intersection design
and concluded that, subject to some concerns about the inclusion of ultimate works in some of the proposed design, the methodology was sound.

The Panel concludes that the basis for the traffic modelling used to determine interim road and intersection design is conservative, but appropriate for the circumstances given the approach taken by the MPA.

In forming this view, the Panel has noted that there are relatively few road items in the DCP that are contested. The Panel is also conscious of the unusually large, and as a result self contained, nature of the DCP. The Panel believes that, as a result, the DCP should fund works required to cater for a greater proportion of build out than would normally be the case. In this case full build out has been used as a base rather than an 80% build out typically used in the past for smaller DCPs.

(iv) Arterial road network

Mr Turnbull reviewed the implications of his analysis of the traffic modelling for the proposed interim road network and recommended a number of changes to the DCP as a result. Mr Turnbull’s recommendations are reproduced in full below in Table 3.

Table 3   Recommended changes from Mr Turnbull’s evidence (Table 11)

<table>
<thead>
<tr>
<th>Action</th>
<th>Road</th>
<th>Section</th>
<th>Item</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Add</td>
<td>Dohertys Road</td>
<td>Davis Rd to Forsyth Rd</td>
<td>Traffic modelling suggests this item is required</td>
</tr>
<tr>
<td>2</td>
<td>Delete</td>
<td>Dohertys Road</td>
<td>Sewells Rd to Davis Rd</td>
<td>Traffic modelling and strategic analysis does not suggest reservation will require widening beyond 34m consistent with the rest of Dohertys Road</td>
</tr>
<tr>
<td>3</td>
<td>Amend</td>
<td>Leakes Road</td>
<td>Davis Rd to Forsyth Rd</td>
<td>Traffic modelling suggests that 6 lanes rather than 4 lanes are required to support predicted interim traffic flows. This will avoid the need for VicRoads to revisit this location and add an extra lane to each carriageway at a later date.</td>
</tr>
<tr>
<td>4</td>
<td>Add</td>
<td>Sayers Road</td>
<td>Davis Rd to Tarneit Rd</td>
<td>Traffic modelling suggests this item is required as a result of Wyndham North DCP traffic</td>
</tr>
<tr>
<td>5</td>
<td>Delete</td>
<td>Ison Road/ Sewells Road</td>
<td>Dohertys Rd to Leakes Rd</td>
<td>Traffic modelling and strategic analysis does not suggest reservation will require widening beyond 34m</td>
</tr>
<tr>
<td>6</td>
<td>Delete</td>
<td>Davis Road</td>
<td>Boundary Rd to Dohertys Rd</td>
<td>Amended traffic distribution and strategic analysis does not suggest reservation will require widening beyond 34m consistent with the rest of Davis Road</td>
</tr>
<tr>
<td>7</td>
<td>Add</td>
<td>Tarneit Road</td>
<td>Leakes Rd to Sayers Rd</td>
<td>Traffic modelling suggests this item is required as a result of Wyndham North DCP traffic</td>
</tr>
</tbody>
</table>
Council supported all of Mr Turnbull’s recommendations with the exception of the third of these points i.e. the six lane duplication of Leakes Road. Council supported the reconstruction (of the existing carriageway) and duplication of Dohertys Road being included in the DCP. Council’s support for the removal of the Armstrong Road bridge over the Werribee River was conditional upon the bridge being fully funded in the Wyndham West DCP.

The MPA does not support any of Mr Turnbull’s recommended changes. Mr Tobin noted that recommendations 2, 5 and 6 relate to the Ison-Sewells-Dohertys-Davis link between Leakes Road and Boundary Road. He submitted that this provides a vital future VicRoads arterial that had already been planned outside the Wyndham North DCP process and the link should be preserved. He also submitted that the bridge over the Werribee River at Armstrong Road (Recommendation 9) provided a vital link between the two communities to the benefit of both, and a contribution from the Wyndham North DCP should be retained. In relation to the other recommendations, the MPA relied on its original submissions.

Mr Gobbo, for Leakes, advised that his client supported the second, fifth, sixth and ninth of Mr Turnbull’s recommendations. Leakes also supported the duplication of Dohertys Road and the reconstruction of the existing carriageway of Dohertys Road being included in the DCP, provided the Armstrong Road bridge is removed from the DCP.

Mr Tweedie advised that Dacland support the inclusion of land and a second carriageway on Dohertys Road in the DCP, and that this should be a priority project. Mr Hunt also supported the inclusion of the Dohertys Road duplication in the DCP.

The Panel makes the following comments regarding Mr Turnbull’s recommendations:

- Recommendation 1, the duplication of Dohertys Road from Forsyth Road to Davis Road, is supported by the Panel. The exhibited DCP includes either the upgrade of the existing single carriageway or construction of a new single carriageway. The Panel agrees that the traffic volumes justify its inclusion in the interim, and this is made more important by the fact that it will now not become a VicRoads arterial. To be clear, the Panel interprets this project to include upgrade of the existing carriageway where this is appropriate and possible, and a new second carriageway. In some cases permit conditions refer to the requirement to upgrade or construct the first carriageway of Dohertys Road before a particular stage. Those requirements should remain as proposed, as discussed in earlier sections on individual cases.

- The Panel notes that recommendation 3 is not pursued by Council, and agrees with submitters that construction to six lanes is not appropriate to include in the DCP.

- The Panel supports the MPA’s position on recommendations 2, 5 and 6 in relation to the Ison-Sewells-Dohertys-Davis link between Leakes Road and Boundary Road. It is
noted that the landowners in this area did not oppose the retention of this link as proposed i.e. a 41m reservation.

- The Panel does not support recommendations 4 and 7 as they relate to works outside the Wyndham North DCP area. This is discussed in Section 7.8 of this report.
- Recommendation 8 - The Panel does not support the inclusion of the Forsyth Road bridge over the RRL in the DCP as it believes that such a large item on a road likely (in the Panel’s view) to become a future declared arterial, should be State funded.
- Recommendation 9 - The Panel supports the MPA’s position with respect to the retention of the Armstrong Road bridge over the Werribee River and believes this should be retained in the DCP. If the bridge is fully funded in the Wyndham West DCP then clearly it could be removed from the Wyndham North DCP, however, the Panel understands it is proposed to be only 40% funded under the Wyndham West DCP.

Melton Council submitted that the DCP should be altered to make clear the responsibilities for the construction of further works on Boundary Road. This is discussed in Section 7.8 below.

**(v) Interim Intersection Design**

**Issue**
The Panel has considered whether the design of interim intersection layouts included in the DCP are appropriate.

**Evidence and submissions**
Stockland, ID Land and Peet challenged the inclusion of ultimate intersection layouts joining interim road treatments. They submitted that it is onerous and an unnecessary cost to the DCP to require a component of ultimate intersection works and the DCP should fund only interim layouts, with the road authority responsible for future upgrade to ultimate.

Mr Hunt provided the following evidence in relation to the design of interim intersections:

*The interim plans for each intersection show the interim layout, (i.e. the layout proposed to be funded by DCP) effectively matching the ultimate 2046 layouts, seeking pragmatically to minimise lost works in converting to ultimate. The consequence of seeking to design the interim to match the ultimate layout is that in most locations the interim intersection is larger than otherwise required functionally to cater for interim capacity with wider medians and extended tapers resulting in a greater level of works and hence costs.*

*This is best illustrated by comparing intersection designs along Boundary Road.*

*...*

*The design of intersections along Boundary Road within the DCP varies along the length of the road, depending on whether the future road widening is on the south side, within the DCP area, or on the north as shown in the SMEC plans for Boundary Road intersections with Tarneit Road (IN-89-02) and Derrimut Road (IN-89-04).*
At the Tarneit Road intersection, where widening of Boundary Road will be on the northern side outside of the DCP, the intersection is smaller, effectively confined to the existing road reserve. At Derrimut Road, where the widening is on the south side, the intersection with a similar functional geometry with the exception of a second through lane in each direction flares to the south to match the ultimate intersection layout, with a consequently larger with extended tapers.

I have reviewed the SMEC plans illustrating the intersection works included within the DCP and the methodology informing the design and have formed the following opinions.

1. The designs, based on standard agreed templates, generally accord with normally accepted geometric standards and provide a starting point for identification of DCP intersection requirements and costs.

2. Intersection works in most instances are “overdesigned” due to the requirement for interim intersections to match ultimate layouts to minimise lost works when the intersecting roads are duplicated. While this is sensible from a staging of works and overall cost perspective, it effectively “loads” intersection costs within the DCP such that ultimate duplication works are being subsidised.

3. While it is sensible to minimise lost works where possible, in my view, if the intersections are to be constructed as proposed, a proportion of the cost of the works should be met from other sources, equivalent to the savings in ultimate duplication costs when the intersecting roads are ultimately duplicated.

4. As this is unlikely to be achievable practically, reduced standards of intersections should be accepted and costed into the DCP, whereby interim intersections only need to meet the requirements for mitigation of development traffic without the additional costs of matching projected “ultimate” layouts.

5. In many instances the intersection works prescribed in the DCP, even allowing for redesign to restrict the requirement to match ultimate layouts, are a considerable overdesign to meet initial requirements for development of land within the PSP’s. In my opinion, mechanisms should be in place to allow initial works to be considered at DCP intersections (effectively an “interim / interim” option) which can allow relatively low cost initial works to be constructed to meet initial access requirements, upgrading to the DCP intersection when required from a traffic perspective and when sufficient funding is available from development contributions to fund the intersection as specified in the DCP.

Under cross examination by Mr Tobin, Mr Hunt stated that he believed the inclusion of ultimate treatments in the DCP to be unfair. He stated that he saw it as a pragmatic response but that it was a clear shifting of costs from the State to future land owners.

Mr Townshend, appearing for Leakes, submitted that ‘Leakes can support larger format interim intersections on Council roads to delay the need for duplication and to reduce the cost of duplication. These measures would properly protect Council’s reasonable interests’. He went on to submit that ‘the intersection projects (in the DCP) should be reviewed to provide a reduced standard with interim intersections meeting the requirements for
mitigation of development traffic, without the additional cost of matching projected ‘ultimate’ layouts’. Mr Townshend proposed that the Panel set out parameters for a review of intersections by MPA. Such a review should, in his submission, distinguish between Council and VicRoads roads (as Council has lesser ability to fund) and provides a balance between principle and pragmatism.

Ms Forsyth for Peet, supported Leakes position that intersection projects should be reviewed to provide a reduced standard without the additional costs of matching projected ultimate layouts.

The MPA submitted that the methodology adopted to develop the road network and template intersections (as outlined above) resulted in a reasonable interim intersection configuration that broadly reflected the expected traffic volumes 10 years after development, which is usually one lane less than ultimate. The MPA submitted that the use of additional flaring at some intersections (consistent with ultimate requirements) was employed in order to avoid waste by funding intersections that easily transfer from the interim to the ultimate solution. MPA further submitted that this reduces costs and is consistent with other growth area DCPs.

Mr Hitchins gave evidence for the MPA that the relaxation of the Austroads standard to provide for only the taper length and deceleration distance for turn lanes is a significant concession that results in substantial savings to the DCP funded intersections and the land take for the ultimate layout.

Mr Hunt questioned the intersection layouts proposed for the intersections of Sayers Road/Sewells Road and Hogans Road/Sewells Road. Both intersections are non-template Y intersections. He gave evidence that:

The SMEC plans prepared for these intersections appear to have been prepared assuming a fixed intersection location at the confluence of the various road approach alignments across the PSP area.

At the Sayers Road / Sewells Road intersection, the north-west Sayers Road approach is at approximately 135 degrees to the south and east approaches (see Figure 4-6) with no clear priority/continuous road through the intersection and an intersection geometry that would require all intersection legs to operate independently.

This will result in an inefficient intersection operation compared with a standard T-intersection and has potential safety implications, with all vehicles travelling through the intersection required to change direction through the intersection at speed.

In my view, relocating this intersection to the north-east would provide a far better outcome by:

- Designating Sayers Road as the continuous road through the ‘flattening’ of the bend in Sayers Road; and
- Forcing the realignment northern end of the Sewells Road approach to the east, to allow for a perpendicular southern approach at the new intersection location.
The land requirements of the above would be comparable with the SMEC intersection design.

The same fundamental issue applies at the Armstrong Road / Hogans Road / Sewells Road intersection, with the SMEC intersection design proposing road approaches at 120 degrees with no clear priority/continuous road through the intersection.

A suitable resolution of this intersection would involve relocating the intersection centroid to the north-west or the north-east, with either Sewells Road to Armstrong Road or Sewells Road to Hogans Road designated as the continuous road.

In summary, Mr Hunt advocated for a re-design of these intersections on the basis that a more conventional T intersection design, with clear priorities, would be safer and more efficient.

Discussion

The Panel agrees with Mr Hunt’s assessment that ‘The designs, based on standard agreed templates, generally accord with normally accepted geometric standards and provide a starting point for identification of DCP intersection requirements and costs’. The Panel also agrees that ‘interim interim’ layouts should be permitted where applicable and believes that the DCP and permits do not prevent this. These layouts would normally be developer funded, except for any portion that can be salvaged as part of the agreed interim (DCP) layout.

The Panel agrees with Mr Hunt’s evidence that a number of the intersections have been unnecessarily overdesigned in an effort to save the road authority future costs of building the ultimate intersection. The Panel was not provided with evidence from the MPA, VicRoads or Council that this is justified. The Panel believes that the past practice has not always been ideal, and that VicRoads, in particular, have sometimes been accused of being opportunistic in their actions to ‘require’ ultimate works in situations where developers have been keen to get on with projects in a competitive market. The Panel does not believe that it is fair that this practice should continue.

In any case, the Panel is not convinced that there is an overall saving in providing for ultimate intersection layouts, noting that the construction of flared intersections requires long transitions from the usually narrow interim road cross section. Large sections of this transition road pavement would be in the median in the ultimate design and is therefore not useable. The differences in the layouts proposed for the Boundary Road/Tarneit Road and Boundary Road/Derrimut Road intersections (as referred to by Mr Hunt) illustrate this point (see Figures 12 and 13 below extracted from Mr Hunt’s evidence). The Panel was not provided with any reason why flaring is required in one and not the other. The MPA simply noted that the resultant designs were developed in consultation with VicRoads and Council. The Panel notes that there is an additional stand up through lane on Boundary Road at Derrimut Road, but this does to adequately explain the need for such extensive additional works in the interim.
The Panel accepts that there would likely be some cost savings to the road authority when constructing the ultimate works by requiring ultimate works to be included in the interim, but the Panel has seen no evidence that there would be an overall project saving. Even if there was, it would be at the expense of shifting the burden from the road authority to the DCP. The Panel believes this is against the need, nexus and fairness principles that underpin all DCPs.

The Panel further believes that if the road authorities require ultimate works to be constructed in the interim, they should be able to, but they should pay the marginal cost of works over and above that required for the interim. The Panel notes that the recently released GAIC Works in Kind Guidelines may assist in accessing GAIC funds for this purpose.

The Panel notes the comments of Mr Townshend that a balance between principle and pragmatism need to be reached in providing for roads in growth areas. The Panel accepts this but notes that the Act, Guidelines and the Ministerial Direction must ultimately determine what can be included in the DCP. Further, the Panel believes that the DCP already makes a significant contribution to the ultimate road network by contributing land required for the ultimate.

Mr Townshend suggested that the Panel should provide parameters for the MPA to conduct a review of intersection designs. Consistent with its comment above, the Panel is reluctant to be prescriptive in setting parameters for a review beyond proposing that the basic principles of need and nexus be correctly applied.

**Figure 12  Boundary Road/Tarneit Road (IN-89-02)**
The Panel acknowledges Mr Hunt’s concerns regarding the Y intersection designs for the Sayers Road/Sewells Road and Hogans Road/Sewells Road intersections. The Panel shares Mr Hunt’s reservations about the safety and operational efficiency of these designs and believes there may be value in a review of the designs.

**Conclusions**

The Panel does not support the use of any ultimate intersection works being included in the DCP for the following reasons:

- Need and nexus have not been demonstrated; and
- Ultimate works are rightly the responsibility of the road authority.

The Panel therefore concludes that the design of interim intersections in the DCP should be reviewed, any works that are beyond that required for the interim should be excluded and the DCP recalculated accordingly. This does not necessarily mean that the intersections themselves need to be re-designed, rather that the portion of the works to be funded by the DCP needs to be re-defined. If Council or VicRoads require ultimate works to be built, that should be identified as a road authority funded portion.

The Panel concludes that the intersection designs for the Sayers Road/Sewells Road and Hogans Road/Sewells Road intersections should be reviewed in the light of Mr Hunt’s expert evidence.
(vi) Scope of road works proposed

The Panel notes that many of the issues with regard to localised changes to road cross sections in the DCP were resolved between submitters and the MPA. These included:

- A number of corrections and clarifications to the project descriptions;
- Reduction of the width of Forsyth Road reservation to 34m;
- Increase the width of the road reservation to 41.8m and alter access arrangements in Morris Road; and
- Increase in width of Hogans Road to 41.8m.

These changes are documented in the final List of Document Changes (Document 275) and are not discussed further by the Panel.

A number of submitters (including Leakes) made general submissions that intersection design standards are excessive and should be reviewed. The MPA maintained that the designs adopted are appropriate and submitted that the evidence presented to the Panel is that:

- The intersection design standards will result in high functioning intersections.
- Reduced wasted costs for redesign required in transition to the ultimate scenario.
- Improve mid-block performance of arterial roads by reducing restrictions at intersections.
- Meet applicable road design standards.

The Panel is satisfied that the template methodology adopted for this DCP is appropriate, but for the reasons set out in the previous section, believes that some review is required of intersection designs that include ultimate works.

Leakes submitted that there are some intersections where the length of some legs was excessive and should be properly classified as developer works. Leakes submitted that for intersections with connector roads, only the first 25m of the connector road should be provided by the DCP. Leakes also submitted that the extent of works on the western legs of the Ison Road/Dohertys Road and Ison Road/Leakes Road (IN-88-04 and IN-88-10) may be excessive given that the western legs will not connect with arterial roads in the short to medium term. Mr Tobin accepted the general principle of these proposals, and supported a review of the scope of all intersections to ensure an appropriate extent of works in the DCP. The Panel agrees and also supports such a review.

PTV raised a number of issues regarding appropriate road cross sections, particularly relating to boulevard connector roads. These issues are discussed in Section 4.6.

The Panel for Wyndham C171 and C172 noted that the approach to provision of bike paths on arterial roads should be reviewed. The MPA advised that the MPA, VicRoads and Councils are still working towards a satisfactory configuration to allow on-road bicycle lanes to be removed. The Panel repeats the view of the C171, C172 Panel that any new arrangement should be within existing total cross section widths so as not to require more land.
Mr Hunt, in his evidence for Stockland and Satterley, stated that standard laneways (Cross Section 6 in the Riverdale PSP) should be a minimum of 7m to allow vehicle access to garages in a single movement. The MPA advised that they have changed this minimum dimension for standard laneways in both the Truganina and Riverdale PSPs. The Panel agrees this is appropriate and permit conditions have been amended where required to reflect this.

(vii) Accuracy of Costings

Dacland submitted that the rates used for full depth pavement are excessive and should be reviewed. This issue was pursued by Mr Tweedie and Mr Gobbo in cross examination of Mr Hitchins. It was suggested that there were some errors in the calculation of the appropriate rates. Mr Hitchins agreed that the SMEC estimates did include a transcription error and that some review of the rate for asphalt pavement may be justified. He added that variations would still be within allowances for contingencies, and he was hence still comfortable with the overall costings.

A number of other issues were discussed in relation to the detailed costing of road and bridge items and the appropriate contingencies to be used. The issue of contingencies is discussed in Section 7.10 below.

Mr Hitchins stated that, whilst he was unable to verify the validity, accuracy or currency of the rates used, he accepted that the VicRoads rates used were the latest and therefore most reasonable rates applicable.

Mr Tobin proposed that the MPA will undertake a review of the SMEC and SKM costings (with Council input) before finalising the DCP rates.

The Panel notes that the DCP will need to be changed as a consequence of a number of the Panel’s recommendations, and recommends that the MPA should review costings in conjunction with revising the projects to be included in the DCP and the recommended changes to the scope of those projects.

(viii) Recommendation

The Panel recommends the following changes to the DCP:

- Amend references to Dohertys Road projects RD-88-06, RD-89-03 and RD-90-04 to include the construction of the second carriageway in the DCP.

The MPA to conduct a review of all interim intersections in the DCP to include the following:

- Remove the cost of all ultimate works from the DCP;
- Review the designs for the Sayers Road/Sewells Road and Hogans Road/Sewells Road intersections in the light of Mr Hunt’s expert evidence to the Panel;
- Limit the extent of works at intersections with connector roads to the first 25m of the connector road;
- Remove any unnecessary works on the western legs of intersections IN-88-04 and IN-88-10 not required in the interim; and
- Modify the DCP accordingly.
The MPA to conduct a review of all rates used in cost estimating; ensure any errors or omissions are corrected; apply the latest industry accepted rates; and apply any subsequent amendments to the DCP costings before finalising the DCP.

7.3 Project priorities

(i) The issues

Table 10 of the exhibited DCP includes a list of infrastructure delivery priorities, divided into two time periods, 0-5 years and 5-10 years. Included in the table is a list of specific priority projects and their DCP costs. The issues that have arisen as a result of this are three fold. Firstly; the lack of flexibility over a fairly long time period that is implied by the relatively high level of detail provided in the way these projects are listed. Secondly, the inclusion, or more often the exclusion, of certain projects from the priority list. Thirdly, the impact of the list of priority projects on likely to be agreed works in kind projects.

Table 4 Extract of Table 10 from the exhibited DCP

<table>
<thead>
<tr>
<th>TABLE 10</th>
<th>INFRASTRUCTURE DELIVERY PRIORITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHARGE AREA</td>
<td></td>
</tr>
<tr>
<td>0-5 YEARS</td>
<td>Construction of Davis Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td></td>
<td>Construction of Sayers Road from Davis Road to Sewells Road</td>
</tr>
<tr>
<td></td>
<td>Duplication of Leakes Road from Forsyth Road to Derrimut Road</td>
</tr>
<tr>
<td></td>
<td>Construction of Boundary Road from RRL to Derrimut Road</td>
</tr>
<tr>
<td></td>
<td>Upgrade of intersection of Dohertys Road &amp; Derrimut Road</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL VALUE OF INFRASTRUCTURE PRIORITIES - 0-5 YEARS</strong></td>
</tr>
</tbody>
</table>

| CHARGE AREA |                                      |
| 5-10 YEARS | Construction of Hogans Road from Davis Creek to Davis Road |
|           | Construction of Sewells Road from Sayers Road to Hogans Road |
|           | Construction of Armstrong Road from Sewells Road to Werribee River |
|           | Construction of Morris Road from Dohertys Road to Leakes Road |
|           | Duplication of Dohertys Road from Derrimut Road to Woods Road |
|           | **TOTAL VALUE OF INFRASTRUCTURE PRIORITIES - 5-10 YEARS** |

Various additions to these priorities were suggested by the Parties, including:

- Dohertys Road east of Derrimut (Mr Turnbull, supported by ID Land and Dacland)
- Dohertys Road from Derrimut to Tarneit (Council)
• Tarneit Road from Dohertys to the RRL (Council)
• Morris Road between Dohertys Road and Leakes Road (Mr Kretzmar)

(ii) Submissions

The text accompanying Table 10 in the exhibited DCP makes it clear that the list of projects is intended to be indicative only and to assist in supporting development across the Wyndham North area. The exhibited document states:

*The purpose of the table is to provide Council and development proponents with a clear understanding of which projects should be prioritised for works-in-kind agreements.*

The MPA submitted that:

*The inclusion of a table outlining the priority projects for delivery was done so in consideration (sic) of the uncertainty that could result from the discretionary nature of works-in-kind agreements in a DCP that is operating over such a large area.*

In recognition of some of the submissions that had been made and consultations which had occurred prior to the Hearing, the MPA proposed in its opening submission the following changes to the exhibited Table 10:

• Replace the references in column one to 0-5 years and 5-10 years with ‘Phase one priorities’ and ‘Phase two priorities’
• Remove individual project numbers to reflect the fact that not all road projects will require the delivery of interim intersections in the short term
• Remove reference to dollar sums to allow proponents and Council to individually negotiate the value of WIK projects.

Wyndham Council submitted that the following be added to Part 5.3 of the DCP to further clarify the intent of the project listing in Table 10 of the DCP:

*The list in Table 10 does not bind the Development Agency to the delivery of any particular project within the time specified or in the order set out in Table 10. The Collecting Agency and the Development Agency may at any time, subject to its own Capital Works priorities, change the priority by introducing new items or deleting items at its complete discretion. The Table is provided so as to be indicative only. The Collecting Agency will from time to time publish its priorities for the infrastructure projects to be provided so as to be consistent with the facilitation of an orderly sequencing of development in the growth area.*
Mr Montebello further submitted that the exhibited Table 10 in the DCP be amended as follows:

**Table 5**  Proposed project priorities Wyndham Council

<table>
<thead>
<tr>
<th>PHASE 1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Construction of Davis Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td></td>
<td>Construction of Sayers Road from Davis Road to Sewells Road</td>
</tr>
<tr>
<td></td>
<td>Duplication of Leakes Road from Forsyth Road to Derrimut Road</td>
</tr>
<tr>
<td></td>
<td>Upgrade of intersection of Dohertys Road &amp; Derrimut Road</td>
</tr>
<tr>
<td></td>
<td>* Construction of Davis Road from Hummingbird Road to Leakes Road</td>
</tr>
<tr>
<td></td>
<td>** Construction of Hogans Road from Davis Creek to Davis Road</td>
</tr>
<tr>
<td>PHASE 2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Construction of Sewells Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td></td>
<td>Construction of Armstrong Road from Sewells Road to Werribee River</td>
</tr>
<tr>
<td></td>
<td>Construction of Morris Road from Dohertys Road to Leakes Road</td>
</tr>
<tr>
<td></td>
<td>Duplication of Dohertys Road from Derrimut Road to Woods Road</td>
</tr>
<tr>
<td></td>
<td>*** Construction of Boundary Road from RRL to Derrimut Road</td>
</tr>
<tr>
<td></td>
<td>* Duplication of Dohertys Road from Derrimut Road to Tarneit Road</td>
</tr>
<tr>
<td></td>
<td>* Duplication of Tarneit Road from RRL to Dohertys Road</td>
</tr>
</tbody>
</table>

**Notes to Table 5**

* Not in Table 10 in the exhibited DCP  
** Included Table 2 priority in the exhibited DCP  
*** Included Phase 1 priority in the exhibited DCP

In closing,

Mr Montebello submitted that the following now be included in Table 10:

* If Table 10 of the DCP does remain, it should be in the revised form as proposed by Council. (see page 40 – 41 of Council’s submission) with the additional road projects being:
  * Dohertys Road from Derrimut to Tarneit (as phase 2)  
  * Tarneit Road from Dohertys to RRL (as phase 2)  
  * Sayers Road from Davis Road to Tarneit Road; (phase 2); and  
  * Tarneit Road from Leakes to Sayers (phase 2)

The Panel notes that the first two of these projects were already listed in the table presented as part of the opening submission for Council and reproduced above. The Panel notes that the third and fourth of these proposed changes are as proposed by Mr Turnbull,
and are projects outside the DCP area. The Panel does not support their inclusion in the DCP for the reasons set out in Section 7.8 below.

Mr Turnbull, under cross examination by Mr Tweedie, stated that, in his opinion, Dohertys Road east of Tarneit Road should be in Phase 1 of Table 10.

Ms Patterson, in closing, supported the Council amendments to Table 10 and accompanying text proposed by Council.

In his submission on behalf of Leakes, Mr Chiappi lent support to the inclusion of the clarifying paragraph proposed by Council to further reinforce the indicative nature of the proposed Table 10.

Mr Black, in giving expert evidence on behalf of Leakes, stated:

Because of the global nature of the DCP, meaning that all money collected from development across the entire planning area (over 4000 hectares) contributes to the development of infrastructure anywhere in the DCP, there are some projects that are not shown in Table 10... which cannot be developed as works in kind.

This has a very serious impact on development in the DCP area as it constrains development to occur in the locations that DCP projects listed in Table 10 are located.

Mr Hunt who gave expert traffic evidence on behalf of Leakes, under cross examination by Mr Moore commented that it ‘worries me greatly’ about the inclusion of a priority list in a statutory document. He conceded that ‘we are getting fairly close’ if it was to be a guideline only.

Ms Forsyth submitted that Table 10 in the DCP should be excluded because: it doesn’t reflect orderly development; concerns that it will be used by Council as a de facto for managing sequencing; and it is difficult to prioritise in such a large DCP area. Ms Brennan for YourLand provided support for the retention of a table of infrastructure priorities.

Associated with the priority table at Table 10, only the Council made a submission on the triggers for development which are included in Table 4 of the DCP. Mr Montebello submitted that:

...the guidance in table 4 of the DCP should be replaced by the guidance in the form of Section 9.0 Timing and Infrastructure Provision Parts (a) – (c) in the Truganina South DCP.

The relevant section (a) – (c) of the Truganina South DCP, which was handed up to the Panel at the Hearing as Document 40 are as follows:

a) Where contributions are directed to specific items, as in parts B and C of this DCP, they will be assigned to those items as soon as practical, based on funding levels and sizes of cost increments.

b) Where contributions include land, the land component(s) should be the first contributions where practical, unless otherwise agreed in writing.

c) Timing of delivery of each other category of infrastructure funded by this DCP is primarily determined by:
• **emerging needs for the particular type and item of infrastructure in the overall Wyndham North Concept Plan area, using relevant measures such as traffic volume, populations in target ranges, urgency factors such as safety, immediacy of needs (e.g. For services such as pre-schools), and distances of travel to alternatives;**

• **the availability and practicality of alternatives in or near the sectors of Wyndham North that are under consideration for the next investments in that category;**

• **availability of the required land and services to it;**

• **available funds; and**

• **practicality of the increment of infrastructure being considered.**

In his evidence Mr Black expressed concern that all the prioritised projects are road related projects and:

...any other community building will need to be provided by developers without any initial works in kind credits being attributed until later in the Wyndham North development cycle.

Mr Kretzmar submitted that the construction of Morris Road between Dohertys Road and Leakes Road should be brought forward to the 0-5 year time period to provide access to the Tarneit Station and to relieve pressure on Derrimut Road. No evidence to support this change in priorities was provided and it is not supported by the Panel.

Ms Brennan, on behalf of YourLand submitted that the section of Davis Road south of Leakes Road in the DCP should extend to Lamington Drive rather than Hummingbird Boulevard as indicated in the exhibited DCP. This change was accepted by both MPA and Council.

**(iii) Discussion and conclusions**

In addressing this issue the Panel is cognisant that one of the objectives of planning as set out in Section 4 of the *Planning and Environment Act 1987* is: ‘To provide for the fair, orderly, economic and sustainable use, and development of land’, that it is to provide a level of certainty for all stakeholders. In the Panel’s view, the challenge in this particular instance is to find the appropriate balance between certainty and the flexibility that is required in a market driven sequencing of development.

The Panel is firmly of the view that it is appropriate, indeed highly desirable, that some indication of project priorities be given in the DCP and as such rejects those submissions calling for Table 10 to be deleted. It should, however, be an indicative list and capable of being implemented flexibly. To this end the Panel agrees that it is not appropriate to include particular project numbers from the DCP nor the dollar values associated with the projects as in the exhibited version of Table 10 as these attribute degrees of precision to what is required at a level which is not helpful. The Panel notes that there is now little or no dispute over this.

The Panel is firmly of the view that a clear indication should be given to at least short term priority projects. The Panel is of the view as to whether these should be expressed as ‘0-5
Years’ or ‘Phase one’ as somewhat semantic, but accepts the apparent agreement around use of the terms ‘Phase One’ and ‘Phase Two’.

With respect to ‘Phase Two’ priorities, the Panel is aware that section 4.4 of the DCP provides for the revision of the DCP at least every five years with a further amendment to the Scheme being required at that stage. The Panel is of the view that there needs to be specific reference in either section 4.4 or section 5.3 of the DCP to the project priorities being updated as part of that review, with the expectation that at least some of the initial ‘Phase Two’ priorities becoming ‘Phase One’ priorities at the time of the first five yearly review.

The Panel is cognisant of Mr Black’s statement that, as exhibited, development is constrained to the location projects as listed, which is in the two exhibited PSPs. Having said this, the Panel is aware that some development is likely to be able to be accommodated within existing infrastructure capacity. The Panel is acutely aware that some land in the yet to be exhibited Tarneit North PSP area is proximate to the highly important Tarneit railway station. Because that PSP is not yet available, it is not possible to draw any conclusions about priority infrastructure that might result except insofar as Council has now proposed the inclusion of two priority projects in this PSP in Phase 2. In addition to the review of the priority infrastructure projects as part of the regular review of the DCP, the Panel believes that the list of priority projects may also be reviewed in the context of considering each of the Tarneit North and Oakbank PSPs if required.

The Panel agrees with the submission of Dacland, and the evidence of Mr Turnbull, that Dohertys Road east of Tarneit Road should be a Phase 1 priority. The Panel draws this conclusion on the basis of: the relatively high traffic volumes projected for Dohertys Road in the interim; the importance of Dohertys Road as a key east-west arterial; and the likelihood of development adjacent to this section of road.

The Panel agrees that it is worthwhile to add the clarifying wording of section 5.3 of the DCP proposed by Council, and supported by a number of other submitters. The Panel has some sympathy for the consequences suggested by Mr Black that, if projects are not listed in Table 10, they may not be approved as works in kind. The concern was also expressed that Council may seek to use Table 10 as a de facto for managing sequencing by refusing works in kind requests where the proposed projects are not listed priorities. The Panel notes this is a possibility, but sees no clear indication that the Council would do this. The Panel would be very concerned if Table 10 was to be used as a de facto control mechanism counter to demonstrated market demand.

Based on submissions made, the Panel concludes that the amended priority Table 10 generally as proposed by Council and set out in the previous section should be included in the DCP in the first instance, with the Davis Road project to extend to Lamington Drive as requested by YourLand, and listing of Dohertys Road, Derrimut to Woods as a Phase 1 project rather than Phase 2.

The Panel understands Mr Black’s concern about all the prioritised projects in the DCP, being road related projects. However the Panel is also cognisant of the pressure on Council from developers to have a significant number of permits for subdivision approved, hence putting even more pressure on the Council to give priority to road related projects to enable
appropriate access to those developments. In this instance, one possible risk to developers of these multiple development fronts is the possible delays in gaining credit for community and recreation infrastructure which either they wish to develop to give them a marketing edge, or which the Council wishes to see developed early in the development cycle. The Panel notes that priorities for community and recreation infrastructure are set out in Table 7, the Precinct Infrastructure Plan in each of the two PSPs. The Council is listed as lead agency in most and the Panel assumes that the Council has accepted these.

(iv) **Recommendation**

The Panel recommends the following changes to the DCP:

The following Table be substituted for Table 10 in the exhibited DCP:

<table>
<thead>
<tr>
<th>PHASE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of Davis Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td>Construction of Sayers Road from Davis Road to Sewells Road</td>
</tr>
<tr>
<td>Duplication of Leakes Road from Forsyth Road to Derrimut Road</td>
</tr>
<tr>
<td>Duplication of Dohertys Road from Derrimut Road to Woods Road</td>
</tr>
<tr>
<td>Upgrade of intersection of Dohertys Road &amp; Derrimut Road</td>
</tr>
<tr>
<td>Construction of Davis Road from Lamington Drive to Leakes Road</td>
</tr>
<tr>
<td>Construction of Hogans Road from Davis Creek to Davis Road</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PHASE 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of Sewells Road from Sayers Road to Hogans Road</td>
</tr>
<tr>
<td>Construction of Armstrong Road from Sewells Road to Werribee River</td>
</tr>
<tr>
<td>Construction of Morris Road from Dohertys Road to Leakes Road</td>
</tr>
<tr>
<td>Construction of Boundary Road from RRL to Derrimut Road</td>
</tr>
<tr>
<td>Duplication of Dohertys Road from Derrimut Road to Tarneit Road</td>
</tr>
<tr>
<td>Duplication of Tarneit Road from RRL to Dohertys Road</td>
</tr>
</tbody>
</table>

Add the following wording after the existing text in section 5.3 of the exhibited DCP:

(DCP/PSP)

*The list in Table 10 does not bind the Development Agency to the delivery of any particular project within the time specified or in the order set out in Table 10. The Collecting Agency and the Development Agency may at any time, subject to its own Capital Works priorities, change the priority by introducing new items or deleting items at its complete discretion. The Table is provided so as to be indicative only. The Collecting Agency will from time to time publish its priorities for the infrastructure projects to be provided so as to be consistent with the facilitation of an orderly sequencing of development in the growth area.*
7.4 **DCP scope creep**

**(i) The issues**

An issue raised in respect of this DCP, as in some other recent DCPs, is ‘scope creep’. This term appears to be used widely to include a number of concerns raised primarily by developers. It is used to refer to changes which are made to a DCP once it has been approved and incorporated into a Planning Scheme, generally at the time of implementation of a particular project. Changes to infrastructure requirements are generally made at the request of the developer who wishes to change the scope of their development, or are required by government agencies. In the first instance it appears to be generally accepted that the developer should carry the cost of extra infrastructure requirements. It is the second of these changes to infrastructure requirements which is of concern.

The Panel considers that changes requested generally fall into one of the following three categories:

- Change in provision standards, either mandated by government, or as a result of changing community expectations;
- Change in provision requirements such as changing an approved signalised intersection to a roundabout or vice versa; or
- Change in what is proposed to be included in the infrastructure; that is expanding the scope of the infrastructure proposed to be provided.

A DCP which has a proposed life of some 30 years, as is proposed in Amendment C177, has significant capacity for scope creep in each of these three categories.

**(ii) Submissions**

In its submission before the Panel, the MPA acknowledged that ‘scope creep was an issue for the development industry and where possible the DCP should address the issue of scope creep’. The MPA further submitted that:

> ... the DCP includes inherent protections against scope creep through the inclusion of a defined list of projects that have been designed and costed with the approval of the relevant authorities. This has been a detailed process whereby the MPA has secured concessions from the Council and VicRoads.

The broad approach of the MPA can be described as scoping infrastructure at a level and standard of provision which minimises the potential for scope creep later in the life of the DCP.

Council did not specifically address the issue of scope creep in its submission.

In its initial submission on Amendment C177, Leakes highlighted what they saw as the issue by submitting that *Management of VicRoads is by far the most serious issue with respect to scope creep*.

Mr Black, in his expert evidence on behalf of Leakes, spelt out what he saw as the issue by stating that too often government authorities disregarded what was in agreed structure plans; changed or increased the scope of works leading to time delays and extra costs; made
changes late in the process when the developer had limited recourse to appeal; and prolonged timeframes without accountability, hence adding to development costs.

The broad approach taken by developers who addressed this issue was to have ‘anti scope creep’ measures introduced into the DCP. One approach submitted by Mr Chiappi was to include text in the DCP as follows:

During the implementation of the DCP a development proponent may propose material changes to the use and development of land from that contemplated in the PSP, leading to increased requirement for infrastructure. In these cases there should be no negative impact on the DCP by requiring the developer to bear the additional costs associated with the provision of the infrastructure item over and above the standard required by the DCP.

Where a Council or relevant authority requires a developer to provide an infrastructure item at a ‘Standard Provision’ that is higher than provided in the DCP, that requirement should only be imposed if the net cost increase is borne by that authority.

This broad approach by Leakes was supported by Mr Black in his expert evidence where he stated that:

...the fairest way to deal with the funding of additional works beyond the agreed scope is to ensure that additional design specifications are funded by the party (e.g. VicRoads, Council or PTV) who have requested the additional works.

The MPA submitted that there is a constraint on what might be achieved through wording included in the DCP in that:

...no adjustment to the DCP can limit the ability of referral authorities to place conditions on permits at the time of application.

The closing submission of the MPA proposed a variant of the version proposed by Leakes be included in the DCP, as follows:

During the implementation of the DCP a development proponent may propose material changes to the use and development of land from that contemplated in the PSP, leading to increased requirement for infrastructure. In these cases there should be no negative impact on the DCP by requiring the developer to bear the additional costs associated with the provision of the infrastructure item over and above the standard required by the DCP.

Where a council or authority seek to impose a standard of infrastructure in excess of that provided for in the DCP, that authority must provide written advice describing the reasons for requiring such works via permit condition having regard to the underlying land use proposed in the PSP and the actual proposed land use.
This adopts the non-contentious part of the Leakes proposal, but proposes a significantly different approach where the change to scope of the infrastructure item is proposed by an agency.

Mr Finanzio for ID Land, Ms Brennan for YourLand and Ms Forsyth for Peet have adopted the Leakes proposed wording and other developer submitters have not commented on this issue. Expert witnesses other than Mr Black have not addressed this issue in their evidence.

(iii) Discussion and conclusions

The Panel considers the issue of scope creep to be a significant one and commends the MPA for both acknowledging this and attempting to address the issue. The Panel acknowledges that the more detailed specification of some infrastructure and the use by the MPA and other agencies of template approaches to infrastructure provision, such as is being used for intersection design in these PSPs and DCP, goes some way to addressing this issue. However, the Panel notes that there is a fine line between a clearer specification at the DCP stage and the over specification of requirements for infrastructure in an attempt to minimise future changes. The latter is an issue addressed with respect to interim intersections in the DCP and addressed in Section 7.2 of this report.

In drawing its conclusions, the Panel is cognisant of the MPA’s submission that nothing in the DCP can limit the ability of a referral authority to impose conditions on permit.

From the Panel’s perspective, the resolution to some aspects of this issue is clear. As already acknowledged, where the changes to infrastructure requirements result from changes to the parameters of the development initiated by a developer, the cost increases from any resultant infrastructure requirements should be met by the developer and not be an extra impost on the DCP.

The Panel recognises that, over the 30 year life of a DCP, standards for infrastructure provision are likely to change significantly. Examples of this include changes to umpire changerooms at sporting facilities and changes to staffing ratios at childcare centres. Such change is both necessary and desirable. Where a Council or other agency seeks to change the scope of a DCP infrastructure item to meet changing standards imposed by adopted policy or by a public regulatory agency, such changes of standards and the costs imposed by them should normally be made through a change to the DCP at the time of the regular review of the DCP (proposed at least five yearly). The Panel believes that this will introduce a level of transparency into a process, but notes that this may result in extra costs being imposed on developers.

However, the Panel is of the view that where a Council or other agency changes the scope of a DCP infrastructure item for reasons other than changes in standards imposed by policy or regulation after the DCP has been approved, the net cost increases resulting from the changes should normally be met by the agency requesting the change. In drawing this conclusion the Panel is aware that this involves a change in practice, however the Panel believes that such a requirement will act to minimise ‘unnecessary’ or opportunistic changes to scope being sought by agencies.

The Panel is firmly of the view that specific reference to scope creep should be made within the DCP and accepts the first paragraph of the text proposed by Leakes and accepted by the
MPA. The Panel is of the view that the second paragraph proposed by the MPA should be replaced by two paragraphs dealing with changed standards and other changes with wording reflecting the approach suggested above.

(iv) Recommendation

The Panel recommends the following changes to the DCP:

Delete the second paragraph of the new Section 4.7 of the DCP proposed by the MPA and replace with a further paragraph which captures the following:

- Where a Council or other agency seeks to change the scope of a DCP infrastructure item to meet changing standards imposed by adopted policy or by a public regulatory agency, such changes of standards and the resulting cost changes should normally be made through a change to the DCP at the time of a regular review of the DCP; and

- Where, after the DCP has been approved, a Council or other agency proposes changes to the scope of a DCP infrastructure item for reasons other than changes in standards imposed by policy or regulation the net cost increases resulting from the changes should normally be met by the agency requesting the change.

7.5 Regional Rail Link crossings

The MPA proposes that the DCP fund six crossings of the RRL as follows:

1. The realigned Sayers Road in the vicinity of the Riverdale MTC;
2. A pedestrian bridge at Sewells Road between Leakes Road and Sayers Road;
3. A pedestrian bridge west of the Tarneit station in the Tarneit North PSP;
4. Morris Road just north of Leakes Road;
5. A pedestrian bridge south of the Dohertys Road; and
6. Duplication of the Dohertys Road bridge just south of the proposed Truganina station

The total cost of these bridges is of the order of $32.6 million and appears to contribute some $11,000 per hectare of the total DCP charge.

As discussed in Section 7.2 above, the Forsyth Road bridge over the RRL was proposed to be added by Council, relying on the evidence of Mr Turnbull. The MPA did not support this on the basis that such a large cost item on a road likely to become a VicRoads road in the future should be funded by the State. The Panel agrees.

(i) The issue

The unresolved issue addressed by the Panel is:

- Whether road and pedestrian crossings of the RRL, which is assumed to be State infrastructure, may be legitimately included in the DCP.
(ii) Submissions

Mr Gobbo submitted that Clause 46IA of the Planning and Environment Act 1987 is the legislative basis for why the crossings of the RRL cannot be included in the Wyndham North DCP. This clause reads as follows:

A development contributions plan must not be included in a planning scheme for the purpose of levying contributions in respect of land in the contribution area (within the meaning of Part 9B) by a development agency that is not a municipal council.

In making this submission he is relying in addition on the evidence of Mr Ainsaar who quotes section 2.1 of the Wyndham North DCP as specifically excluding some projects from the DCP on the basis that they are part of the RRL project and are funded by the State.

He states:

In my view Stockland and Satterley would be the victims of ‘double dipping’ if they, and other landowners in the DCP area have to contribute to items of State infrastructure in the DCP in addition to paying GAIC.

Mr Ainsaar estimates that the GAIC for the Wyndham North are will generate in the order of $442 million.

In their opening submission, the MPA, whilst not addressing this issue directly, did submit that reliance on sources of funding other than the DCP for some infrastructure, ‘would render the delivery of, both in terms of timing and the very fact of delivery, uncertain’. They did not address this issue further in their closing submission.

In his cross examination of Mr Ainsaar, through a range of questions, Mr Tobin pursued the issue of certainty of both funding and delivery of infrastructure. In response, Mr Ainsaar acknowledged that he relied in part for his position on this issue on the exclusions of certain RRL crossings from the Wyndham West DCP on the basis that they are State infrastructure.

The Panel notes that the Wyndham West DCP specifically excludes four crossings of the RRL and one crossing of the Melbourne-Geelong railway line on the basis that they are state infrastructure.

(iii) Discussion and conclusions

The Panel rejects the argument from the MPA, both implied by Mr Tobin in his questioning of Mr Ainsaar, and in their opening submission, that reliance on other sources of funding would reduce the level of certainty that infrastructure would be provided in a timely manner. The Panel understands the argument, and understands the certainty that inclusion of infrastructure in a DCP will bring, but does not accept that this is a legitimate reason for inclusion of infrastructure in the DCP. The Panel is strongly of the view that infrastructure can only be legitimately included in a DCP if it conforms with the relevant legislation, Guidelines and Ministerial Directions, albeit the position is not always clear cut. Including infrastructure in a DCP merely to provide certainty is not, in the view of the Panel, acceptable.
The Panel notes that the road crossings of the RRL listed in section 2.1 of the DCP have been constructed as part of the RRL project. It is further noted that these are not all current or proposed future VicRoads declared roads. They are, however, existing roads at the time of the RRL project, and form part of the existing road network. None of the proposed DCP funded crossings are existing roads at the locations proposed, with the exception of Dohertys Road, where future duplication of the crossing currently under construction is proposed.

The Panel further notes that each of the crossings of the RRL and the Melbourne-Geelong rail line in the Wyndham West DCP area, apart from the proposed Ison Road crossings, are existing significant road links and therefore are being constructed as part of the RRL project. Mr Ainsaar’s point that they are excluded from the Wyndham West DCP because they are State infrastructure is noted and this is commented on further below. It is the Panel’s understanding that Ison Road is intended as a future VicRoads declared road and that is why it is defined as State infrastructure and therefore presumably why the crossing of the RRL and the Melbourne-Geelong railway line by it has been excluded from the Wyndham West DCP. This understanding is based on information provided to the Panel by Council on the process for declaring roads (Document 226) which stated that as ‘part of the planning for Wyndham West, VicRoads decided to declare Ison Road in the future...’.

It is also clear to the Panel that the RRL can be legitimately regarded as State owned infrastructure. The RRL Authority is a State entity within the Department of Transport Planning and Local Infrastructure. Having said this, the Panel has not been able to get a clear definition of exactly what constitutes State infrastructure. What is not clear to the Panel is if a crossing of State infrastructure is constructed, whether that crossing necessarily constitutes State infrastructure, particularly if the development agency referred to in the Act, is not a State agency but the municipal council as would be the case here. The Panel assumes that as long as appropriate permissions are obtained to cross State infrastructure, then that crossing need not necessarily be considered as State infrastructure. The Panel believes that this is an issue which may require legal clarification. It is the Panel’s view that if the tests for inclusion of infrastructure within the DCP are met, then the RRL crossings proposed for Wyndham North can be included in the DCP. No evidence has been led that any of the proposed crossings are not needed, nor that there is no nexus with the proposed development. The Panel believes that the tests for including the proposed crossings of the RRL in the DCP are met.

The Panel also notes that significant waterways are considered a State management responsibility. Whether they are regarded as ‘infrastructure’ as such, is another question issue. There is no argument that the Panel is aware that the crossing of waterways should be a state responsibility, unless they are crossed by a declared arterial road. The Panel accepts that crossing waterways is legitimately a State, DCP or developer funded project depending on the status of the road which crosses the waterway.

It is concluded by the Panel that there is no case to remove the six proposed crossings of the RRL from the Wyndham North DCP.
7.6 Small waterway crossings (Connector roads)

(i) The issue

The two exhibited PSPs each have a small number of waterway crossings by connector roads and there have been submissions that at least some of these should be included in the DCP. This issue has arisen in part because of a fairly extensive network of small waterways in the Wyndham North area.

(ii) Proposed waterway crossings by connector roads in the Wyndham North area

Leakes North crossing of Skeleton Creek

There are two crossings proposed by the MPA for Leakes North. Only the southern one of these two is a connector road crossing. The northern crossing is a key access street which runs from Morris Road in the east and connects to a north south connector west of Skeleton Creek. It would appear that this crossing of Skelton Creek will connect through to arterial roads to the east, west and north, through the proposed development and other Leakes controlled land for which there are no current development proposals. There would appear to be no other beneficiaries of the proposed bridge connection. Mr Townshend produced preliminary costs for the bridge at a little over $4million.

ID Land crossing of Skeleton Creek

The proposed crossing is on the western border of the ID land current section 96A application. The MPA proposes that the cost of the bridge be shared with the owner to the west of the Creek. That is, as the Panel understands it, the Hallek family. The Panel was informed that the owner has no intention to develop at this stage. Whilst the bridge was claimed to be expensive, no costings were provided to the Panel.

Dacland Crossing of Dry Creek and crossing of Skeleton Creek

A north-south connector road on the eastern side of the Dacland land, north of Dohertys Road, will traverse some wetlands via a causeway as discussed in Section 5.3 of this report. Dacland have submitted that ‘extra costs’ of this crossing of the wetlands should be met by Melbourne Water or be included in the DCP.

The PSP also shows a future crossing of Dry Creek by the western north-south connector road. Dacland have submitted that the cost of this creek crossing should be included in the DCP. No costings are available. The two connector roads east and west of the current application connect with Dohertys Road in the north and through to parts of the Leakes holding in the south for which there is not yet any development proposal.

Golden Group Crossing of Davis Creek Tributary

There is no proposal, or indeed need, to construct the connector road crossing of the Davis Creek tributary as part of the current s96A application. Constructing the crossing to access the Almeg land to the north is a separate issue and is addressed in Section 6.1. The Golden Group have made no submission on the future development of this waterway crossing.
YourLand Crossing of Davis Creek

This bridge crossing is not included in the current s96A permit application, and there is no proposal at this stage from YourLand that it be included in the DCP. At the Hearing, YourLand indicated that they were happy to pay for the construction of the bridge if it is constructed at a time they need it. It would appear that it is accepted that this crossing is likely to use culverts rather than a bridge structure.

Stockland Crossing of Davis Creek at Bethany Road

The MPA’s closing submission lists the connector road bridge over Davis Creek at Bethany Road as an unresolved issue. The Panel are not clear if Stockland still pursue this as an issue. In a submission to the exhibited Amendment on their behalf by Norton Rose Fulbright, Stockland submitted that a pedestrian/ cycle bridge across Davis Creek south of Bethany Road should either fully funded by Council or be included in the DCP with 50% of the cost apportioned to residents east of Davis Creek. Mr Ainsaar supported this position in his expert evidence on behalf of Stockland.

Other waterway crossings

In addition to those listed above, Plan 6 of the Truganina PSP shows that there is a connector road crossing of the Forsyth Road drain in the north of the PSP area. In the Riverdale PSP, there is a crossing of a Davis Creek tributary on the Trukeel land for which there is no development proposal at this stage.

In addition, there is a dispersed waterway network, which appears to be tributaries of Skeleton Creek in the east and north of the Tarneit North PSP, and tributaries of each of Skeleton Creek and Davis Creek traverse the Oakbank PSP. It seems highly likely that, when developed, these PSPs will include connector road crossings of waterways so any analysis and findings here will be directly relevant to those PSPs, and may impact on the Wyndham North DCP.

There are limited crossings of creeks by local streets but there is no proposal to include these in the DCP despite the cost of at least some of those crossings likely to be significant.

(iii) Evidence and submissions

In their opening submission, the MPA submitted that connector road crossings of waterways should be paid by developers, and not be included in the DCP. They submitted that the cost of such crossings is roughly equalised through the spatial distribution of such bridges. They did acknowledge that Leakes are required to provide more than one bridge, but indicated that these form part of large projects. The MPA reinforced its position in its closing statement.

Council has not submitted on this issue.

The relevant bridge projects are outlined above and the focus here is on the general issue of including the waterway crossing of connector roads in the DCP.

The need for most of the waterways crossings is not contentious, only the mechanism through which they are funded. The exception to this is the northern crossing of Skeleton
Creek by a key access street on the Leakes property. This issue is addressed in Section 5.5 of this report. Mr Chiappi submitted that, in any case, the bridge should be funded by the DCP.

Mr Hooper in presenting evidence for YourLand, supported the inclusion of connector road crossing of waterways in the DCP, on the basis of precedents in other DCPs, including Truganina South, Epping North and Toolern. He stated that including the bridge on the YourLand property in the DCP would not create a precedent. The Truganina South DCP cited by Mr Hooper was prepared by the City of Wyndham and notes that the rationale for including the four crossings in the DCP is that they all fall on one property. They are listed in the Truganina South DCP as arterial and collector road crossings.

Mr Finanzio, for ID Land, submitted that, because the adjoining landowner had no current intention to develop, the cost of the proposed waterway crossing could fall entirely on ID Land. He submitted that this was unfair as there would be windfall gains to the neighbouring property if ID Land was required to construct the bridge without any contribution from neighbouring properties. He also said that the bridge was likely to be very expensive, but did not produce costings to support this claim. Mr De Young, is his expert traffic evidence for ID Land, indicated that he believed that the daily traffic volume on the proposed section of connector road would be of the order of 6000 vpd and that as such it was serving a much wider function. Mr Finanzio justified its proposed inclusion in the DCP on this basis.

Mr De Young, in giving evidence for Dacland, stated that it was reasonable to include the connector road that runs through the wetlands to be included in the DCP as it provides vehicle connectivity beyond the ‘Moreton East’ property. He also indicated that there was likely to be substantial cost involved.

In the cross examination, Mr Tobin put to witnesses, including Mr De Young and Mr Hooper, that a prudent purchaser would take the likely cost of bridging waterways into account when negotiating a purchase price. Mr Montebello pursued a similar line of questioning. Mr De Young acknowledged that a purchaser should know of such likelihoods. Mr Hooper indicated that a potential purchaser would be uncertain because there had been instances where such crossings of waterways had been included in DCPs. Mr De Young acknowledged under cross examination by Mr Tobin that such crossings are funded by the developer in the normal course of events.

(iv) Discussion and conclusions

The Panel observes that it has become relatively well established practice for the cost of connector roads and any required bridges to be costs of development that are borne by the developer. The Panel also accepts the contention of Mr Tobin in his consistent line of cross examination that a prudent developer ought to be aware of the likely costs of development when acquiring an interest in a property.

The Panel notes that there can always be exceptions to the general rule, and acknowledge that occurred in Truganina South. The Panel notes that the Truganina South DCP specifically states that the reason for including the four waterway crossings in that DCP was because all four were on one property. For this reason the Panel is of the view that this does not create a strong precedent, and this is particularly so in the case of Wyndham North where a
number of required waterway crossings are spread across all four PSPs and multiple
landholders.

This raises the question of whether there are other exceptional circumstances which justify
any or all of the waterway crossings being included in the Wyndham North DCP. The first of
these, as was argued by submitters, could be the serving of a wider area by the connector
road and therefore the bridge. In examining this, the Panel has examined the totality of
each land holding not just the land impacted by any s96A permit applications. The Panel
does not believe that this situation exists with respect to the totality of the Leakes land
where the connector roads and the key access street crossing of Skeleton Creek each lead to
arterial roads. The Panel can determine no other clear beneficiary.

The connector roads on the Dacland land will provide some connectivity to the Leakes land
to its south. But the major advantage of the connector roads would appear to be to the
future residents of the Dacland land. It would also appear that the future residents of the ID
Land holdings will be major beneficiaries of those connector roads, although it is
acknowledged that future residents to the north are likely to be represented amongst the
6000 vehicles per day using the crossing as referred to by Mr De Young. In the case of the
Bethany Road bridge on the Stockland property, only the residents of the Stockland
development together with existing residents to the east Davis Creek are likely to use this
bridge to any extent, and so a 50% apportionment, as proposed, would seem reasonable.

The Panel observes that very high costs could constitute another exceptional circumstance.
It is only Leakes who have provided any costs estimates. The Panel acknowledges that a cost
in excess of $4 million is high, but notes that this will be spread over a very large property
holding and is not convinced in this particular case that including the bridge in the DCP can
be justified.

With respect to the need for the northern crossing of Skeleton Creek on the land controlled
by Leakes, the Panel observes that it agrees with Mr Hunt that possible usage of 4000
vehicles per day is not high and it is difficult to justify two crossings at the standard proposed
by the MPA, on this criterion, particularly given the relatively high cost involved in the
northern crossing. The Panel had an opportunity to see first-hand the relatively difficult
topography in this location. However, as discussed in Section 5.5, the Panel is not convinced
that removing this link is appropriate. However, the Panel is of the view that, given the
traffic volumes involved, the scope of this bridge should be able to be reduced considerably
from what is currently proposed by the MPA.

The Panel acknowledges that the situation faced by ID Land is on the surface potentially
unfair, particularly given that the western side of the bridge is on land which the current
owner apparently has no immediate intention to develop. It is the Panel’s understanding
that the residents of the both the Hallek land and the northern part of the Dacland land will
be beneficiaries of the proposed crossing, in that it will allow them good access to proposed
active open space east of Skeleton Creek. It would be unfair that ID Land bear the full cost
of the bridge, and unfair that the landowners to the west get, as Mr Finanzio puts it, a
windfall gain. That said, the Panel is of the view that the solution to the situation facing ID
Land is not to be achieved by including the connector bridge in the DCP. The Panel believes
that would be creating an undesirable precedent.
The Panel is of the view that the problem facing ID Land is better solved by including a requirement in the DCP which does not require the bridge until development to the west occurs, and equitably shares the cost between ID Land and the owners of the land to the west of the creek, currently the Hallek family and Dacland, when the crossing is provided. This could potentially be implemented through the use of a section 173 Agreement. The Panel does not have enough information to allow it to comment on what equitable shares might be, and consequently these will need to be subject to negotiation. The Panel is mindful that suggesting Dacland contribute to the cost of the crossing could be seen to move away from the generally applied principle, but the Panel regards this as appropriate in this instance because the western footprint of the bridge is very close to the Hallek/Dacland boundary.

With respect to the Bethany Road bridge, the Panel accepts that a proportion of the cost of this bridge should be apportioned east of Davis Creek. The MPA propose a 50% apportionment that would need to be met by the Council. No traffic evidence as to the basis of this apportionment has been presented and in the absence of evidence to the contrary, the Panel accepts the proposed apportionment.

It is concluded that the crossing of waterways by connector roads and one key access street should not be included in the Wyndham North DCP.

(v) **Recommendation**

The Panel recommends the following changes to the PSP:

- The MPA consult with Leakes on a suitable design to significantly reduce the scope of the crossing of the key access street over Skeleton Creek (northern crossing) on the Leakes property.
- The MPA include, either as a new requirement or an amendment to R58 in the Truganina PSP, that the connector road crossing of Skelton Creek will not be required to be constructed until the north south connector to the west of Skelton Creek is warranted; and the cost of the crossing will be shared between the then owners of the ID land, Dacland and Hallek properties.

7.7 **Issues raised by PEET**

(i) **The issues**

The issues raised by Ms Forsyth which remain unresolved are as follows:

- Whether Table 10 of the DCP be removed. (This issue is addressed in Section 7.3)
- Requests a review of standards for DCP funded intersections. (This issue is addressed in Section 7.2)
- Whether the DCP should have specific provisions to manage scope creep (This issue is addressed in Section 7.4)
- Requests that the DCP allocate an equal amount to funding community facilities in each PSP area (This issue is addressed in the introduction to Section 7)
- Whether the DCP works in kind provisions should require tender documents to be provided (This issue is addressed in Section 7.10)
With other Ms informed not (iii) MPA Forsyth’s household planning amended community raised applied done, Amendment have Issues (i) 7.8 be Ms (ii) adjusted does evidence facilities addressed The which the issues and remaining proposed that if a new rate is legislated it can be applied to remaining development. The MPA’s position appears to have changed from its opening position.

(ii) Evidence and submissions

Ms Forsyth submitted that because only two of the PSPs which are included in the DCP area have been developed at this stage, Peet is concerned that all PSPs are provided with community facilities of equal value and submits that Section 2.2.3 of the DCP should be amended to ensure that this occurs. Ms Patterson in closing for the MPA, submitted that planning for community facilities, which had been undertaken in conjunction with Council, had been based on the spatial distribution of these across the sub corridor and had not been informed by PSP boundaries.

Ms Forsyth further submitted that section 2.4 of the DCP be amended to require an Amendment to the Planning Scheme if the legislation which caps the CIL at $900 per household is changed in the future. In response, Ms Patterson submitted that this could be done, but is unnecessary as the DCP already specifies that if a new rate is legislated it can be applied to remaining development. The MPA’s position appears to have changed from its opening position.

(iii) Discussion and conclusions

With respect to the spatial distribution of community facilities, the Panel understands Ms Forsyth’s concern but notes that it agrees with the way in which the planning for these facilities is subregional, rather than based on PSP boundaries. The Panel can see no evidence that there is a problem with the proposed distribution of facilities, but urges the MPA to keep an appropriate spatial distribution of facilities at front of mind when developing the Tarneit North and Oakbank PSPs.

With respect to the issue of prospective future changes to the level of the CIL, the Panel is not sure that it fully understands Ms Forsyth’s concern. The extra wording she suggests, does not appear to be necessary. In saying this, the Panel notes that the DCP will need to be adjusted if that CIL cap is amended, if only to reflect the new calculation of total revenue raised by the CIL. There is still likely to be a deficit of funding so it is difficult to see what other changes might be made. It would seem that such a change might be made at the time of the regular review of the DCP, rather than requiring a special Amendment, albeit likely to be an amendment under Section 20(4) of the Act.

7.8 External apportionment of costs

(i) The issues

Issues raised in respect of the external apportionment of costs in the Wyndham North DCP which remain unresolved are as follows:

- Whether the cost of some road and intersection projects, particularly on the boundary of the DCP area, should be at least partially apportioned to users external to the DCP area;
- Whether the costs or the upgrades of Sayers Road and Tarneit Road, outside the DCP area should be partially apportioned to landowners internal to the DCP area because of the use of those roads by future residents of the Wyndham North DCP area.

(ii) Submissions and Evidence

The exhibited Wyndham North DCP proposes apportionment for the following projects located on the boundaries of the DCP area as follows:

Roads:

RD89-05 Boundary Road (Derrimut to Davis) (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)\(^6\)

RD90-05 Boundary Road (Derrimut Road to RRL) (50%) (Proposed at page 30 of Document 22 to be 100% apportioned to the DCP but only 50% apportioned in the version 3 of the changes matrix)

RD90-01 Forsyth Road (Employment precinct to Boundary) (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)

RD90-03 Leakes Road (Forsyth Road to Derrimut Road) (100%)

RD89-02 Leakes Road (Derrimut Road to Davis Road) (100%)

RD91-01 Davis Road (Sayers Road to RRL) (100%)

Intersections:

IN88-01 Boundary Road / Davis Road (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)

IN89-02 Boundary Road/ Tarneit Road (50%) (Subsequently proposed by the MPA in their opening submission, to be 100% funded by the DCP)

IN89-04 Boundary Road/ Derrimut Road (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)

IN89-13 Leakes Road / Cottesloe Boulevard (50%)( Subsequently proposed by the MPA to be 75% funded by the DCP)

IN89-14 Leakes Road / Tarneit Road (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)

IN89-15 Leakes Road / Crossway Avenue (50%) (Subsequently proposed by the MPA to be 75% funded by the DCP)

IN89-16 Leakes Road Derrimut Road (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)

IN90-03 Boundary Road Forsyth Road (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP)

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\(^6\) see Document 22 p 30
IN90-07 Forsyth Road / East West Connector (50%) (Subsequently proposed by the MPA to be 60% funded by the DCP)

IN90-12 Dohertys Road / Forsyth Road (50%)

IN90-15 Leakes Road / Sunset Views Boulevard (50%)( Subsequently proposed by the MPA to be 75% funded by the DCP)

IN90-17 Leakes Road Woods Road (50%) (Subsequently proposed by the MPA to be 75% funded by the DCP)

IN90-19 Leakes Road / East West Connector Boulevard (50%)

IN91-03 Davis Road East West Connector (50%) (Subsequently proposed by the MPA to be 100% funded by the DCP

IN91-07 Davis Road/Sayers Road (50%)(Subsequently proposed by the MPA to be 100% funded by the DCP)

**Bridges:**

BR91-03 Armstrong Road Bridge over Werribee River (50%)

BR91-05 Pedestrian Bridge across Werribee River (50%)

**Community facilities:**

Nil.

Each of these projects is on the boundary of the PSP area. Mr Tobin for the MPA submitted that the approach to apportionment needs to be cognisant of the differing conditions at different parts of the boundary of the Wyndham North DCP area as follows:

1. Interface with an existing DCP area (Forsyth Road) - 50% external apportionment

2. Interface with an existing area (Leakes Road)- No contributions previously collected for Leakes Road because it was on the UGB, therefore 100% apportioned to DCP.

3. Interface with municipal boundary (Boundary Road) - DCP funds a functioning solution inside municipal boundary.

4. Interface with existing urban area (Davis Road/Davis Creek) - No contributions collected as area outside UGB at time existing area developed, therefore 100% apportioned to DCP.

In their submission to the exhibited DCP, Stockland listed projects on the external boundaries of the PSP area and submitted that, consistent with other PSPs, these should be apportioned 50% to external users. Mr Gobbo supported this at the Hearing in adopting evidence from Mr Ainsaar, who pointed out the inconsistency in externally apportioning some projects, but not others. Mr Ainsaar lists the following projects as on the boundary of the DCP area, but 100% apportioned to the DCP: RD-89-02, RD-90-03, RD-91-01, BR-89-01, BR-90C1, BR-90-C3, BR-90-01, BR-90-03, BR-91-C1, BR-91-04, IN-89-01, IN-89-03, IN-90-01, IN-90-02, IN-91-02, IN-91-10.

ID Land made the same submission in response to the exhibited DCP, but subsequently Mr Finanzio did not pursue this issue at the Hearing.
YourLand submitted, in response to the exhibited DCP, that 50% of the costs of projects on the boundary should be apportioned to future communities and that there needs to be clarification about how this will be applied at the municipal boundary with Melton. Ms Brennan did not pursue this issue at the Hearing.

At the Hearing, Mr Montebello submitted a table prepared by Council officers which showed their understanding of external funding contributions from existing relevant DCPs and agreements, including an explanation of why external funds were not available in some areas. This table had a notation that some information needed to be checked by the MPA. The Panel requested that this occur. The MPA subsequently submitted its position in response to the Council document.

Mr Montebello submitted that duplication of the following roads outside the Wyndham North area should be included in the DCP and funded by it:
- Sayers Road from Davis Road to Tarneit Road.
- Tarneit Road from Leakes Road to Sayers Road.

He based this on evidence from Mr Turnbull that traffic generated by development in the Wyndham North DCP area gives rise to the need for duplication. In opening Mr Tobin submitted that:

_The provision of infrastructure outside the DCP is functionally difficult and not necessary to achieve a workable infrastructure provision._

Mr Montebello submitted that the Council strongly opposes a proposal from developers that only 50% of projects on Boundary Road be funded from the DCP. The basis of this is that the proposed interim construction is the southern carriageway which is entirely within the Wyndham boundary, and that Melton has no plans, and no need, to construct the northern carriageway for many years.

(iii) Discussion

The Panel notes that the changes to apportionment of infrastructure costs proposed by the MPA add of the order of $34.0 million to the DCP or some $12,650 per net NDA-R.

In order to address this issue the Panel first makes some comments on the matters of principle and then addresses a number of specific issues associated with the apportioning of costs of particular projects or groups of projects. Where the same principles are considered to apply to a group of projects, those projects will be addressed here as a group. The Panel is aware that in the past DCPs related to single PSPs have generated significant submissions and discussion about external use of infrastructure provided in the PSP area, and use by future PSP residents of infrastructure outside the DCP area. The Panel understands that one of the advantages of such a large DCP area is that a lot of that otherwise external use is internalised within the DCP area and this internalises many costs.

The Panel makes general comments as follows:
- In line with the comment above, external apportionment is expected to be minimised, and it is noted that there is no apportionment with respect to recreation and community facilities.
• External apportionment should generally be confined to infrastructure on the border of the DCP area.

• External apportionment should take account of other funding provisions, whether these be other DCPs in adjoining areas or other government, or indeed non-government, funding sources.

• External apportionment should not be used to make up for real or perceived funding deficiencies in adjoining areas that have occurred previously.

• Arterial road construction and land take should be guided by the Draft Arterial Roads Protocol where relevant.

• In line with positions adopted in other parts of this report, apportionment should meet DCP guidelines and overarching principles and not be based just on what is necessarily pragmatic.

The Panel notes the MPA’s contention that there may be a need to consider the proposed external apportionment differently at the different interfaces to the DCP area. Land to the south of the DCP area is generally fully developed; land to the north is generally undeveloped, but with plans for future predominantly residential development; land to the east is employment zone or industrial; and the DCP boundary on the west and south-west has a ‘hard edge’ of the OMR and the Werribee River. Given these differing circumstances, it is difficult to apply the principles universally.

The Panel also acknowledges that the shifting UGB has made it complex for Wyndham Council to undertake long term infrastructure planning as it attempted to do through its 1996 Wyndham North Concept Plan. It would not have been appropriate to make assumptions, at least publicly, about where and when changes to the UGB might occur. However, the Panel is firmly of the view that the future residents of Wyndham North should be required to pay their fair share and not be required to pay for any deficiencies in previous planning, wherever that responsibility might lie.

Roads – the Draft Arterial Roads Protocol suggests that land for the ultimate construction plus the construction of the first carriageway is appropriate to be funded by the DCP. It is noted that a number of the projects on the DCP are boundary which are 100% apportioned to the DCP are for the interim configuration only.

Where the road under consideration is at the boundary of a DCP area, the Panel is of the view that ideally the land for the ultimate would normally be shared with development either side of the road on a 50/50 basis. This would need to be varied if the land for the ultimate has already been provided through an adjoining DCP. Similarly if the first carriageway is provided by the first development it seems fair that the later DCP provide the second carriageway if the need for it is generated by that development.

Intersections –the Panel believes that the same principles as apply to roads are applicable. That is, the land for the ultimate should normally be provided. Construction of the interim intersection should normally be a DCP item for the first development that creates the need, with subsequent development funding any upgrade required as a result of traffic generated in the first 8 to 10 years of that development.
The Panel now provides comments on apportionment of specific projects and groups of projects as follows:

**Leakes Road (from Forsyth Road to Davis Road)**

These projects relate mainly to the duplication of Leakes Road. The Panel accepts that the Wyndham North DCP should fund 100% of the construction of the second carriageway as specified in the relevant projects, RD90-03 and RD89-02 and land to widen the reserve to 41 m. The Panel is satisfied that development in Wyndham North will be substantially responsible for the need for duplication. The Panel expresses some surprise that land for the 41m reserve was not funded as part of the Wyndham North Concept Plan but assumes that this is because the UGB was at Leakes Road at that time.

The Panel believes that land for the ultimate layout and the interim works for arterial road intersections with the duplicated Leakes Road should be 100% funded by the Wyndham North DCP. While the principles would suggest only 50% ideally be attributed to the Wyndham North DCP, the Panel is prepared to accept that the need for the interim intersections as proposed is generated by the Wyndham North development.

The exceptions are intersections of Leakes Road with connector roads to the north (that is IN-89-13, IN-89-15 IN-90-15 and IN-90-17) which are now proposed to be 75% funded by the DCP rather than 50% as exhibited. The Panel assumes that change has been made as a result submissions from the Council. The Panel regards the Wyndham Council proposal as making up for deficiencies is previous funding arrangements albeit some existing interim intersections may have been constructed on the basis of the previous UGB boundary at Leakes Road. The Panel believes that, if the Council proposes to reduce the contribution to intersections from the Wyndham North Concept Plan area to 25%, then the other remaining 25% should be funded from other sources, not the Wyndham North DCP.

The Panel concludes that the following changes in apportionment be made to those proposed in Version 3 of the C177 List of Document changes dated 13 March 2014:

- IN-89-13 be 50% funded from the Wyndham North DCP;
- IN-89-15 be 50% funded from the Wyndham North DCP;
- IN-90-15 be 50% funded from the Wyndham North DCP; and
- IN-90-17 be 50% funded from the Wyndham North DCP.

**Davis Road (from Leakes Road to Sayers Road)**

The Panel acknowledges that 100% of RD91-01, that is land for the ultimate and upgrading of one carriageway, should be apportioned to the Wyndham North DCP. The Panel notes Council’s submission that BR91-C1 can be removed from the DCP, as it is already constructed. If these existing culverts require upgrading the Panel is not opposed to the funding for this remaining in the DCP.

Consistent with the approach taken in Leakes Road the Panel does not accept that 100% on the costs of IN91-03 should be apportioned to the DCP and concludes that only the exhibited 50% should be apportioned to the DCP.
The Panel concludes that the following changes in apportionment be made to those proposed in Version 3 of the C177 List of Document changes dated 13 March 2014:

IN91-03 be 50% funded from the Wyndham North DCP.

**Boundary Road (from the OMR to Forsyth Road)**

The Panel notes that, for road projects RD-89-05 and RD-90-05, the exhibited DCP proposes 50% apportionment and Wyndham Council proposes 100%. As indicated in the list of externally apportioned projects above, the MPA appear to propose both these projects now be 100% apportioned to the DCP, but have not followed this through with respect to RD-90-05, which is only apportioned 50% to the DCP in Version 3 of the document changes matrix dated 14 March 2014. The Panel can see no logic for treating these two projects differently. The Panel is of the view that the cost of ultimate road and intersections should be shared equally by Wyndham and Melton Councils assuming that this remains a Council road. It is understood that the construction of the first carriageway will be in Wyndham and it is the Panel’s view that the Wyndham North DCP should fund 100% of the construction of the first carriageway. If the reservation is to be widened from the 20m to 41m, it is the Panel’s view that, to the extent that it is practical, only half of the extra 21m of land should be funded from the Wyndham North DCP, regardless of where the ultimate road is located in respect of the municipal boundary. The remaining land required for duplication should be funded through future DCPs to the north of Boundary Road.

With respect to intersections, the Panel is of the view that half of the land required for the ultimate intersections should be funded from the Wyndham North DCP. Council submits that interim intersections may be required to be accommodated within the existing 20m reservation. The Panel is not aware of there being any restriction on DCP funds being spent acquiring land in an adjoining municipality.

The MPA now proposes that all seven intersections with arterial and connector roads along Boundary Road be 100% funded by the DCP. This is presumably in response to submissions from both the Council and Mr Ainsaar. The construction of interim intersections is complicated by the municipal boundary and the fact that development north of Boundary Road appears likely to lag significantly behind development to the south. The Panel’s view is that the need for the interim intersections is, in the main, generated by development in Wyndham North, and therefore concludes that 100% of the interim construction should be apportioned to the Wyndham North DCP. In saying this, the Panel is of the view that equity would dictate that, when DCPs in this section of Melton are developed, that they should make a contribution which could be allocated to upgrading intersections as required.

The Panel concludes that the following changes in apportionment be made to those proposed in Version 3 of the C177 List of Document changes dated 13 March 2014:

- RD-90-05 be 100% funded from the Wyndham North DCP.

In addition, the Panel concludes that, for road projects RD-89-05 and RD-90-05, only an extra 10.5m of land for future duplication should be funded from the Wyndham North DCP.

**Forsyth Road (Boundary Road to Leakes Road)**

Forsyth Road deviates from the boundary of the Truganina PSP north of Dohertys Road, because of the RRL reservation but is treated here as infrastructure at the boundary of the
PSP area. The Panel acknowledges the Council submission that indicates that the situation of Forsyth Road is complex, not the least because of the uncertainty about potential future declaration by VicRoads, but more particularly because of the existence of a number of other funding arrangements which exist for some sections of the road. Because of the complexity of these, the Panel has opted to set out its view of what the DCP should fund for each of the sections north and south of Dohertys Road.

North of Dohertys Road, the DCP, as exhibited, proposed to fund 50% of two sections of the first carriageway. Subsequently, the MPA increased this to 100% funding from the DCP; that is, land for the ultimate and construction of one carriageway. The Panel is of the view that, with the exception of the crossing of the RRL, which is dealt with separately in Section 7.5, 50% of the construction of the entire first carriageway should be funded through the Wyndham North DCP. The reduced percentage compared with some of the other roads considered above is considered appropriate on the basis of the lower level of nexus between the future development in Wyndham North, and the broader function that this road will play.

South of Dohertys Road it was initially proposed that 50% of RD-90-01 be apportioned to the DCP, but this was subsequently amended to 100%. The Panel is of the view that land for the ultimate road should be funded by the DCP where this is not already provided through other funding sources. The Panel is aware that the first carriageway of this section of the road is funded from other sources, but, consistent with the view that it has taken above for the road north of Dohertys Road; only 50% of the construction of the second carriageway should be funded through the Wyndham North DCP.

The Panel is of the view that land required for the ultimate layout of connector road intersections IN-90-07, IN-90-12 and IN-90-19, and 50% of the construction should be funded through the Wyndham North DCP. There has been no explanation of the MPA’s proposal to increase the apportionment of IN-90-07 (Forsyth Road/East-West Connector) from 50% to 60% and the Panel is of the view that, consistent with other intersections, it should remain at 50%.

The Panel concludes that the following changes in apportionment be made to those proposed in Version 3 of the C177 List of Document changes dated 13 March 2014:
- RD-90-01 Land for the ultimate, where required, and 50% of the construction of a carriageway be funded from the Wyndham North DCP;
- IN-90-07 be 50% funded from the Wyndham North DCP.

**Sayers Road and Tarneit Road**

With respect to the proposed inclusion in the DCP of the duplication of parts of Sayers Road and Tarneit Road, external to the Wyndham North DCP area, the Panel accepts the evidence of Mr Turnbull that the need for the duplication is generated by development in the Wyndham North area. The Panel does not understand why providing for infrastructure outside the DCP area is ‘functionally difficult’ as submitted by the MPA and notes that many DCPs provide for such external infrastructure.

However, the Panel does not agree with the Council that this external infrastructure should be funded through the Wyndham North DCP in this instance. The reason for this is that
there are numerous roads within the DCP area which will be funded 100%, albeit to the interim standard, which will be used by users external to the DCP area. The nature of this proposed internal funding is that there is some trade-off between use of infrastructure internal to the DCP area by external users against the use of infrastructure external to the DCP area by future residents of the DCP area. Such is the nature and indeed advantage of a large global DCP such as this.

**Bridges**

The bridge funding as proposed in the final version of the DCP is accepted by the Panel.

It is noted, however, that it is proposed to fund 50% of the Armstrong Road bridge over the Werribee River from the Wyndham North DCP and 40% from the Wyndham West DCP. It is not clear to the Panel where the remaining 10% funding would come from. Council submitted that the bridge should be funded 100% from Wyndham West. If that proposal is adopted by the MPA, then clearly the Wyndham North DCP should be adjusted accordingly. The Panel believes that no greater than 50% of the cost of the Armstrong Road bridge should be apportioned to the Wyndham North DCP.

As mentioned in Section 7.2, the Panel agrees that the Forsyth Road bridge over the RRL should not be included in the DCP.

**(iv) Recommendation**

The Panel recommends the following changes to the DCP:

- Make the following changes to Table 9 in Version 3 of the C177 List of Document Changes dated 13 March 2014:
  - IN-89-13 (Leakes Road/Cottlesloe Blvd) to be 50% funded from the Wyndham North DCP;
  - IN-89-15 (Leakes Road/Crossway Ave) to be 50% funded from the Wyndham North DCP;
  - IN-90-15 (Leakes Road/Sunset Views Blvd) to be 50% funded from the Wyndham North DCP;
  - IN-90-17 (Leakes Road/Woods Road) to be 50% funded from the Wyndham North DCP;
  - IN-91-03 (Davis Road/East-West Connector) to be 50% funded from the Wyndham North DCP;
  - RD-90-05 (Boundary Road, RRL to Derrimut Road) to be 100% funded from the Wyndham North DCP; and
  - IN-90-07 (Forsyth Road/East-West Connector) to be 50% funded from the Wyndham North DCP

- Make the following changes to Table 3A in Version 3 of the C177 List of Document Changes dated 13 March 2014:
  - For Boundary Road projects RD-89-05 and RD90-05: only an extra 10.5 metres of land for future duplication to be funded from the Wyndham North DCP.
For road project RD-90-01(Forsyth Road (Leakes Road to Dohertys Road): Land for the ultimate, where required; and 50% of the construction of a carriageway to be funded from the Wyndham North DCP.

7.9 Land valuation methodologies

(i) Issue

The unresolved issue with respect to the valuation of land to be acquired for public purposes is as follows:

- Whether a ‘site specific’ or ‘broad hectare’ approach to the valuation of land should be adopted for land to be acquired for community facilities and active open space.

(ii) Submissions and Evidence

In the exhibited DCP, based on work undertaken by Charter Keck Cramer, the MPA proposed that land intended for employment uses be valued at $275,000 per hectare and all other developable land be valued at $500,000 per hectare. These valuations were based on the average broad hectare valuation obtained by property specific valuations. Based on submissions made in response to the exhibited document, the MPA engaged Mr Andrew Kinnaird of Urbis to review the approach to valuations. Mr Kinnaird gave evidence on behalf of the MPA.

In evidence Mr Kinnaird put forward, four possible methodologies as follows:

1. **Overall broad hectare approach** – the average size of properties in a PSP would be adopted as the basis for valuation.

2. **Per property broad hectare approach** – a ‘before’ valuation based on a valuation for every property and a further assessment after the land required for infrastructure is removed.

3. **Site specific approach** – assessment of the land required for each separate infrastructure item.

4. **Hybrid approach** – Grouping properties into size ranges.

In order that the differences in these methodologies are clearly understood, the Panel has included Mr Kinnaird’s description of each method below in Table 6.
We consider that the overall Broad Hectare approach refers to an overall value per hectare applicable for all properties contained within a PSP. The average size of the properties contained within a PSP would be adopted for the basis of the assessment.

In practice this means that if the average area of a DCP is 40 hectares and the applicable valuation for a property of that size is $500,000 per hectare then all properties regardless of whether they are 2, 40 or 150 hectares are assessed at $500,000 per hectare.

We consider that this approach to valuation is best suited to PSPs that have similar property sizes which results in an equitable outcome for all owners, i.e. in limited circumstances.

The per property broad hectare approach can also be referred to as the ‘Before’ and ‘After’ approach. This requires the valuation of every property contained within the PSP. The ‘Before’ assessment is based on the properties total area, it ignores the items to be set aside for the infrastructure identified within the PSP. The ‘After’ assessment takes into account the infrastructure items required within the PSP.

This approach is akin to the definitions contained within the Land Acquisition and Compensation Act 1986. Severance or enhancement, disturbance, special value etc. and other heads of claim are ignored for the purpose of DCP assessments. This is in part due to arterial roads, community facilities and active open space being expected to be provided as part of development of in greenfield areas. Although these infrastructure items may have some positive or negative impacts on surrounding uses they do not have severe impacts on amenity or cost to development that say a freeway with the requirement to construct noise walls does.

Based on our experience this approach is effectively a broad hectare valuation on a property by property basis. Conceivably, this approach could take into consideration situations after the infrastructure items have been provided where the after parcel is irregular in shape and may be less desirable to develop than before they were provided.

In practice this means a 2, 40 or 150 hectare property will be assessed at a rate per hectare attributable to that size property, for instance $800,000, $500,000 or $300,000 respectively. This approach will result in a very similar DCP Levy to the broad hectare approach assuming that the land being set aside for infrastructure is evenly distributed across the various property sizes. It could end up in a higher or lower DCP Levy if the land set aside for infrastructure was skewed to smaller or larger than average sized properties respectively.

We consider that this method is applicable for all DCPs that don’t have properties with a generic size, with the potential for some exceptions if there is an unequitable outcome for a very limited number of circumstances.

<table>
<thead>
<tr>
<th>Table 6</th>
<th>Alternative land valuation models presented in expert evidence by Mr Kinnaird</th>
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<tbody>
<tr>
<td><strong>1. Overall Broad Hectare Approach</strong></td>
<td>We consider that the overall Broad Hectare approach refers to an overall value per hectare applicable for all properties contained within a PSP. The average size of the properties contained within a PSP would be adopted for the basis of the assessment. In practice this means that if the average area of a DCP is 40 hectares and the applicable valuation for a property of that size is $500,000 per hectare then all properties regardless of whether they are 2, 40 or 150 hectares are assessed at $500,000 per hectare. We consider that this approach to valuation is best suited to PSPs that have similar property sizes which results in an equitable outcome for all owners, i.e. in limited circumstances.</td>
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<tr>
<td><strong>2. Per Property Broad Hectare Approach</strong></td>
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</table>
3. Site Specific Approach

The Site Specific approach is the assessment of the land required for each separate infrastructure item. That is, if a property was required to provide for road widening, public open space and a community facility, each infrastructure item would be valued separately.

For example, it has been common practice for DCPs to value community facilities on a Site Specific basis. These sites are often 1 hectare in size and are regular in shape with 2 or 3 road frontages. The value for a property of this size with existing street frontages is significantly higher than say a 40 hectare parcel. This is because a site of this size can be subdivided say for residential purposes at relatively little expense.

In practice this means that every piece of infrastructure which may have a size of 0.25, 2 or 5 hectares would be valued as at that size. For example, the values per hectare could be $2,000,000, $1,000,000 and $750,000 respectively (in the Wyndham North DCP area). We highlight these values could be argued to be significantly higher than comparable sized property assessed in Section 3.2, because it takes into account that additional street frontages have been constructed and hence lower development costs.

We consider that this approach has very limited application for DCPs. In our experience this has been commonly used for Council Community sites. These sites are not common with 1 or 2 generally required within a PSP, whereas roads and public open space can be expected to be provided for by all land owners.

4. Hybrid Approach

As it may not be possible to implement Per Property Broad Hectare or Site Specific approaches for the Wyndham West and North DCPs we have been asked to comment on whether a Hybrid approach could be adopted. A Hybrid approach may consist of grouping properties into size ranges; for example less than 0.5 hectares, 0.51-1 hectares, 1.01-5 hectares, 5.01-10 hectares, 10.01-20 hectares and so on.

It is our view that the more detailed the hybrid approach is the more unlikely its application is possible where the location of infrastructure is not known at the date of preparing a DCP.

Alternatively, valuation areas could be adopted with higher or lower average properties sizes being adopted. For example the valuation areas could be defined as PSP boundaries or other smaller sectors such as the various pockets of typically 4 hectare sized properties in the Oakbank and Tarneit North PSps. This could reduce the inequity caused by the Broad Hectare but it would not eliminate it.

Based on principles set out by the SDCAC, Mr Kinnaird recommended the per property broad hectare approach is the appropriate methodology, but noted that it may not be able to be applied in those precincts for which a PSP is yet to be prepared. The Panel notes that the SDCAC in its Report 1 made the following finding:

The review of land valuation in Stage 2 should seek to identify available options to:

- Simplify and give certainty to the process of securing land for public purposes;
- Ensure that there is an equitable approach towards the valuation of land for public purposes; and
Ensure that the principles of the recommended DCP framework cannot be undermined.

In their submissions on the exhibited DCP, the following submitters made comments on the land valuation methodology proposed at that time:

- Leakes - Proposed an approach consistent with the *Land Acquisition and Compensation Act, 1986* (LACA).
- Stockland – The methodology used is flawed and should be revisited.
- ID Land (Norton Rose Fulbright) – greater emphasis needed on individual site valuations.
- Trukeel (Taylors) - Allow landowners to put forward alternative valuations if they are disadvantaged.
- Golden Group (Taylors) – as for Trukeel.
- PEET- An alternative approach is needed.
- Almeg (Verve) – The proposed rate is low.
- RK Hospitality - Approach proposed is inconsistent with previous PSPs and the LACA.
- Benneb (Sweet) - Extra land should be acquired at the same rate as applied in the RRL project.
- Melbourne Chevra Kadisha and Yorkshire Developments – Current values at the time a PSP is gazetted should be applied.
- YourLand - Values should be reviewed and full methodology made available.

Subsequently only Leakes raised the issue of land valuations at the Hearing. Peet and YourLand specifically adopt the recommendation by Mr Kinnaird, as adopted by the MPA. Mr Chiappi, for Leakes, acknowledged that the Kinnaird approach was better than had been initially proposed, but that it could be improved. He submitted that it is inequitable in that it under-compensates land owners contributing land for community facilities and recreation facilities and that they should be compensated at a rate commensurate with the value of the land. He submitted that failure to compensate at true value increased the risk of not securing the land when required or alternatively triggering compulsory acquisition. Mr Chiappi proposed that:

...site specific valuation of community facilities and of recreation projects excluding active recreation reserves strikes an appropriate balance between an equitable and effective method on one hand and a prudent levy on the other.

In their closing submission, the MPA acknowledged that they had used the alternative approach proposed by Leakes in some previous DCPs. Under cross examination by Mr Chiappi, Mr Kinnaird acknowledged that the approach he recommended could result in it being difficult to secure some land required for public purposes in a timely manner. He further stated that he understands that landowners would prefer to be compensated at the highest rate.

The MPA proposed that the approach recommended by Mr Kinnaird would be implemented in the following manner for the Oakbank and Tarneit North PSPs, which are not yet finalised:
• The per property broad hectare approach is adopted for the infrastructure in both Riverdale and Truganina PSPs and known acquisitions within Oakbank and Tarneit North (arterial roads as their locations are fixed). That is, for those items where the land that is to be acquired is known at the time and therefore costings can be made certain by this time (they are certain now but updates are not uncommon to accommodate either matters negotiated by the MPA or other changes recommended by the Panel).

• For all other acquisitions in the Oakbank and Tarneit North PSPs (active open space and community facilities) an indicative rate is adopted. That is, a rate is generated through the hybrid approach advocated by Mr Kinnaird by taking a sample of various property sizes, establishing values and then working out averages. Internally at least, this process can be checked against those PSPs which although not yet exhibited, already have indicative positions for the various land securing items.

• The Oakbank and Tarneit North PSPs are expected to be finalised in the next two to three years and at the time those amendments go to a panel, the per property broad hectare approach to determine precise valuations and any adjustments required to the DCP at that time can be introduced as part of those amendments. In relative terms this is early in the life of the DCP and PSP.

(iii) Discussion

The Panel acknowledges that this is an important and vexed issue and that there has not been a consistent approach to land valuation in DCPs over recent years. This is not a desirable situation.

The Panel believes that the principles set out in the SDCAC Report 1 are appropriate principles to underpin the approach that should be used in this and subsequent DCPs. In saying this, the Panel acknowledges that there is no one approach that will satisfy all stakeholders.

The Panel commends the MPA for the manner in which it has addressed this important matter and the advice that it has sought from both Charter Keck Cramer and subsequently from Mr Kinnaird. The Panel further notes that it appears that the approach now being adopted by the MPA as recommended by Mr Kinnaird appears to have met the concerns of the majority of the developer submitters in this particular instance.

The Panel acknowledges the risk of not being able to secure required land when it is needed and the consequent prospect of triggering an acquisition under the LACA which may result in a higher price for the subject land. However, the Panel is concerned that the site specific valuation approach may significantly increase land values in the DCP and negatively impact affordability. The Panel accepts the point made by the MPA that no approach is perfect and meets the aspirations of all stakeholders. The challenge is getting the appropriate balance taking into account a fair outcome for landholders, ensuring land will be available in a timely way for its intended public purpose, and not significantly impacting on affordability. The appropriate balance is a matter of judgment as there is no one correct approach.
On balance, the Panel concludes that the per-hectare broad acre approach recommended by Mr Kinnaird should be used in the valuation of land for the Truganina and Riverdale PSPs. No submitter has commented on the approach that the MPA has proposed to address the less certain situation for the yet to be completed Oakbank and Tarneit North PSPs, which the Panel has quoted above. In the light of no evidence to the contrary, the Panel supports the proposed approach.

The Panel further observes that using a range of different approaches to valuing land to be acquired for public purposes in the past have been less than helpful, and appear to have created significant uncertainty for the development industry. The Panel urges the MPA to develop and adopt a standard approach and to make that approach known. Input from a broader range of industry stakeholders than were involved in this Hearing would be a necessary part of developing a standard approach.

The Panel does not offer an opinion on whether the approach recommended by Mr Kinnaird in this instance is the appropriate one to become a standard approach across all DCPs. It is also recognised by the Panel that if a standard approach is developed and adopted, there may still be instances where a different approach may be appropriate given the nature of the landholdings involved.

(iv) Recommendations

The Panel recommends the following changes to the DCP:

- Apply the ‘per property broad hectare’ approach to valuing land to be acquired for public purposes in the Truganina and Riverdale PSPs.
- Apply the ‘hybrid’ land valuation approach recommended by Mr Kinnaird for interim valuations for other public land pending the completion of PSPs for Oakbank and Tarneit North.

7.10 Other DCP issues

It should be noted that a number of the issues identified and addressed in this section of the report have been identified by only one or two submitters, or they are generally regarded by the Panel as relatively minor issues. They are addressed here rather than under the heading of the submitter who has raised them because the conclusions drawn by the Panel and the recommendations made are directly relevant to most if not all submitters.

(i) Overlap with other DCPs

Issue

In the exhibited DCP it was indicated that a small pocket of land on the eastern boundary of the DCP area was already included in Truganina Employment DCP and that it was proposed to subsequently amend the Truganina Employment DCP to remove that overlap.

The Panel requested the MPA to explain how this was proposed to be managed in the interim given this land would potentially be in two DCPs concurrently.
Submissions

In closing, the MPA submitted that the way they propose to address this anomaly is not to proceed as first intended, but to remove the subject land from the Wyndham North DCP, so that the anomaly is not created. Ms Patterson submitted that this only affects two properties, one of which is already subject to a Section 173 agreement to secure contributions. Ms Patterson submitted that this would result in the need to adjust the NDA of the Wyndham North DCP accordingly, and this would result in a small increase in the per hectare rate.

Discussion and conclusions

The Panel supports the solution proposed by the MPA and notes that the small increase in the overall per hectare charge, whilst unknown at this stage, will be very small and is not of concern to the Panel.

(ii) Contingencies

Issue

The Panel has identified the following unresolved issues:

- Whether the contingencies proposed for project costs should be reduced below the level proposed; and
- Whether contingencies should be different for bridge and non-bridge projects.

Evidence and Submissions

- The MPA initially proposed that there be a contingency allowance of 20% of estimated project costs for all DCP projects. In their opening submission they quote in some detail from a number of Panel Reports on recent growth area DCPs. The essence of these quotes is that a 20% contingency has become the norm. In the case of the Casey Amendment C129 report, the Panel recommended a review of project costs rather than increase the contingencies to a higher level as was proposed by the Council.

- The MPA submitted:

  A contingency amount of 10% is more appropriate for detailed design/pre-tender estimates whereas 30% is more appropriate for master planning/conceptual level design.

In their closing submission the MPA acknowledged that a 20% contingency was conservative as it relates to road projects and given what is known about this area that they accepted that a 15% contingency was more appropriate for road projects.

Both ID Land and Leakes, in their original submissions, suggested that contingencies of 10% for all non-bridge projects consistent with the SDCAC, Report 1. At the Hearing, Leakes relied on the evidence of Mr Black to support this. Mr Black stated that he believed that the level of 20% was too high for non-bridge projects given the level of ‘detailed design.’ He further stated:
The problem of setting contingencies too high for ordinary projects is to do with the collection methodology and the temptation to use the contingency money in refining of detailed design.

He stated that the DCP includes intersections estimated to cost in excess of $300 million, that is a contingency of $60 million.

YourLand in their original submission suggested that a contingency of 20% is too high, but this issue was not pursued by Ms Brennan in her submission on behalf of YourLand before the Panel.

The Committee notes that in the SDCAC, Report 1, the Committee indicated that it was of the view that contingencies should not exceed 10%.

Discussion

The Panel notes that as the level of specification of projects in DCPs and therefore their costing has become more refined in recent years, the level of contingency applied has fallen significantly. The Panel notes Mr Black’s observation about the temptation to use contingency money in refining detailed design. Whilst unsupported by examples the Panel understands the point being made and notes that it would be difficult to prove one way or the other. The Panel has noted in Section 7.2, the debate over the costing of road projects and its recommendation that these be further reviewed. The Panel is of the view that, given the level of detail and refinement that will exist and the MPA’s acknowledgment of the level of knowledge of conditions in the area, that a contingency of 10% should be applied to road projects.

The MPA recommended level of 15% is accepted by the Panel for intersections and other projects not otherwise discussed here. The Panel notes that bridge projects are often inherently more uncertain and that detailed design has not been undertaken at this stage. For this reason the Panel is of the view that contingencies of 20% are appropriately applied to these projects. In drawing these conclusions, the Panel observes that it believes that these conclusions are not inconsistent with the SDCAC’s conclusions, but which were in the context of a proposed new, broader approach to development contributions.

(iii) Role of other funding sources

Issue

The issue addressed by the Panel is as follows:

- Whether there are items included in the DCP which should be funded from other sources and have been included because a conservative approach has been taken to ensure that they are provided.

Submitters including Mr Tweedie and Mr Gobbo have made submissions to the effect that the DCP is very conservative in that it is not taking due account of other possible funding sources available for infrastructure, most notably the GAIC. Mr Ainsaar estimates development of the Wyndham North area will generate some $440 million of revenue from GAIC.

Mr Gobbo submitted:
It will not be lost on the Panel that there are other funding sources available for infrastructure – for example the GAIC, rate revenue, land tax and general revenue.

In evidence, Mr Ainsaar stated that it would constitute double dipping if the DCP included infrastructure items that could be GAIC funded. Mr Tweedie submitted:

DCPs should not be prepared on the basis of a position that assumes that State agencies will not fund infrastructure and ‘err on the side of caution’ by increasing funding obligations to protect against this possibility.

Mr Tobin submitted that DCPs are not a total funding solution and that funding by the alternative mechanisms referred to in submissions is inherently uncertain, and the consequence of relying on other mechanisms to deliver key infrastructure items would be to render delivery and the timing of delivery, uncertain. Mr Montebello submitted that the nature of the road network in Wyndham was such that the Council was being required to support a more significant road network from its own sources than other growth area Councils. He also submitted that the pressure on Council’s financial resources were often greatest in the early years of a DCP.

The sensitivity to this issue was heightened because of the public release of guidelines for works-in-kind expenditure against the GAIC, during the latter part of the Hearing. In the days following the release, the Panel was taken to a number of sections of the guidelines by various submitters to the effect of what GAIC works in kind can and cannot be used for. This is not reported in detail here as the Panel considers it only marginally relevant to the consideration of the Wyndham North DCP.

Discussion

Although not an unresolved issue as such, which this report concentrates on in the main, the Panel believes that this is an important issue that requires comment. A number of facts are not in dispute. These include there being significant pressure on growth area Councils as they seek to manage the provision of infrastructure to support rapidly growing communities; that there are multiple sources of revenue that should be used to fund that infrastructure, including rates paid over a significant period of time by the new residents in those growth areas; and that the ability of developers to provide some infrastructure as works in kind credits against their GAIC liabilities will impact on infrastructure provision in yet to be fully understood ways.

The Panel accepts the submissions of Mr Gobbo and Mr Tweedie that funding for infrastructure should not be included in the DCP using the precautionary principle to ensure that it can be delivered, or delivered in a timely way. The Planning and Environment Act 1987, relevant Ministerial Directions, the principles of need nexus and accountability and Guidelines give relatively clear direction as to what should or should not be included in a DCP. That is not to deny that there are grey areas and some debate. However, those guiding tenets must be the basis of deciding what infrastructure can be included in a DCP.

The Panel also accepts that providing certainty to communities, Councils and developers is an important part of the planning task. However, certainty is only one of the underpinning drivers of planning and the Panel rejects the proposition which appears to underpin the
MPA’s position, that items could be included in a DCP to provide certainty of provision and timing. Whilst superficially attractive, such a position is potentially inequitable for future residents.

In the case of the Wyndham North DCP, the Panel has recommended only the inclusion of infrastructure which it believes can be legitimately included in the DCP.

**iv** Inclusion of Financing Costs

In his opening submission, Mr Montebello, in addressing the issue of the borrowing capacity of Council, pointed out that the DCP currently includes no costs of finance. The Panel subsequently asked the MPA for their position on this. The MPA in closing submitted that subject to the normal tests of need, nexus and accountability finance costs is an item that could be included in a DCP. It is acknowledged that they have been included in one prior DCP. In closing, Ms Patterson urged the Panel not to consider including such an item in the DCP at this late stage as the work had not been done to allow this to occur.

The Panel acknowledges and agrees with the MPA position on this.

**v** Works in Kind Provisions

The unresolved issues addressed by the Panel include:

- Reference to the requirement to provide tender documents for works in kind projects;
- The provision for staged credits for WIK projects; and
- Whether works in kind should be credited at the DCP rate or actual cost.

With respect to works in kind provisions Ms Forsyth submitted that the following changes be made:

The wording of section 4.1.3 ought to be amended as follows:

a) delete the second bullet point (which appears to cross reference Table 10);

delete the wording “tendering” from bullet point 3;

b) amend the first of the second set of bullet points commencing “The credit for the works ...” as follows:

The credit for the works (unless an alternative approach is agreed with the Collecting Agency) provided shall equal the value of the works identified in this DCP, taking into account the impact of indexation, or an alternative figure approved by the Collecting Agency.

The MPA has accepted the deletion of the reference to providing tender documentation and has amended Section 4.1.3 to provide credit for works in kind at full DCP value. The Panel supports the MPA’s position with respect to works in kind provisions.

**vi** Issues raised by Matt Ainsaar on behalf of Stockland and Satterley

In his expert witness statement on behalf of Stockland and Satterley Mr Ainsaar, commencing at paragraph 51, makes a number of recommendations which were subsequently adopted by Mr Gobbo for Stockland and Satterley. A number of these are
generic issues which are discussed in other sections of the report. Brief comment is made here on other recommendations made by Mr Ainsaar which the Panel believes should be acted upon.

a) In his expert witness Mr Ainsaar has identified what he claims to be a number of errors in the DCP. Whilst the Panel has not followed through every claimed error, Mr Ainsaar has identified a number of apparent anomalies and minor errors in the DCP and it is recommended that these should be rectified if this has not occurred already.

d) Mr Ainsaar submits that the DCP should be amended so that IN91-07 includes provision of external funding. It has been amended to provide for drainage works but not for the DEPI contribution identified by Mr Ainsaar. The Panel is not aware of the basis of this claim by Mr Ainsaar but recommends that the MPA check his claim.

k) Mr Ainsaar submits that the DCP should make it clear that landowners will not be required to fund the construction of sporting surfaces and other embellishments of active sporting reserves in excess of the provision made in the DCP. Whilst this was not the subject of submissions, the Panel agrees with the thrust of Mr Ainsaar’s submission and agrees that permit conditions should not be used to undermine the provisions of the DCP in this respect.

n) That where an infrastructure item is referred to in a permit condition there should be specific reference to the fact that it is a DCP funded item. The Panel does not agree that this is necessary.

(vii) Projects RD89-03, RD88-02 and IN88-06

Reeds Consulting submitted on behalf of Melbourne Chevra Kadisha and Yorkshire Developments Pty Ltd that the precise location of the ultimate alignment of the indicated road projects and the land requirements for the indicated intersection are not clear. The Panel recommends that prior to finalising this Amendment that further discussion occurs with the submitter to attempt to resolve their concerns. The Panel does note that some of these may be resolved through yet to be completed PSPs.

This submitter also opposes the future preparation of a further DCP which according to section 1.6 of the exhibited DCP will deal with issues surrounding fragmented land ownership in the Tarneit North PSP. The Panel supports the use of separate DCPs in such circumstances.

Recommendation

The Panel recommends the following changes to the DCP:

Remove the parcels of land which are currently included as part of the Truganina Employment DCP and which are also proposed to be included in the Wyndham North DCP from the Wyndham North DCP and recalculate the Wyndham North DCP per hectare contribution rate accordingly.

Apply contingencies to project costings in the Wyndham North DCP as follows:

- 10% for road projects
- 20% for bridge projects
○ 15% for intersections and other projects

Check the DCP for errors and anomalies claimed by Mr Ainsaar in his expert witness statement.
Appendix A  Lists of Submitters
List of Submitters – Wyndham C175 – Truganina

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<td>Ms Carol Boundy</td>
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<td>2</td>
<td>Mr Robert Lawler</td>
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# List of Submitters – Wyndham C176 - Riverdale

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<td>Ms Frances Overmars</td>
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<td>Mr Andrew Booth</td>
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List of Submitters – Wyndham C177 – Wyndham North DCP

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<td>Mr Les Kretzschmar</td>
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Appendix C  Panel Preferred s96A Planning Permits

The Panel Preferred Versions of each of the Planning Permits shows (in track changes) changes made by the MPA in the last version submitted to the Panel as well as further changes proposed by the Panel.

A number of repeated clauses have been deleted, and are not shown in track changes to improve readability.

The Panel recommends that the proposed Planning Permit Conditions as amended be adopted, subject to any necessary corrections to wording, numbering or formatting that may be required at the discretion of the MPA or Council.
PLANNING
PERMIT
GRANTED UNDER DIVISION 5 OF PART 4 OF THE
PLANNING AND ENVIRONMENT ACT 1987

Permit no.: WYP6211/12
Planning scheme: Wyndham Planning Scheme
Responsible authority: City of Wyndham

ADDRESS OF THE LAND:
Leakes Road, Tarneit
(Lot 2 PS on 302713D)

THE PERMIT ALLOWS:
Subdivision of land in accordance with the plan endorsed
under this permit and subject to the conditions set out in this
permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before commencement of construction of buildings
and works associated with a sensitive use

Broiler farm buffer
1) Before works associated with a sensitive use (residential use, child care centre, pre-school centre, primary
school or public open space) commence or before the construction or carrying out of buildings and works
in associated with a sensitive use the broiler farm at 695 Derrimut Road, Tarneit must have ceased
operation for a period of at least two (2) years or the owner of the land must enter into an agreement under s
173 of the Planning and Environment Act 1987 which provides for the extinguishment of land use rights
for the operation of a broiler farm at 695 Derrimut Road, Tarneit.

Part 2 – Conditions required to be satisfied before submission of a modified subdivision plan

2) Before submission of a modified subdivision plan to the Responsible Authority under Condition 3 of this
permit a Stormwater Management Strategy report for the application is to be prepared to the satisfaction of
Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and
water quality treatment, and provide any additional information required by Melbourne Water. The report is
to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land,
including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report
is also to consider:

   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased
      green space etc.
   d) Increased use of water sensitive urban design in the development.

Date Issued: 
Date Permit comes into operation: The permit comes into operation on the same day as Amendment C175 to the
Wyndham Planning Scheme comes into operation.
Signature for the responsible authority:
General modified subdivision plan

3) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference Morton East Stage 1 Planning Application Subdivision Layout Plan, Dwg SLP-01-V20, dated 21 10 13 but modified to show:

- a) The dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water; and
- b) Traffic control devices to Council engineering standards on any straight stretch of road which is greater than 240 metres in length; and
- c) Down-grade the frontage road to Dohertys Road where immediately adjacent the northern centrally placed open space, and include sea-gull and threshold treatments, to discourage east-west through traffic; and
- d) Remove any one way streets; and
- e) Show a roundabout at the southernmost local road intersection of the eastern connector street; and
- f) Remove the loop road adjacent the southwest corner of the intersection of Dohertys Road and the eastern connector street; and
- g) Cross sections and plans of Dohertys Road showing the retention of the existing 66kV powerlines and provision for large canopy trees along the southern side of Dohertys Road; and
- h) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 2.
- i) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.

4) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the plan(s) referred to in condition 3 but incorporate the following:

- a) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations.
- b) Topography and existing features, including contours for the subject land and any affected adjacent land.
- c) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.
- d) Details of tree protection zones for all trees to be retained on site.
- e) Any trees proposed for removal from the site clearly designated.
- f) Typical cross-sections for each street type, dimensioning individual elements, subdivision services offsets, trunk services, high electricity lines, bus capable carriageways and any other spatial requirements identified in the approved Truganina Precinct Structure Plan (‘the PSP’).
- g) A table of offsets for all utility services and street trees.
- h) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter islands, pavements, speed bumps or similar.
- i) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres.
j) The proposed minor drainage network and any land required for maintenance access.

k) The major drainage system, including any watercourse, lake, wetland, silt pond, and/or piped elements showing preliminary sizing.

l) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to a destination approved by the relevant drainage authority.

m) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;

n) Preliminary location of reserves for electrical kiosks.

o) Works external to the subdivision, including both interim and ultimate access requirements.

p) Intersections with Dohertys Road showing interim and ultimate treatments.

q) Subdivision or a stage of a subdivision that is not adjacent to existing or approved infrastructure:
   i. plan indicating the relationship between the subject subdivision stage and surrounding land.
   ii. proposed linkages to future streets, open space, regional path network and upstream drainage.

r) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as a road or pedestrian bridges, to the satisfaction of Melbourne Water.

Public Infrastructure Plan

5) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

   a) Where this permit is for part of what is a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

6) Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

7) The PIP may be amended with the prior written consent of the responsible authority.

8) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

   a) The extent of any storm water drainage works and road works proposed or required under this permit.

   b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.

   c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.

   d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

   e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

   The PIP must specifically address the following to the satisfaction of the responsible authority:

   f) Construction of arterial road intersection works before a Statement of Compliance is issued under the Subdivision Act for any stage that relies on access to an arterial road.
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g) Consistency with any strategy for duplication of the road by the road authority.

h) Construction of the intersection of the north-south connector road immediately west of Skeleton Creek and Dohertys Road (including signalisation).

i) Construction of the road crossing of Dry Creek before a Statement of Compliance is issued under the Subdivision Act for the second last stage of the subdivision.

j) Construction of any associated paths or other works as required to access and service the subdivision.

k) Definition of works to be in place before the issue of Statement of Compliance for any stage of the subdivision.

9) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

a) The implementation of the Public Infrastructure Plan approved under this permit.

b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01;

c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account; and

d) The method and funding for the construction of the local access 2 street bridge crossing of Dry Creek and associated works.

Plans of certification

10) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

11) The plan(s) of subdivision submitted for certification must be generally in accordance with the plans endorsed under this permit but modified to show the following to the satisfaction of the responsible authority:

a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council.

b) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority.

c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.

d) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines with the restriction must include:

i. A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;

ii. Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and,

iii. The rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines.

all to satisfaction of the responsible authority.
12) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

**Agreement with relevant authorities for utility services**

13) The owner of the land must enter into agreements with:

   a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity, gas and telecommunication services (including underground conduit infrastructure for optical fibre cables) to each lot shown on the endorsed plan.

   b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

   c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Part 2 - Conditions required to be satisfied prior to commencement of works**

**Staging of the subdivision**

14) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

15) The subdivision of the land must proceed in the order of under this permit may be carried out in stages shown (if any) as described on the endorsed plans except staging plan.

16) The staging plan may be amended with the prior written consent of the responsible authority.

**Site Contamination**

17) Before the development associated with the subdivision starts, (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:

   a) The nature of the previous and existing land use/activities on the land.

   b) An assessment of the potential level and nature of contamination on the land.

   c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

18) If the environmental site assessment recommends an environmental audit of all or part of the land, then:

   a) before the commencement of any use for a sensitive purpose; or

   b) before any buildings or works; or

   c) before the development associated with the subdivision starts.

   whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

   d) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or

   e) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).
19) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:
   a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and
   b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.

Residential stormwater drainage

20) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

21) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant, to the satisfaction of the relevant drainage authority.

Construction plans

22) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:
   a) the minimum level of streetscape diversity required by the PSP;
   b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;
   c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;
   d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;
   e) underground drainage, wetlands and water sensitive urban design infrastructure;
   f) indented car parking bays where appropriate;
   g) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;
   h) public lighting and underground electricity supply within all streets, access ways and reserves where appropriate;
   i) traffic control measures;
   j) street signs in accordance with Council’s standard design;
   k) concrete footpaths in all streets and reserves as appropriate;
   l) shared paths and bike paths in accordance with the PSP within streets and reserves;
   m) underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;

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n) the location and provision of vehicle exclusion devices abutting reserves;

o) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;

p) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;

q) high stability permanent survey marks;

r) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;

s) appropriate line-marking and signage; and

t) school crossing(s) where appropriate.

23) Road works, drainage and other civil works must be provided, in accordance with construction plans and specifications as approved by the responsible authority, prior to the issue of Statement of Compliance.

**Site environmental and construction management plan**

24) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

   a) Relevant matters of occupational health and safety;

   b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;

   c) Environmental controls and cultural heritage protection measures including:

      i) Remnant vegetation protection methods;

      ii) Pest management methods;

      iii) Details of the weed management program for the site;

      iv) Control of sediment and protection of waterways from pollution;

      v) Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.

      vi) Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.

      vii) A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.

      viii) How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles

   d) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

25) All drawing(s) in the SECMP must be drawn to an appropriate scale.

26) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

27) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.
28) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

Kangaroo Management Plan

29) Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries. Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.

30) The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the responsible authority.

Biodiversity – offset requirements

31) Before the construction of a building or the construction or carrying of works on land starts:

a) Offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013); and

b) Any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and

c) The Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority;

unless before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:

d) the payment of the fee in instalments; or

e) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or

f) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or

g) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or

h) a combination of any of the above;

i) to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

Landscape plans

32) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;

b) The type of species to be used for street tree planting in various stages of the subdivision;
c) The areas which will be available for landscaping;
d) Landscaping treatment in Stage 4a (the drainage corridor as shown on the application plan) consistent with the relevant conservation management plan approved under the *Environment Protection and Biodiversity Act 1999* unless otherwise agreed by the Department of Sustainability and Environment;
e) Entrance treatments;
f) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;
g) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan; and
h) How any landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

Before the commencement of works for any stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves.
b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.
d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
e) Additional supporting information, such as certified structural designs or building forms.
f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.
   
   i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

### Part 3 – Conditions required to be satisfied during construction works

#### Layout not altered

Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
Miscellaneous

34) The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

35) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Construction of works

36) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

37) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

38) Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

Filling of land

39) Before a Statement of Compliance is issued all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798 2007.

40) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:
   a) The provisions of any Site Environmental and Construction Management Plan (or equivalent); and
   b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

41) Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

Reticulated services

42) Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and underground electricity reticulation must be available to each lot.

43) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.

Telecommunications

44) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and

Date Issued: __________________________ Date Permit comes into operation: __________________________ Signature for the responsible authority: __________________________

The permit comes into operation on the same day as Amendment C175 to the Wyndham Planning Scheme comes into operation.

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b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Developer contributions (where no approved plan for the land)

Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to provide for:

a) Contributions to Wyndham City Council for community and development infrastructure.

b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 11 of the Wyndham Planning Scheme.

c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 11 of the Wyndham Planning Scheme.

d) That the agreement ceases to have effect on a lot upon discharging of the relevant liabilities for that lot.

The preparation, execution and registration of the agreement must be at no cost to the responsible authority.

Development Infrastructure Levy (where approved plan for the land)

Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive open space contribution and public reserves

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Scheme must be made to the responsible authority in a manner which is consistent with the Precinct Structure Plan applying to the land, unless otherwise agreed to in writing by the responsible authority.

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible Authority.
In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 52), all parks must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

a) Removal of all existing disused structures, foundations, pipelines or stockpiles;

b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless a conservation reserve);

c) Provision of domestic standard services for water tapping, potable and recycled water connection points. Sewer and gas connection points must also be provided to land identified as an active reserve;

d) Planted in accordance with approved landscape plans;

e) Vehicles exclusion devices (fence, bollard or barrier kerb) and maintenance access points;

f) Construction of a 2.5 metre concrete shared path around, connecting and linking into any other shared path networks as identified in the Truganina Precinct Structure Plan; and

g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.

Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans

Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format. As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.

b) Location of any permanent survey marks; and

c) Catchment plans and detailed storm water computations in PDF format.

Landscape works

The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including any dead, diseased or damaged plants are to be replaced.

The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.
Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

Overall requirements:

a) No polluted and/or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.

b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

Prior to Certification of Plans of Subdivision:

a) Functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

b) Separate approvals from Melbourne Water are to be sought for any works within or in proximity to Skeleton Creek or Dry Creek, such as the installation of Stormwater quality treatment systems in the waterway corridor, road (bridge and culvert) crossings of the waterway, and other authority works including construction of sewer and water mains along and across the waterway, taking into account conditions above.

Prior to commencement of works:

a) Prior to commencement of any works a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

Prior to a Statement of Compliance:

a) Prior to the issue of a Statement of Compliance, the Owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) A Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

Date Issued: 

Date Permit comes into operation: 
The permit comes into operation on the same day as Amendment C175 to the Wyndham Planning Scheme comes into operation.

Signature for the responsible authority
The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

**Powercor**

Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

**Part 7 – Permit expiry**

This permit will expire if:

- a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,
- b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or
- c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.

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**Date Issued:**

**Date Permit comes into operation:**

The permit comes into operation on the same day as Amendment C175 to the Wyndham Planning Scheme comes into operation.

**Signature for the responsible authority**
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?
The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision -
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or;
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or;
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the responsible authority.

* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
PLANNING PERMIT
GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

ADDRESS OF THE LAND:
Woods Road, Truganina
(Lot 1 PS 302714B)

THE PERMIT ALLOWS:
Subdivision of land and demolition, removal or alteration to dry stone walls, in accordance with the plan endorsed under this permit and subject to the conditions set out in this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before Certification of the Plan of Subdivision

1) Before the certification of the plan of a modified subdivision, a Stormwater Management Strategy report for the application is to be prepared and submitted to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:

   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.
   d) Increased use of water sensitive urban design in the development.

General modified subdivision plan

2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference Dohertys Road, Truganina: Subdivision Layout Plan, Dwg 8432_UD_SLP01_V12, Revision 14-03-10-2013/16, dated 27-02-14 but modified to show:

   a) Traffic control devices to Council engineering standards on any straight stretch of road which is greater than 240 metres in length; and
   b) Show a type C intersection (left in-left out) at the intersection of the third north-south local street east of Skeleton Creek and Dohertys Road; and
   c) Cross sections and plans of Dohertys Road showing the retention of the existing 66kV powerlines and provision for large canopy trees along the southern side of Dohertys Road.
   d) Revise the staging plan to extend all stages abutting a waterway/drainage corridor to the centre of the waterway/drainage corridor.
Planning and Environment Regulations 2005 Form 9

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d) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 1.

e) Removal of ‘T’ laneway arrangement from subdivision adjacent eastern waterway.

g) Final details of dry stone walls to be retained near roads and intersections.

h) Dry stone walls proposed to be demolished, removed or altered.

i) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.

3) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the plan(s) referenced in condition 2 but incorporate the following:

a) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations.

b) Topography and existing features, including contours for the subject land and any affected adjacent land.

c) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.

d) Details of tree protection zones for all trees to be retained on site.

e) Any trees proposed for removal from the site clearly designated.

f) Typical cross-sections for each street type, dimensioning individual elements, subdivisional services offsets, trunk services, high voltage electricity lines, bus capable carriageways and any other spatial requirements identified in the approved Truganina Precinct Structure Plan (‘the PSP’).

g) A table of offsets for all utility services and street trees.

h) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter islands, pavements, speed bumps or similar.

i) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres.

j) The proposed minor drainage network and any land required for maintenance access.

k) The major drainage system, including any watercourse, lake, wetland, silt pond, and/ or piped elements showing preliminary sizing.

l) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to a destination approved by the relevant drainage authority.

m) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;

n) Preliminary location of reserves for electrical kiosks.

o) Works external to the subdivision, including both interim and ultimate access requirements.

p) Intersections with Dohertys Road showing interim and ultimate treatments.

q) Subdivision or a stage of a subdivision that is not adjacent to existing or approved infrastructure:

i) The relationship between the subject subdivision stage and surrounding land.

ii) proposed linkages to future streets, open space, regional path network and upstream drainage.

r) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges to the satisfaction of Melbourne Water.
s) Safe turning areas at each temporarily terminated road.

4) Before the certification of a plan of subdivision, or any other time agreed by Council, a master plan for the local park located in the north-western portion of the subdivision, including all land within the park external to the subdivision, must be prepared to the satisfaction of the responsible authority.

5) Before the certification of a plan of subdivision, or any other time agreed by Council, vehicle and pedestrian access arrangements for the allotments fronting the government road must be provided to the satisfaction of the responsible authority.

Public Infrastructure Plan

6) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

7) Where this permit is for part of a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

8) Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

9) The PIP may be amended with the prior written consent of the responsible authority.

10) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the approved Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

   a) The extent of any storm water drainage works and road works proposed or required under this permit.

   b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.

   c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.

   d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

   e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

11) The PIP must specifically address the following to the satisfaction of the responsible authority:

   a) Construction of arterial road intersection works before a Statement of Compliance is issued under the Subdivision Act for any stage that relies on access to an arterial road.

   b) Consistency with any strategy for duplication of the road by the road authority.

   c) Construction of a single carriageway of Morris Road associated with development of the adjacent stages of the subdivision.

   d) Provision of land to enable the construction of a future second carriageway of Morris Road associated with development of the adjacent stages of the subdivision.

   e) Construction of a pedestrian/cyclist bridge over the Forsyth Drain on the eastern side of the subdivision.

   f) Construction of any associated paths or other works as required to access and service the subdivision.

   g) Definition of works to be in place before the issue of Statement of Compliance for any stage of the subdivision.
12) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

   a) The implementation of the Public Infrastructure Plan approved under this permit.

   b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01; and

   c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account.

Plans of certification

13) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

14) The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

   a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council.

   b) A restriction on the Plan of Subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies, without the written consent of the responsible authority.

   c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.

   d) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:

   i. A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;

   ii. Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and,

   iii. The rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines.

   all to the satisfaction of the responsible authority.

15) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Agreement with relevant authorities for utility services

16) The owner of the land must enter into agreements with

   a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity and gas to each lot shown on the endorsed plan.

   b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

17) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

18) The subdivision of the land must proceed in the order of stages shown (if any) on the endorsed plans except with the prior written consent of the responsible authority.

19) The staging plan may be amended with the prior written consent of the responsible authority.

Site Contamination

20) Before the development associated with the subdivision starts (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:

   a) The nature of the previous and existing land use/activities on the land.
   b) An assessment of the potential level and nature of contamination on the land.
   c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

21) If the environmental site assessment recommends an environmental audit of all or part of the land, then:

   a) before the commencement of any use for a sensitive purpose; or
   b) before any buildings or works; or
   c) before the certification of a plan of subdivision for the stage that includes an area of land identified as being impacted by contamination, development associated with the subdivision starts.

22) whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

   a) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or
   b) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

23) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

   a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and
   b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.
Residential stormwater drainage

24) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

25) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

26) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP;
b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;
c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;
d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;
e) underground drainage, wetlands and water sensitive urban design infrastructure;
f) indented car parking bays where appropriate;
g) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;
h) public lighting and underground electricity supply within all streets, access ways and reserves where appropriate;
i) traffic control measures;
j) street signs in accordance with Council’s standard design;
k) concrete footpaths in all streets and reserves as appropriate;
l) shared paths and bike paths in accordance with the PSP within streets and reserves;
m) underground drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;
n) the location and provision of vehicle exclusion devices abutting reserves;
o) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;
p) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;
q) high stability permanent survey marks;
r) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;
s) appropriate line-marking and signage; and
t) school crossing(s) where appropriate.

27) Road works, drainage and other civil works must be provided, in accordance with construction plans and specifications as approved by the responsible authority, prior to the issue of Statement of Compliance.

Site environmental and construction management plan

28) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

a) Relevant matters of occupational health and safety;

b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;

c) Environmental controls and cultural heritage protection measures including:

i) Remnant vegetation protection methods;

ii) Pest management methods;

iii) Details of the weed management program for the site;

iv) Control of sediment and protection of waterways from pollution;

v) Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.

vi) Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.

vii) A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.

viii) How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles

d) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

29) All drawing(s) in the SECMP must be drawn to an appropriate scale.

30) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

31) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

32) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

Kangaroo Management Plan

33) Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries. Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.

34) The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the Responsible Authority.
Biodiversity - offset requirements

34) Before the construction of a building or the construction or carrying of works on land starts:
   a) Offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be
      secured; offsets must be secured by making a request for offsets to the Secretary to the Department of
      Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department
      of Environment and Primary Industries, 2013); and
   b) Any fee payable for securing the offsets through the Secretary to the Department of Environment
      and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and
   c) The Secretary to the Department of Environment and Primary Industries must have certified in
      writing that the relevant fee for the development has been paid and such certification must be
      submitted to the Responsible Authority;

35) unless before the start of construction of a building or the construction or carrying out of works, the
owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of
Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the
payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure
offsets through the Secretary to the Department of Environment and Primary Industries by:
   a) the payment of the fee in instalments; or
   b) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan
      for Nature Conservation to or in the Secretary to the Department of Environment and Primary
      Industries in lieu of payment of the fee for the land; or
   c) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure
      Plan in lieu of payment of the fee for the land; or
   d) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment
      of the fee for the extent of native vegetation; or
   e) a combination of any of the above;

36) to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the
Commonwealth.

37) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the
Department of Environment and Primary Industries in the preparation, execution and registration of the
agreement.

Landscape plans

38) Before the commencement of works, a landscape master plan for the whole of the subdivision must be
approved by the responsible authority. When approved, the plan will be endorsed and will then form part of
the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan
must show and include:
   a) The landscaping theme and graphical concepts to be developed for the subdivision;
   b) The type of species to be used for street tree planting in various stages of the subdivision;
   c) The areas which will be available for landscaping;
   d) Entrance treatments;
   e) The principles and graphical concepts of the proposed treatment of the open space and drainage
      reserves;
   f) How the subdivision will achieve the minimum level of streetscape diversity required by the
      Precinct Structure Plan; and
   g) How any landscape requirements or guidelines within the Precinct Structure Plan are proposed to
      be implemented.
Before the commencement of works for any stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves.

b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.

c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.

d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.

e) Additional supporting information, such as certified structural designs or building forms.

f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.

g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.

h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.

i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Part 3 – Conditions required to be satisfied during construction works

Layout not altered

Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Miscellaneous

The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Construction of works

Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.
**Filling of land**

46) Before a Statement of Compliance is issued for each stage, all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798 2007.

48) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:

   a) The provisions of any Site Environmental and Construction Management Plan (or equivalent); and
   b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

49) Before the issue of a Statement of Compliance for each stage, unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

**Reticulated services**

49) Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and underground electricity reticulation must be available to each lot.

50) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.

**Telecommunications**

51) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

   a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
   b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Developer contributions (where no approved plan for the land)**

52) Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to provide for:

   a) Contributions to Wyndham City Council for community and development infrastructure.
   b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.
   c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.
   d) That the agreement ceases to have effect on a lot upon discharging of the relevant liabilities for that lot.

53) The preparation, execution and registration of the agreement must be at no cost to the responsible authority.
Development Infrastructure Levy (where approved plan for the land)

Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive Open space contribution and public reserves

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Scheme must be made to the responsible authority in a manner which is consistent with the Precinct Structure Plan applying to the land, unless otherwise agreed to in writing by the responsible authority.

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible Authority.

In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 60, all parks must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

a) Removal of all existing disused structures, foundations, pipelines or stockpiles;
b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless a conservation reserve);
c) Provision of domestic standard services for water tapping, potable and recycled water connection points. Sewer and gas connection points must also be provided to land identified as an active reserve;
d) Planted in accordance with approved landscape plans;
e) Vehicles exclusion devices (fence, bollard or barrier kerb) and maintenance access points;
f) Construction of a 2.5 metre wide concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks as identified in the PSP; and
g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.

Landscaping bonds or such other form of security as is agreed must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.
Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans

Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

- Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format.
- As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.
- Location of any permanent survey marks; and
- Catchment plans and detailed storm water computations in PDF format.

The various road works must be maintained by the owner until this condition has been complied with.

Landscape works

The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

Overall requirements:

- No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.
- Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.
- Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.
- All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.
- The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

Prior to Certification of Plans of Subdivision:

- Functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.
b) Separate approvals from Melbourne Water are to be sought for any works within or in proximity to Skeleton Creek or Forsyth Drain, such as the installation of Stormwater quality treatment systems in the waterway corridor, road (bridge and culvert) crossings of the waterway, and other authority works including construction of sewer and water mains along and across the waterway, taking into account conditions above.

Prior to commencement of works:

a) Prior to commencement of any works a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

Prior to a Statement of Compliance:

a) Prior to the issue of a Statement of Compliance, the Owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) A Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

Part 7 – Permit expiry

This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,

b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or

c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.

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<th>Date Issued:</th>
<th>Date Permit comes into operation:</th>
<th>Signature for the responsible authority</th>
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<td>The permit comes into operation on the same day as Amendment C175 to the Wyndham Planning Scheme comes into operation.</td>
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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision-
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or.
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or.
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the responsible authority.

* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

ADDRESS OF THE LAND:
Leakes Road, Truganina
(Lots 5 and 7 on PS 701124Y)

THE PERMIT ALLOWS:
Subdivision of land and demolition, removal or alteration to dry stone walls, all in accordance with the plan(s) endorsed under this permit and subject to the conditions set out in this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before submission of a modified subdivision plan
1) Before submission of a modified subdivision plan to the Responsible Authority under Condition 2 of this permit a Stormwater Management Strategy report for the application is to be prepared and submitted to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:
   a) Directing stormwater runoff into nature strips, medians and other planted areas;
   b) Local stormwater harvesting for irrigation of public open space;
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.;
   d) Increased use of water sensitive urban design in the development.

General modified subdivision plan
2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference Leakes Pty Ltd, Southern 96A Planning Permit Application Plan, Derrimut Road Tarneit, Drawing No: 136345P32, Version 19, date 05/12/2013 by Spiire) submitted with the application but modified to show:
   a) Replace the ‘fully directional, ultimately left-in/left-out intersection’ at the proposed intersection west of the Morris and Leakes Road intersection to a Type C interim intersection, left-in/left-out as ultimate intersection.
   b) Replace the ‘fully directional, ultimately left-in/left-out vehicle access’ intersection at the proposed intersection east of the Morris and Leakes Road intersection to a left-in/left-out for interim and ultimate treatment, or as agreed with the responsible authority and VicRoads.
   c) Deletion of ‘3m’ within the legend under ‘Shared path (off-road)’.

Date Issued:
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Signature for the responsible authority:

d) Delete ‘Principal Bike Network (off-road)’ from the legend and replace with ‘Shared Path (off-road)’ along Skeleton Creek.

e) The location and design of works within the Melbourne Water pipe track reserve to the satisfaction of Melbourne Water.

f) Re-design the subdivision west of Morris Road to reduce the number of cross intersections, eliminate through-traffic routes between Leakes Road and Morris Road and improve the interface with Skeleton Creek.

g) Re-design the subdivision around the northeast corner of Morris and Leakes Roads to reduce the attractiveness of the neighbourhood being used as a through-traffic route between Leakes Road and Morris Road.

h) Show traffic control devices to Council engineering standards on any straight stretch of road which is greater than 240 metres in length; and

i) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water.

j) Reflect the functional layout plan for the Morris Road overpass of the Regional Rail Link (including local road connection beneath) to the satisfaction of the responsible authority, VicRoads and Public Transport Victoria.

k) Reflect the functional layout plan for Leakes Road and side street connections to the satisfaction of the responsible authority and VicRoads.

l) Widening of Woods Road to achieve a 25.5m overall reserve, with half the additional land required provided on the west side of the existing reserve, and an off-road shared path shown on the western side.

m) Final details of dry stone walls to be retained near roads and intersections.

n) Dry stone walls to be demolished, removed or altered.

o) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.

3) The development as shown on the endorsed plan(s) must not be altered or modified without the prior written consent of the Responsible Authority.

4) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the plan(s) referred to in condition 2 but incorporate the following:

a) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 1.

b) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations.

c) Topography and existing features, including contours for the subject land and any affected adjacent land.

d) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.

e) Details of tree protection zones for all trees to be retained on site.

f) Any trees proposed for removal from the site clearly designated.

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Permit No.: WYP6744/13
Planning and Environment Regulations 2005 Form 9

Panel – v7 – Leakes Pty Ltd (south) – Panel Preferred Version

Date Issued:  
Date Permit comes into operation:  
The permit comes into operation on the same day as Amendment C175 to the Wyndham Planning Scheme comes into operation.

Signature for the responsible authority

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Public Infrastructure Plan

5) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

Where this permit is for part of a broader subdivision by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

The PIP may be amended with the prior written consent of the responsible authority.

6) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

a) The extent of any storm water drainage works and road works proposed or required under this permit, including the provision of road widening for Leakes Road.

b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and the ultimate reservation for Morris Road (from Leakes Road to the Regional Rail Link corridor), and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.

c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.
d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

The PIP must specifically address the following to the satisfaction of the responsible authority:

f) Construction of arterial road intersection works before a Statement of Compliance is issued under the Subdivision Act for any stage that relies on access to an arterial road, to the satisfaction of the Responsible Authority.

g) Before a Statement of Compliance is issued under the Subdivision Act for a stage that relies on access to Woods Road, Woods Road is to be constructed to an urban standard between Leakes Road and the entry road of the stage, including land required for the ultimate Woods Road cross section on the west side of the existing Woods Road reserve, to the satisfaction of the Responsible Authority.

h) Before a Statement of Compliance is issued under the Subdivision Act for a stage that relies on access to Woods Road, co-ordination of access arrangements for Woods Road with any development which has direct vehicle access to Woods Road, between Leakes Road and the Regional Rail Link.

i) Before a Statement of Compliance is issued under the Subdivision Act for a stage that relies on access to Woods Road, delivery of the upgrade of the intersection of Leakes Road and Woods Road (including signalisation) to provide access to the subdivision.

j) Before a Statement of Compliance is issued under the Subdivision Act for a stage that relies on access to Morris Road, delivery of the upgrade of the intersection of Leakes Road and Morris Road (including signalisation) to provide access to the subdivision.

k) Construction of Morris Road associated with development of the adjacent stages of the subdivision.

l) Co-ordination of the duplication of Leakes Road along the frontage of the land (including relevant waterway crossings) with any development which has direct vehicle access to Leakes Road, in accordance with the DCP and having regard to any strategy for duplication of the road by the road authority.

7) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

a) The implementation of the Public Infrastructure Plan approved under this permit;

b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01;

c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account;

d) The deferral of DCP payments for land by the Council to enable that funding to be put towards DCP infrastructure items on the land, as agreed between the Council and the permit holder;

e) Any works-in-kind the owner wishes to undertake, including any sharing arrangement between developers, if applicable;

f) Construction of the DCP funded intersections on the Leakes Road frontage, and construction of Morris Road from Leakes Road to the RRL corridor (or if agreed, on funding for Council to construct it);

g) Ensuring that where sites on either side of Woods Road face Woods Road, there are direct connections across Woods Road for pedestrians and cyclists, and Council approved form(s) of connectivity for vehicles;

h) Construction of pedestrian and cycle paths along Leakes Road, in accordance with the PSP and DCP, by approved dates or milestones; and
i) Any other relevant matters agreed between the permit holder and the Council.

**Plans of certification**

8) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

9) The plan(s) of subdivision submitted for certification must be generally in accordance with the plans endorsed under condition 1 but modified to show the following to the satisfaction of the responsible authority:
   a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by council.
   b) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority.
   c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.
   d) A restriction on the plan of subdivision that, to the satisfaction of the responsible authority:
      i) buildings containing a bedroom must be constructed in such a way to ensure that internal bedroom noise levels will not exceed 65 dB LAMax and 40 dB LAeq,8h for the night period from 10pm to 6am;
      ii) describes any design, attenuation or construction measures necessary to achieve the above internal bedroom noise standard; and
      iii) describes the lots within Design and Development Overlay (Schedule 10) to which the restriction applies.
   e) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:
      i) A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots; and
      ii) Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and,
      iii) The rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines;
      all to the satisfaction of the responsible authority.

10) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

**Agreement with relevant authorities for utility services**

11) The owner of the land must enter into agreements with:
   a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity, gas and telecommunication services (including underground conduit infrastructure for optical fibre cables) to each lot shown on the endorsed plan.
   b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

12) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

13) The subdivision of the land must proceed in the order of stages shown (if any) on the endorsed plans except with the prior written consent of the responsible authority.

14) The staging plan may be amended with the prior written consent of the responsible authority.

Site Contamination

15) Before the development associated with the subdivision starts (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), the environmental site assessment of the land prepared by Cardno Lane Piper must be updated as relevant to provide the following information:

a) The nature of the previous and existing land use/activities on the land.

b) An assessment of the potential level and nature of contamination on the land.

c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

16) If the environmental site assessment recommends an environmental audit of all or part of the land, then:

a) before the commencement of any use for a sensitive purpose; or

b) before any buildings or works; or

c) before the development associated with the subdivision starts,

d) whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

e) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or

f) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

17) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and

b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.
Residential stormwater drainage

18) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

19) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant, to the satisfaction of the relevant drainage authority.

Construction plans

20) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP and shown in the Spiire road hierarchy plan and cross-sections submitted with the application;

b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;

c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;

d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;

e) underground drainage, wetlands and water sensitive urban design infrastructure;

f) indented car parking bays where appropriate;

g) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;

h) public lighting and underground electricity supply within all streets, access ways and reserves where appropriate;

i) traffic control measures;

j) street signs in accordance with Council’s standard design;

k) concrete footpaths in all streets and reserves as appropriate;

l) shared paths and bike paths in accordance with the PSP within streets and reserves;

m) underground drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;

n) the location and provision of vehicle exclusion devices abutting reserves;

o) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;

p) appropriate methods for protecting environmental and heritage assets (including retained dry stone walls) during the construction phase of the subdivision;

q) high stability permanent survey marks;

r) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;

s) appropriate line-marking and signage; and
1) School crossing(s) where appropriate.

21) Road works, drainage and other civil works must be provided, in accordance with construction plans and specifications as approved by the responsible authority, prior to the issue of Statement of Compliance.

**Site environmental and construction management plan**

22) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

- Relevant matters of occupational health and safety;
- Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;
- Environmental controls and cultural heritage protection measures including:
  - Remnant vegetation protection methods;
  - Pest management methods;
  - Details of the weed management program for the site;
  - Control of sediment and protection of waterways from pollution;
  - Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.
  - Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.
  - A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.
  - How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles
- A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

23) All drawing(s) in the SECMP must be drawn to an appropriate scale.

24) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

25) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

26) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

**Biodiversity - offset requirements**

27) Before the construction of a building or the construction or carrying of works on land starts:

- Offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013); and

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b) Any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and

c) The Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority;

d) unless before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:

i) the payment of the fee in instalments; or

ii) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or

iii) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or

iv) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or

v) a combination of any of the above;

vi) to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

Landscape plans

28) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;

b) The type of species to be used for street tree planting in various stages of the subdivision;

c) The areas which will be available for landscaping;

d) Entrance treatments;

e) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;

f) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan;

h) How any landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.
29) Before the commencement of works for a stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:
   a) New plantings including their layout to be provided in any road reserves and municipal reserves.
   b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
   c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.
   d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
   e) Additional supporting information, such as certified structural designs or building forms.
   f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
   g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
   h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.
   i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

30) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Part 3 – Conditions required to be satisfied during construction works

Layout not altered

31) Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Miscellaneous

32) Dry stone walls which are retained must:
   a) Be situated within public open space or road reserve;
   b) Have a suitable landscape interface to minimise maintenance requirements (for example mulch, garden bed or gravel) and which does not encourage public access immediately adjacent the retained walls;
   c) Be checked by a professional waller for any loose stones. Any loose stones are to be reinstated in the wall in secure positions;
   d) Retain post and wire or post and rail fences situated within the walls, with any wire protruding beyond the vertical face of the wall reinstated to original position or removed;
   e) Be incorporated into subdivision design to minimise disturbance to the walls (eg. utilisation of existing openings for vehicle and pedestrian access);
   all to the satisfaction of the responsible authority.

33) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.
Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Construction of works

33) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

34) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

35) Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

Filling of land

36) Before a Statement of Compliance is issued all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798 2007.

37) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:
   a) The provisions of any Site Environmental and Construction Management Plan (or equivalent); and
   b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

38) Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

Reticulated services

39) Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, and provision for reticulated recycled water, drainage, sewerage and underground electricity reticulation must be available to each lot.

40) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.

Telecommunications

41) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
   b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
Developer contributions (where no approved plan for the land)

43(3) Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to provide for:

a) Contributions to Wyndham City Council for community and development infrastructure.

b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

d) The agreement ceases to have affect once the liabilities for that lot have been discharged.

43(4) The preparation, execution and registration of the agreement must be at no cost to the responsible authority.

Development Infrastructure Levy (where approved plan for the land)

44(5) Where a development contributions plan has been approved for the land, and unless agreed to otherwise with the Collecting Agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive open space contribution and public reserves

45(6) Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Scheme must be made to the responsible authority in a manner which is consistent with the Precinct Structure Plan applying to the land, unless otherwise agreed to in writing by the responsible authority.

46(7) Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible Authority.

47(8) In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 49, all parks must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

a) Removal of all existing disused structures, foundations, pipelines or stockpiles;

b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless a conservation reserve);

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c) Provision of domestic standard services for water tapping, potable and recycled water connection points. Sewer and gas connection points must also be provided to land identified as an active reserve;
d) Planted in accordance with approved landscape plans;
e) Vehicles exclusion devices (fence, bollard or barrier kerb) and maintenance access points;
f) Construction of a 2.5 metre concrete off-road shared path around, connecting and linking into any other off-road shared path networks as identified in the Truganina Precinct Structure Plan; and
g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.

| 48|49) | Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

| 49|50) | Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans

51) Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:
   a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format. As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.
   b) Location of any permanent survey marks;
   c) Catchment plans and detailed storm water computations in PDF format.

The various road works must be maintained by the owner until this condition has been complied with.

Landscape works

50|52) The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

53) The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

54) Overall requirements:
   a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.
   b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

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Permit No.: WYP6744/13
c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

§33 Prior to Certification of Plans of Subdivision:

a) Functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

b) Separate approvals from Melbourne Water are to be sought for any works within or in proximity to Skeleton Creek or Forsyth Drain, such as the installation of Stormwater quality treatment systems in the waterway corridor, road (bridge and culvert) crossings of the waterway, and other authority works including construction of sewer and water mains along and across the waterway, taking into account conditions above.

§44 Prior to commencement of works:

a) Prior to commencement of any works a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

§55 Prior to a Statement of Compliance:

a) Prior to the issue of a Statement of Compliance, the Owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) A Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

§66 Unused as an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

§77 Unused as an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

§88 The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

§99 Unused as an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

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### Part 7 – Permit expiry

This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,

b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or

c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.

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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision-
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or,
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or,
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the responsible authority.

* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

Permit no.: WYP6744/13
Planning scheme: Wyndham Planning Scheme
Responsible authority: City of Wyndham

ADDRESS OF THE LAND:

Derrimut Road, Tarneit
(Lot 2 on LP 208740Q and Lots 4 & 6 on PS701124Y)

THE PERMIT ALLOWS:

Subdivision of land and demolition, removal or alteration to dry stone walls, all in accordance with the plan(s) endorsed under this permit and subject to the conditions set out in this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before submission of a modified subdivision plan
1) Before submission of a modified subdivision plan to the Responsible Authority under Condition 2 of this permit a Stormwater Management Strategy report for the application is to be prepared and submitted to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:
   a) Directing stormwater runoff into nature strips, medians and other planted areas;
   b) Local stormwater harvesting for irrigation of public open space;
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.;
   d) Increased use of water sensitive urban design in the development.

General modified subdivision plan
2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference Leakes Pty Ltd, Derrimut Road, Tarneit, Northern 96A Planning Permit Application Plan, Drawing No: 136345P40, Version 15, date 09/12/2013 by Spiire but modified to show:
   a) All land affected by the construction of the northernmost bridge across the Skeleton Creek within the permit area;
   b) The northern local street bridge over the Skeleton Creek designed with a 6 metre wide carriageway and a 3 metre wide (minimum) shared path and otherwise to the satisfaction of the responsible authority;
   c) Lots fronting Morris Road shall have a minimum frontage of 12m
   d) Protection areas for the retention of the following heritage items identified in the approved Truganina Precinct Structure Plan ("PSP"):

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Planning and Environment Regulations 2005 Form 9
Panel – v6 – Leakes Pty Ltd (north) Panel Preferred Version

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Signature for the responsible authority:

1) Skeleton Creek Waterholes (HO119)
2) Early bluestone hut and yard
3) Leakes Cellars and Mulberry Trees (HO30)
4) Deletion of ‘3m’ within the legend under ‘Shared Path (off-road)’.
5) Replacement of the ‘Principal Bike Network (off-road) annotation in the Skeleton Creek corridor with the ‘Shared Path (off-road)’ annotation;
6) Deletion of ‘Principle Bike Network (off-road)’ from the plan legend;
7) Traffic control devices to Council engineering standards on any straight stretch of road which is greater than 240 metres in length;
8) The size of the active open space in the southwest corner of the site increased to 12.11ha (excluding land for water quality treatment assets) by removing or reducing the size of the abutting ‘future medium density site’;
9) Cross sections and plans of Dohertys Road showing the retention of the existing 66kV powerlines and provision for large canopy trees along the southern side of Dohertys Road;
10) Any modifications to ensure the plan is consistent with the functional layout plan for the Morris Road rail overpass to the satisfaction of the responsible authority, Vic Roads and Public Transport Victoria approved under this permit including suitability of direct access to allotments on Morris Road immediately north of the overpass;
11) Any modification to ensure the plan is consistent with the stormwater management strategy approved under this permit;
12) Confirm the intersection type of the first local street connection to Dohertys Road east of Skeleton Creek;
13) Improve the allotment layout immediately south of Dohertys Road adjacent Skeleton Creek to remove rear of allotments fronting Dohertys Road or the local street behind
14) Improve the allotment layout immediately south of the local park adjacent Skeleton Creek to remove rear of allotments fronting the park or the local street behind
15) Confirm the two local street intersections with Morris Road immediately south of Dohertys Road as no entry or left-in/left-out.
16) Confirm allowance for right turn movements into the remaining local streets adjacent Morris Road between Dohertys Road and the Local Access Level 2 road, and if needed amend the local street intersections with Morris Road between Dohertys Road and the Local Access Level 2 road to increase the distance between intersections on opposite sides of Morris Road if right turns are allowed.
17) Provide rear-of-lot, or other satisfactory access, to lots at the corners of Morris Road/local access level 2 road and Morris Road/Existing Government Road;

18) Final details of dry stone walls to be retained near roads and intersections.
19) Dry stone walls to be demolished, removed or altered.
20) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.

3) The development as shown on the endorsed plan(s) must not be altered or modified without the prior written consent of the Responsible Authority.

4) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the plan(s) referred to in condition 1 but incorporate the following:

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a) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 1.

b) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations.

c) Topography and existing features, including contours for the subject land and any affected adjacent land.

d) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.

e) Details of tree protection zones for all trees to be retained on site.

f) Any trees proposed for removal from the site clearly designated.

g) Typical cross-sections for each street type, dimensioning individual elements, subdivisional services offsets, trunk services, high voltage electricity lines, bus capable carriageways and any other spatial requirements identified in the PSP.

h) A table of offsets for all utility services and street trees.

i) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter, pavements, speed bumps or similar.

j) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres.

k) The proposed minor drainage network and any land required for maintenance access.

l) The major drainage system, including any watercourse, lake, wetland, silt pond, and/ or piped elements showing preliminary sizing.

m) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to a destination approved by the relevant drainage authority.

n) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;

o) Preliminary location of reserves for electrical kiosks.

p) Works external to the subdivision, including both interim and ultimate access requirements.

q) Intersections with Dohertys Road showing interim and ultimate treatments.

r) Subdivision or stage of subdivision that is not adjacent to existing or approved infrastructure:

   i) plan indicating the relationship between the subject subdivision stage and surrounding land.

   ii) proposed linkages to future streets, open space, regional path network and upstream drainage.

s) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges, to the satisfaction of Melbourne Water.

t) Safe turning areas at each temporarily terminated road.

Public Infrastructure Plan

5) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

Where this permit is for part of what is a broader subdivision by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

The PIP may be amended with the prior written consent of the responsible authority.
6) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

a) The extent of any storm water drainage works and road works proposed or required under this permit.

b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.

c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.

d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

7) The PIP must specifically address the following to the satisfaction of the responsible authority:

a) Construction of arterial road intersection works before a Statement of Compliance is issued under the Subdivision Act for any stage that relies on access to an arterial road.

b) Co-ordination of access arrangements for Dohertys Road with all development which has direct vehicle access to Dohertys Road between Derrimut Road and Woods Road.

c) Co-ordination of the duplication of Dohertys Road along the frontage of the land (including relevant waterway crossings) with all development which has direct vehicle access to Dohertys Road, between Derrimut Road and Woods Road, having regard to any strategy for duplication of the road by the road authority.

d) Delivery of the upgrade of the intersection of Dohertys Road and Morris Road (including signalisation) to provide access to the subdivision.

e) Construction of Morris Road associated with development of the adjacent stages of the subdivision.

f) Construction of the intersections of the Connector Street and Access Street Level 2 with Morris Road (including signalisation), associated with development of the adjacent stages of the subdivision.

g) Timing for the construction of the Morris Road overpass over the Regional Rail Link. The PIP may provide for the construction and release of up to 200 residential lots under this permit contemporaneous with the construction of the overpass or otherwise as specified in an agreement under s 173 of the Planning and Environment Act 1987.

h) Construction of the overpass over the Regional Rail Link, before a Statement of Compliance is issued under the Subdivision Act for the second last stage of the subdivision, provided that funding through the Wyndham North Development Contributions Plan is available at the time.

i) Construction of the northern local road crossing of Skeleton Creek before a Statement of Compliance is issued under the Subdivision Act for the second last stage of the subdivision or such alternative time as agreed by the Responsible Authority.
8) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which, subject to the collecting agency having previously consented to the DCP infrastructure works set out in clauses 8d (i), (ii) and (iii), being provided “in lieu” of development contributions in accordance with the DCP provides for:

a) The implementation of the Public Infrastructure Plan approved under this permit; and
b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01; and
c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account.
d) The timing of construction and transfer to Council of
   i) The Morris Road overpass over the Regional Rail Link;
   ii) The Morris Road extension to Doherty’s Road; and
   iii) The active open space reserve that is required north of the Regional Rail Link, and at least 50% of the planned facilities on it.
e) Any other relevant matters agreed between the permit holder and the Council.

Plans of certification

9) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

10) The plan(s) of subdivision submitted for certification must be generally in accordance with the plans endorsed under condition 1 but modified to show the following to the satisfaction of the responsible authority:

a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by council.

b) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority.

c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.

d) A restriction on the plan of subdivision that, to the satisfaction of the responsible authority:
   i) buildings containing a bedroom must be constructed in such a way to ensure that internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LArq,8h for the night period from 10pm to 6am;
   ii) describes any design, attenuation or construction measures necessary to achieve the above internal bedroom noise standard; and
   iii) describes the lots within Design and Development Overlay (Schedule 10) to which the restriction applies.

e) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:
   i) A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots; and
ii) Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and,

iii) The rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines;

all to the satisfaction of the responsible authority.

11) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Agreement with relevant authorities for utility services

12) The owner of the land must enter into agreements with:

a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity and gas to each lot shown on the endorsed plan.

b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

13) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

14) The subdivision of the land must proceed in the order of stages shown (if any) on the endorsed plans except with the prior written consent of the responsible authority.

15) The staging plan may be amended with the prior written consent of the responsible authority.

Site Contamination

16) Before the development associated with the subdivision starts (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), the environmental site assessment of the land prepared by Cardno Lane Piper must be updated as relevant to provide the following information:

a) The nature of the previous and existing land use/activities on the land.

b) An assessment of the potential level and nature of contamination on the land.

c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

17) If the environmental site assessment recommends an environmental audit of all or part of the land, then:

a) before the commencement of any use for a sensitive purpose; or

b) before any buildings or works; or

c) before the development associated with the subdivision starts,
d) whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

e) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or

f) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

18) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and

b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.

Residential stormwater drainage

19) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

20) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

21) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP and shown in the Spiire road hierarchy plan and cross-sections submitted with the application;

b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;

c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;

d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;

e) underground drainage, wetlands and water sensitive urban design infrastructure;

f) indented car parking bays where appropriate;

g) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;

h) public lighting and underground electricity supply within all streets, access ways and reserves where appropriate;

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Permit No.: WYP6744/13
i) traffic control measures;
 j) street signs in accordance with Council’s standard design;
 k) concrete footpaths in all streets and reserves as appropriate;
 l) shared paths and bike paths in accordance with the PSP within streets and reserves;
 m) underground easement drains of sufficient capacity to serve all lots being created to a legal point of
 discharge and the provision of an inlet on each such lot;
 n) the location and provision of vehicle exclusion devices abutting reserves;
 o) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other
 than road reserves;
 p) appropriate methods for protecting environmental and heritage assets (including retained dry stone
 walls) during the construction phase of the subdivision;
 q) high stability permanent survey marks;
 r) details in relation to all filling on the site which must be compacted to specifications approved by the
 responsible authority;
 s) appropriate line-marking and signage; and
 t) school crossing(s) where appropriate.

22) Road works, drainage and other civil works must be provided, in accordance with construction plans and
 specifications as approved by the responsible authority, prior to the issue of Statement of Compliance.

Site environmental and construction management plan

23) At least 7 days prior to the commencement of works a Site Environmental and Construction Management
 Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other
 affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan
 will be endorsed and then form part of the planning permit. The SECMP must describe:

 a) Relevant matters of occupational health and safety;
 b) Traffic management including the proposed route for construction vehicle access to the site including
 a program for the upgrade and maintenance works required along this route while any works are in
 progress;
 c) Environmental controls and cultural heritage protection measures including:
   i) Remnant vegetation protection methods;
   ii) Pest management methods;
   iii) Details of the weed management program for the site;
   iv) Control of sediment and protection of waterways from pollution;
   v) Means by which foreign material will be restricted from being deposited on public roads by
 vehicles associated with building and works on the land.
   vi) Measures to reduce the risk from fire within the surrounding rural landscape and protect
 residents from the threat of fire.
   vii) A separation buffer, consistent with the separation distances specified in AS3959-2009, between
 the edge of development and non-urban areas.
   viii) How adequate opportunities for access and egress will be provided for early residents,
 construction workers and emergency vehicles
 d) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm
 or nuisance and corrective actions outlining the procedures to be followed in the event of non-
 compliance with the monitoring schedule.

24) All drawing(s) in the SECMP must be drawn to an appropriate scale.
The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

Kangaroo Management Plan

Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries. Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.

The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan be implemented to the satisfaction of the Responsible Authority.

Biodiversity - offset requirements

Before the construction of a building or the construction or carrying of works on land starts:

a) Offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013); and

b) Any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and

c) The Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority;

d) unless before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:

e) the payment of the fee in instalments; or

f) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or

g) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or

h) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or

i) a combination of any of the above;

j) to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

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Signature for the responsible authority

_____________
k) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

Landscape plans

30) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;
b) The type of species to be used for street tree planting in various stages of the subdivision;
c) The areas which will be available for landscaping;
d) Entrance treatments;
e) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;
f) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan;
g) How the subdivision will retain the existing dry stone walls identified in the Precinct Structure Plan; and
h) How any landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

31) Before the commencement of works for a stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves.
b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.
d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
e) Additional supporting information, such as certified structural designs or building forms.
f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.

i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

33) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.
Part 3 – Conditions required to be satisfied during construction works

Layout not altered

34) Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Miscellaneous

32) Dry stone walls which are retained must:
   a) Be situated within public open space or road reserve;
   b) Have a suitable landscape interface to minimise maintenance requirements (for example mulch, garden bed or gravel) and which does not encourage public access immediately adjacent the retained walls;
   c) Be checked by a professional waller for any loose stones. Any loose stones are to be reinstated in the wall in secure positions;
   d) Retain post and wire or post and rail fences situated within the walls, with any wire protruding beyond the vertical face of the wall reinstated to original position or removed;
   e) Be incorporated into subdivision design to minimise disturbance to the walls (e.g. utilisation of existing openings for vehicle and pedestrian access);

all to the satisfaction of the responsible authority.

33) The Salvage and Translocation Protocol for Melbourne’s Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

34) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Construction of works

35) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

36) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

37) Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

Filling of land

38) Before a Statement of Compliance is issued all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798 2007.

39) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:
   a) The provisions of any Site Environmental and Construction Management Plan (or equivalent); and
   b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

Date Issued:  
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Signature for the responsible authority:

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Panel – v6 – Leakes Pty Ltd (north) Panel Preferred Version

Date Issued: 

Date Permit comes into operation: 
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Signature for the responsible authority

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a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive open space contribution and public reserves

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Scheme must be made to the responsible authority in a manner which is consistent with the Precinct Structure Plan applying to the land, unless otherwise agreed to in writing by the responsible authority.

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible Authority.

In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 53, all parks must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

a) Removal of all existing disused structures, foundations, pipelines or stockpiles;

b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless a conservation reserve);

c) Provision of domestic standard services for water tapping, potable and recycled water connection points. Sewer and gas connection points must also be provided to land identified as an active reserve;

d) Planted in accordance with approved landscape plans;

e) Vehicles exclusion devices (fence, bollard or barrier kerb) and maintenance access points;

f) Construction of a 2.5 metre concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks as identified in the PSP; and

g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.

Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.
Part 5 – Conditions required to be satisfied following construction works

As constructed plans

§23(55) Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format. As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.

b) Location of any permanent survey marks; and

c) Catchment plans and detailed storm water computations in PDF format.

§§45(6) The various road works must be maintained by the owner until this condition has been complied with.

Landscape works

§44(57) The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

§§45(58) The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

§60(59) Overall requirements:

a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.

b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

§74(60) Prior to Certification of Plans of Subdivision:

a) Functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

b) Separate approvals from Melbourne Water are to be sought for any works within or in proximity to Skeleton Creek or Forsyth Drain, such as the installation of Stormwater quality treatment systems in the waterway corridor, road (bridge and culvert) crossings of the waterway, and other authority works including construction of sewer and water mains along and across the waterway, taking into account conditions above.

§84(61) Prior to commencement of works:

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a) Prior to commencement of any works a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

Prior to a Statement of Compliance:

a) Prior to the issue of a Statement of Compliance, the Owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) A Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of water supply.

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

Part 7 – Permit expiry

This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,
b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or
c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision -
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or.
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or.
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the responsible authority.
* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

Permit no.: WYP6214/12
Planning scheme: Wyndham Planning Scheme
Responsible authority: City of Wyndham

ADDRESS OF THE LAND: 80 Woods Road, Truganina (Lot 1 on PS 538853T) & Leakes Road, Truganina (Lot 2 on PS 416888E)

THE PERMIT ALLOWS: Subdivision of land and demolition, removal or alteration to dry stone walls, in accordance with the plan endorsed under this permit and subject to the conditions set out in this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before submission of a modified subdivision plan
1) Before submission of a modified subdivision plan to the Responsible Authority under Condition 4 of this permit a Stormwater Management Strategy report for the application is to be prepared and submitted to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:
   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.
   d) Increased use of water sensitive urban design in the development.
2) The subdivision layout is to be adjusted (if required) once Melbourne Water has completed the drainage design for the drainage channel and retarding basin on the east side of the conservation area to ensure a Conservation Area is achieved which is 21.91ha in area, to the satisfaction of DEPI and Melbourne Water.
3) The layout of the subdivision as shown on the endorsed plan must not be altered without the written consent of the responsible authority.

General modified subdivision plan
4) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference Subdivision Concept Plan Rev 13: 80 Woods Road Truganina, Dwg HMF03 Opt 1, Rev 13, 15 10 2013, by Mecene Urban Design but modified to show:
   a) Traffic control devices to Council engineering standards on any straight stretch of road which is greater than 240 metres in length; and

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o) Works external to the subdivision, including both interim and ultimate access requirements.
p) Intersections with Leakes and Woods Roads showing interim and ultimate treatments.
q) Subdivision or stage of a subdivision that is not adjacent to existing or approved infrastructure:
   i) plan indicating the relationship between the subject subdivision stage and surrounding land.
   ii) proposed linkages to future streets, open space, regional path network and upstream drainage.
r) Safe turning areas at each temporarily terminated road.
s) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges to the satisfaction of Melbourne Water.

Public Infrastructure Plan

6) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

7) Where this permit is for part of a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP. Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

8) The PIP may be amended with the prior written consent of the responsible authority.

9) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the approved Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following:

   a) The extent of any storm water drainage works and road works proposed or required under this permit.
   b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.
   c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.
   d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.
   e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

10) The PIP must specifically address the following to the satisfaction of the responsible authority:

   a) Before a Statement of Compliance is issued for Stage 1 of the subdivision, the developer must construct an intersection at the intersection of Leakes Road and the Stage 1 entry road to the subdivision as approved under this permit and to the satisfaction of the responsible authority.
   b) Before a Statement of Compliance is issued for Stage 10 of the subdivision as described on the application plans (or where the staging plan is amended such other stage as approved by the responsible authority containing the entry road shown in stage 10 on the application plans), the developer must:
      i) Construct an intersection at the intersection of Leakes and Woods Roads;
      ii) Seal Woods Road to an urban standard between Leakes Road and the Stage 10 entry road; and
      iii) Construct an intersection at the Stage 10 entry road to the subdivision and Woods Road.
   c) as approved under this permit and to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).
d) Before a Statement of Compliance is issued for Stage 12 of the subdivision as described on the application plans (or where the staging plan is amended such other stage as approved by the responsible authority containing the entry road shown in stage 12 on the application plans), the developer must:
   i) Seal Woods Road to an urban standard between the Stage 10 entry road and the Stage 12 entry road; and
   ii) Construct an intersection at the Stage 12 entry road to the subdivision and Woods Road;
   iii) as approved under this permit and to the satisfaction of the responsible authority.

e) Before a Statement of Compliance is issued for Stage 15 of the subdivision as described on the application plans (or where the staging plan is amended such other stage as approved by the responsible authority containing the entry road shown in stage 15 on the application plans), the developer must construct an intersection at the Stage 15 entry road to the subdivision and Woods Road as approved under this permit and to the satisfaction of the responsible authority.

f) Construction of any associated paths or other works as required to access and service the subdivision.

11) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:
   a) The implementation of the Public Infrastructure Plan approved under this permit; and
   b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01; and
   c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account.

Plans for certification

12) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

13) The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:
   a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council.
   b) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority.
   c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.
   d) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:
      i) A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;
      ii) Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and
      iii) The rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines.
iv) All to the satisfaction of the responsible authority.

14) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

**Agreement with relevant authorities for utility services**

15) The owner of the land must enter into agreements with:

   a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity, gas and telecommunication services (including underground conduit infrastructure for optical fibre cables) to each lot shown on the endorsed plan.

   b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

   c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Part 2 - Conditions required to be satisfied prior to commencement of works**

**Staging of the subdivision**

16) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

17) The subdivision under this permit may be carried out in stages as described on the endorsed staging plan.

18) The staging plan may be amended with the prior written consent of the responsible authority.

**Site Contamination**

19) Before the development associated with the subdivision starts, (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:

   a) The nature of the previous and existing land use/activities on the land.

   b) An assessment of the potential level and nature of contamination on the land.

   c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

20) If an environmental site assessment recommends an environmental audit of all or part of the land, then:

   a) before the commencement of any use for a sensitive purpose; or

   b) before any buildings or works; or

   c) before development associated with the subdivision starts, whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

      i) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or

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ii) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

21) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and

b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.

Residential stormwater drainage

22) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

23) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

24) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP;

b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;

c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;

d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;

e) underground drainage, wetlands and water sensitive urban design infrastructure;

f) indented car parking bays where appropriate;

g) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;

h) public lighting and underground electricity supply within all streets, access ways and reserves where appropriate;

i) traffic control measures;

j) street signs in accordance with Council’s standard design;

k) concrete footpaths in all streets and reserves as appropriate;

l) shared paths and bike paths in accordance with the PSP within streets and reserves;
m) underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;

n) the location and provision of vehicle exclusion devices abutting reserves;

o) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;

p) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision including retained dry stone walls;

q) high stability permanent survey marks;

r) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;

s) appropriate line-marking and signage; and

t) school crossing(s) where appropriate.

u) Details of the retention and protection of the dry stone wall on the northern boundary of the Golden Sun Moth Conservation Area.

25) Road works, drainage and other civil works must be provided, in accordance with construction plans and specifications as approved by the responsible authority, prior to the issue of Statement of Compliance.

Site environmental and construction management plan

26) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

a) Relevant matters of occupational health and safety;

b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;

c) Environmental controls and cultural heritage protection measures including:

i) Remnant vegetation protection methods;

ii) Pest management methods;

iii) Details of the weed management program for the site;

iv) Control of sediment and protection of waterways from pollution;

v) Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.

vi) Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.

vii) A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.

viii) How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.

d) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

27) All drawing(s) in the SECMP must be drawn to an appropriate scale.
28) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

29) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

30) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

**Biodiversity – land management co-operative agreement**

31) Before development of land starts, an agreement must be entered into with the Secretary to the Department of Environment and Primary Industries under section 69 of the Conservation Forests and Lands Act 1987 to be registered on the title of the land, which must provide for the conservation and management of the land including any land not to be developed, and may include any matter that such an agreement may contain under the Conservation Forests and Lands Act 1987.

32) Before the development of land starts, an application must be made to the Registrar of Titles to register the agreement on the title to the land.

33) The owner must pay the reasonable costs of the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

34) The requirement in Condition 31 does not apply to land if any lot or part of a lot within a Conservation Area identified in the Precinct Structure Plan:

   a) is identified in a Precinct Structure Plan as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or

   b) is identified in a Precinct Structure Plan as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or

   c) is within a Conservation Area identified in a Precinct Structure Plan for nature conservation and is vested, or will be vested, in the Secretary to the Department of Environment and Primary Industries for conservation purposes; or

   d) is the subject of an agreement with the Secretary to the Department of Environment and Primary Industries to transfer or gift that land to:

      i) the Secretary to the Department of Environment and Primary Industries;

      ii) the Minister for Environment and Climate Change; or

      iii) another statutory authority.

35) to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

**Biodiversity - offset requirements**

36) Before the construction of a building or the construction or carrying of works on land starts:

   a) Offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013);

   b) Any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and

   c) The Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority.

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Signature for the responsible authority: [Signature]

Permit No.: WYP6214/12
37) unless before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:

   a) the payment of the fee in instalments; or
   b) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or
   c) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or
   d) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or
   e) a combination of any of the above;

38) to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

39) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

**Landscape plans**

40) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

   a) The landscaping theme and graphical concepts to be developed for the subdivision;
   b) The type of species to be used for street tree planting in various stages of the subdivision;
   c) The areas which will be available for landscaping;
   d) Landscaping treatment in Stage 4a (the drainage corridor as shown on the application plan) consistent with the relevant conservation management plan approved under the Environment Protection and Biodiversity Act 1999 unless otherwise agreed by the Department of Sustainability and Environment;
   e) Entrance treatments;
   f) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves; and
   g) How any landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

41) Before the commencement of works for a stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

   a) New plantings including their layout to be provided in any road reserves and municipal reserves.
   b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
   c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.
   d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
e) Additional supporting information, such as certified structural designs or building forms.
f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.
i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

42) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Part 3 – Conditions required to be satisfied during construction works

Layout not altered

Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Miscellaneous

44) All construction activities associated with the subdivision must be carried out in such a manner so as to not create nuisance to the satisfaction of the responsible authority.

45) Dry stone walls which are retained must:
   a) Be situated within public open space or road reserve;
   b) Have a suitable landscape interface to minimise maintenance requirements (for example mulch, garden bed or gravel) and which does not encourage public access immediately adjacent the retained walls;
   c) Be checked by a professional waller for any loose stones. Any loose stones are to be reinstated in the wall in secure positions;
   d) Retain post and wire or post and rail fences situated within the walls, with any wire protruding beyond the vertical face of the wall reinstated to original position or removed;
   e) Be incorporated into subdivision design to minimise disturbance to the walls (eg. utilisation of existing openings for vehicle and pedestrian access);
   f) all to the satisfaction of the responsible authority.

46) The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

47) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Construction of works

48) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

49) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.
Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

**Filling of land**

Before a Statement of Compliance is issued all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798 2007.

All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:

a) The provisions of any Site Environmental and Construction Management Plan (or equivalent); and

b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

**Reticulated services**

Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and underground electricity reticulation must be available to each lot.

Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.

**Telecommunications**

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and

b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Developer contributions (where no approved plan for the land)**

Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to provide for:

Contributions to Wyndham City Council for community and development infrastructure.

Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.
That the agreement ceases to have effect on a lot upon discharging of the relevant liabilities for that lot.

The preparation, execution and registration of the agreement must be at no cost to the responsible authority.

Development Infrastructure Levy (where approved plan for the land)

Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive open space contribution and public reserves

Before a Statement of Compliance for the stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Scheme must be made to the responsible authority in a manner which is consistent with the Precinct Structure Plan applying to the land, unless otherwise agreed to in writing by the responsible authority.

Before a Statement of Compliance for the stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible Authority.

In accordance with plans approved for public parks under this permit, except where bonded under condition 67, all parks must finished to the following levels of development to the satisfaction of the responsible authority prior to the transfer of land:

a) Removal of all existing disused structures, foundations, pipelines or stockpiles;

b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless a conservation reserve);

c) Provision of domestic standard services for water tapping, potable and recycled water connection points. Sewer and gas connection points must also be provided to land identified as an active reserve;

d) Planted in accordance with approved landscape plans;

e) Vehicles exclusion devices (fence, bollard or barrier kerb) and maintenance access points;

f) Construction of a 2.5 metre concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks as identified in the PSP; and

g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.
65(7) Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

66(8) Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans
67(9) Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:
   a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format. As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.
   b) Location of any permanent survey marks; and
   c) Catchment plans and detailed storm water computations in PDF format.

68(10) The various road works must be maintained by the owner until this condition has been complied with.

Landscape works
69(11) The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

70(12) The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water
71(13) Overall requirements:
   a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.
   b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.
   c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.
   d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

Date Issued: ____________________________ Date Permit comes into operation: ____________________________ Signature for the responsible authority:

The permit comes into operation on the same day as Amendment C175 to the Wyndham Planning Scheme comes into operation.

Permit No.: WYP6214/12
e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

23474) Prior to Certification of Plans of Subdivision:

a) Functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

b) Separate approvals from Melbourne Water are to be sought for any works within or in proximity to Doherty Road Drain, such as the installation of Stormwater quality treatment systems in the waterway corridor, road (bridge and culvert) crossings of the waterway, and other authority works including construction of sewer and water mains along and across the waterway, taking into account conditions above.

23575) Prior to commencement of works:

a) Prior to commencement of any works a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

2476) Prior to a Statement of Compliance:

a) Prior to the issue of a Statement of Compliance, the Owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) A Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

2577) Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

2678) Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

2779) The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

2880) Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

Part 7 – Permit expiry

2981) This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,

b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or

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c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.

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IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?
The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision-
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or.
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the responsible authority.
* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
**PLANNING PERMIT**

GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

**Permit no.:** WYP6215/12

**Planning scheme:** Wyndham Planning Scheme

**Responsible authority:** City of Wyndham

**ADDRESS OF THE LAND:** Lot 1 on Plan of Subdivision 701129N
Leakes Road, Tarneit

**THE PERMIT ALLOWS:** Subdivision of land in accordance with the plan endorsed under this permit and subject to the conditions set out in this permit.

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

**Part 1 – Conditions required to be satisfied before Certification of the Plan of Subdivision**

1) Before the certification of the plan of subdivision under the Subdivision Act 1988 a Stormwater Management Strategy report for the application is to be prepared to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:

   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.
   d) Increased use of water sensitive urban design in the development.

**General modified subdivision plan**

2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference *(YourLand Developments, 96A Application, Concept Plan of Subdivision, Drawing no: 1003/107, dated 30.10.13 by Human Habitats)* submitted with the application but modified to show:

   a) Any modification in response to the recommendations of a Traffic Impact Assessment on the operation of the Stage 1a entry road and intersection with Leakes Road;
b) An annotation to specify that when the interim signalised intersection of Davis and Leakes Road (as outlined in the Wyndham North Development Contributions Plan) is constructed, the Stage 1A intersection with Leakes Road is to be converted to a left in/lef out arrangement and an alternative intersection on Leakes Road providing full movement access to/from the subdivision is to be provided.

c) Demonstrate that waterway setbacks as approved by Melbourne Water have been provided;

d) Update road network where a connector street is provided to a 25.5m reserve to allow for an off-road bikeway with the exception of the east-west connector main street section which should detail 4.2m carriageway to accommodate on-road bike paths and 2.3m parking (as per Riverdale matrix);

e) Detail the location of the 'on-road bike lane & shared paths' along Leakes Road and Davis Road and the 'off-road bikeways' along the north-south and 'east-west' connector streets with the exception of the main street section, in accordance with Plan 7 (public transport & path network) shown in the Riverdale Precinct Structure Plan ensuring that the provide the following:
   i. Safe and convenient crossing points of connector roads and local streets at all intersections;
   ii. Safe and convenient transition between on and off-road bicycle networks;

f) Provision for two pedestrian links to Davis Road through the proposed super lots fronting Davis Road

g) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water

h) Subdivision plan to be updated to show appropriate traffic management devised such as roundabouts where cross intersections are proposed;

i) To provide a 3m pedestrian carriageway reserve to any lots with rear vehicle access only and fronting an open space reserve;

j) Remove any internal lot layout of the proposed ‘village centre’ from all plans, subject to a future permit application.

k) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.

3) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the application plans but incorporate the following:

a) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations;

b) Topography and existing features, including contours for the subject land and any affected adjacent land;
c) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land;

d) Typical cross-sections for each street type, dimensioning individual elements, subdivisional services offsets, trunk services, high voltage electricity lines, bus capable carriageways and any other spatial requirements identified in the approved Riverdale Precinct Structure Plan (‘the PSP’);

e) A table of offsets for all utility services and street trees;

f) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter islands, pavements, speed bumps or similar;

g) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres;

h) The proposed minor drainage network and any land required for maintenance access;

i) The major drainage system, including any watercourse, lake, wetland, silt pond, and/or piped elements showing preliminary sizing;

j) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its a destination approved by the relevant drainage authority;

k) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;

l) Preliminary location of reserves for electrical kiosks;

m) Works external to the subdivision, including both interim and ultimate access requirements;

n) Intersections with Davis and Leakes Road showing interim and ultimate treatments;

o) Subdivision or a stage of subdivision that is not adjacent to existing or approved infrastructure:
   
   i. The relationship between the subject subdivision stage and surrounding land.
   
   ii. Proposed linkages to future streets, open space, regional path network and upstream drainage.

p) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges to the satisfaction of Melbourne Water

q) Safe turning areas at each temporarily terminated road

**Public Infrastructure Plan**

4) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

Where this permit is for part of a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

5) Once approved, the PIP must be implemented to the satisfaction of the responsible authority.
6) The PIP may be amended with the prior written consent of the responsible authority.

7) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the Wyndham North Development Contributions Plan (‘the DCP’) applying to the land, or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

a) The extent of any storm water drainage works and road works proposed or required under this permit.

b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.

c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.

d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

8) The PIP may be amended with the consent of the responsible authority.

9) The PIP must specifically address the following to the satisfaction of the responsible authority:

a) The construction and timing of works, including relevant parts of Davis and Leakes Roads, and their intersections, as appropriate to the development, plus associated paths and other works required to access the development;

b) Definition of works to be in place before the issue of Statement of Compliance of any relevant stage.

10) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

a) the implementation of the Public Infrastructure Plan approved under this permit.

b) the equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01;

c) the timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account;

d) The deferral of DCP payments for land by the Council to enable that funding to be put towards DCP infrastructure items on the land, as agreed between the Council and the permit holder;

e) Any works-in-kind the owner wishes to undertake, including any sharing arrangement between developers, if applicable.
Plans for Certification

10) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

11) The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

a) all existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council.

b) At the first stage of subdivision a road reserve for the whole of the connector street shown on the land between Davis Road and the shared property boundary with Lot 2 PS701129 in the Precinct Structure Plan applying to the land.

c) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority.

d) Prior to the certification of the plan of subdivision, the plan must contain a restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.

e) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:

i. a material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;

ii. corner allotments are to provide two storey building envelopes on rear garages to allow for the development of studios or decks above the rear garage;

iii. the rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines;

all to the satisfaction of the responsible authority.

12) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Kangaroo Management Plan

13) Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries. Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.
14) The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the Responsible Authority.

Agreement with relevant authorities for utility services

15) The owner of the land must enter into agreements with:

a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity, and gas to each lot shown on the endorsed plans

b) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

c) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

16) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

17) The subdivision of the land must proceed in the order of under this permit may be carried out in stages shown (if any) as described on the endorsed plans except staging plan.

18) The staging plan may be amended with the prior written consent of the responsible authority.

Site Contamination

19) Before the development associated with the subdivision starts, (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:

a) The nature of the previous and existing land use/activities on the land.

b) An assessment of the potential level and nature of contamination on the land.

c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

20) If the environmental site assessment recommends an environmental audit of all or part of the land, then: a) before the commencement of any use for a sensitive purpose; or
a) before any buildings or works; or
b) before the development associated with the subdivision begins,
whichever is the earlier in respect of all or that part of the land as the case may be,
the following must be provided to the responsible authority, either:
c) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or
d) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

21) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

a) Implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and
b) The payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.

Residential stormwater drainage

22) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the responsible drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

23) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

24) Before any roads or drainage works associated with a stage of the subdivision commence and after approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP;
b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;
c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;
d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;

e) provision for all street tree planting;

f) underground drainage, wetlands, and Water Sensitive Urban Design infrastructure;

g) indented car parking bays where appropriate;

h) The location of static water supplies for fire fighting purposes that are:
   i. Accessible to fire fighting vehicles
   ii. Have sufficient volume to support effective fire fighting; or
   iii. Strategically positioned fire hydrants installed on the potable water supply system in addition to the fire hydrants installed on the recycled water supply system (where present); and
   iv. Water supply design, connections and flow rates.

i) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;

j) public lighting (including Davis Road) and underground electricity supply within all streets, access ways and reserves where appropriate;

k) traffic control measures;

l) street signs in accordance with Council’s standard design;

m) concrete footpaths in all streets and reserves as appropriate;

n) shared paths and bike paths in accordance with the PSP within streets and reserves;

o) underground drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;

p) the location and provision of vehicle exclusion devices abutting reserves where appropriate;

q) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;

r) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;

s) high stability permanent survey marks;

t) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;

u) appropriate line marking signage;

v) school crossing(s) where appropriate.

w) Bike path specifications on connector streets to the satisfaction of Public Transport Victoria; and

x) Any details and requirements of the Stormwater Management Strategy approved under this permit.
Site environmental and construction management plan

25) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

a) Relevant matters of occupational health and safety;
b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;
c) Environmental controls and cultural heritage protection measures including:
i. Remnant vegetation protection methods;
ii. Pest management methods;
iii. Details of the weed management program for the site;
iv. Control of sediment and protection of waterways from pollution;
v. Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.
vi. Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.

vii. A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.
viii. How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.

d) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

26) All drawing(s) in the SECMP must be drawn to an appropriate scale.

27) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

28) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

29) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

Biodiversity-Offset Requirements.

30) Before the construction of a building or the construction or carrying of works on land starts:
a) offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013);
b) any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and
c) the Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority.

31) The above requirements do not apply if, before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:

a) the payment of the fee in instalments; or
b) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or
c) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or
d) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or
e) a combination of any of the above; to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

32) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement

**Landscape plans**

33) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;
b) The type of species to be used for street tree planting in various stages of the subdivision;
c) The areas which will be available for landscaping;
d) Entrance treatments;
e) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;
f) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan; and
g) How any relevant landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

34) Before the commencement of works for any stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves.
b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.
d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
e) Additional supporting information, such as certified structural designs or building forms.
f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.
i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

35) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Part 3 – Conditions required to be satisfied during construction works

Miscellaneous

36) The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the Responsible Authority.

37) Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
39) The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries, unless with the written consent of the Secretary to the Department of Environment and Primary Industries.

40) During construction works under this permit, access to and egress from the subject land must be via a route located, constructed and maintained as approved by and to the satisfaction of the responsible authority.

39) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Provision of access

40) Before a Statement of Compliance is issued for Stage 1a of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

   a) Construct an intersection at the intersection of Leakes and Davis Roads; and
   b) Construct Leakes Road to an urban standard between Davis Road and the Stage 1a entry road; and
   c) Construct an intersection at the Stage 1a entry road and Leakes Road including a left-turn auxiliary lane to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

41) Before a Statement of Compliance is issued for Stage 15 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

   a) Construct Leakes Road to an urban standard between Davis Road and the Stage 15 entry road, and
   b) Construct an intersection at the Stage 15 entry road and Leakes Road including a median with a pedestrian refuge on Davis Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

42) Before a Statement of Compliance is issued for Stage 16, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

   a) Construct Davis Road to an urban standard between Leakes Road and the Stage 16 entry road; and
   b) Construct an intersection at the Stage 16 entry road and Davis Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).
Construction of works

43) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

44) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

45) Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

Filling of the land

46) Before a Statement of Compliance is issued all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798 2007.

47) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:
   a) The provisions of any Site Environmental and Construction Management Plan (or equivalent); and
   b) Australian Standard AS 3798 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

48) Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

Reticulated services

49) Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and electricity reticulation must be available to each lot, including reserves.

50) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.

Telecommunications

51) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Developer contributions (where no approved plan for the land)**

52. Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the *Planning and Environment Act* 1987 with the responsible authority to provide for:

a) Contributions to Wyndham City Council for community and development infrastructure.

b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

d) That the agreement ceases to have effect on a lot upon discharging of the relevant liabilities for that lot.

e) The preparation, execution and registration of the agreement must be at no cost to the responsible authority.

**Development Infrastructure Levy (where approved plan for the land)**

53. Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.
Passive Open Space Contribution and public reserves

54) Before a Statement of Compliance is issued for a stage of subdivision under the Subdivision Act 1988, a public open space contribution as specified in the Schedule to Clause 52.01 of the Wyndham Planning Scheme and the Wyndham North Developer Contributions Plan must be made to the responsible authority in a manner which is consistent with the Riverdale Precinct Structure Plan.

55) Before a Statement of Compliance is issued for a stage of subdivision under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible authority.

56) In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 57, all parks must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

   a) Removal of all existing disused structures, foundations, pipelines or stockpiles
   b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless conservation reserve requirements dictate otherwise).
   c) Provision of water tapping potable and recycled water connection points suitable for reserves. Sewer and gas connection points must also be provided to land identified as an active reserve.
   d) Drought tolerant plants.
   e) Vehicle exclusion devices (fence, bollard or other suitable method) and maintenance access points unless an alternative solution is agreed with the responsible authority.
   f) Construction of a 2.5 metre wide concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks identified in the PSP;
   g) Installation of park furniture including BBQs, shelters, tables, local scale playgrounds rubbish bins.

57) Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

58) Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.
Part 5 – Conditions required to be satisfied following construction works

As constructed plans

59) Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format. As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.

b) Location of any permanent survey marks; and

c) Catchment plans and detailed storm water computations in PDF format.

60) The various road works must be maintained by the owner until this condition has been complied with.

Landscape works

61) The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

62) The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

63) Overall requirements:

a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.

b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

64) Prior to Certification of Plans of Subdivision:
a) functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

b) separate approvals from Melbourne Water are to be sought for any works within or in proximity to Davis Creek, such as the installation of Stormwater quality treatment systems in the Creek corridor, road (bridge and culvert) crossings of the waterway, and other authority works including construction of sewer and water mains along and across the waterway, taking into account the conditions above.

65) Prior to commencement of works:

a) a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

66) Prior to a Statement of Compliance:

a) the owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) a Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

67) Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

68) Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

69) The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

70) Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

Part 7 – Permit expiry

71) This permit will expire if:
a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,
b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or
c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?
The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision-
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the responsible authority.

* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

Permit no.: WYP6213/13
Planning scheme: Wyndham Planning Scheme
Responsible authority: City of Wyndham

ADDRESS OF THE LAND: 1070 Sayers Road, Tarneit (Lot 2 PS 142708)

THE PERMIT ALLOWS: Subdivision of land in accordance with the plan endorsed under this permit and subject to the conditions set out in this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before submission of a modified subdivision plan

1) Before submission of a modified subdivision plan to the Responsible Authority under Condition 2 of this permit a Stormwater Management Strategy report for the application is to be prepared and submitted to the satisfaction of Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is also to consider:
   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.
   d) Increased use of water sensitive urban design in the development

General modified subdivision plan

2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will form part of this permit. The plan must be generally in accordance with plan reference: Golden Group, Proposed Subdivision Masterplan – Precinct A, 1070 Sayers Road, Tarneit, Drawing no: 2230 MP 6 Subdivision, dated 15/11/13 by Taylors submitted with the application but modified to show:

Date Issued: [ ]
Date Permit comes into operation:
The permit comes into operation on the same day as Amendment C176 to the Wyndham Planning Scheme comes into operation.
Signature for the responsible authority: [ ]
a) Removal of the area in Stages 7, 8 and the western part of Stage 5 south of the east-west 20.5m street from the application;

b) Demonstrate that waterway setbacks as approved by Melbourne Water have been provided;

c) Update connector street width to provide for an off-road bikeway;

d) Traffic control devices to Council engineering standards on any straight stretch of road which is greater than 240 metres in length;

f) In Stage 3:

I. a roundabout at the intersection of the north-south connector street and the western 'reserve/service road'

II. a roundabout at the southern intersection of the eastern north-south 'local road' and 'Street 3' or alternatively, at the adjacent intersection on ‘Street 3’ subject to agreement with the road authority

III. a t-deviation or roundabout at the northern intersection with the eastern north-south 'local road' and east west 'reserve/service road'

g) Details of the proposed shared path/bridgeland required for the connector road crossing of the waterway in Stage 3 to be extended into Precinct B.

h) Revise the boundary of Stage 4 to include the central ‘Local Park’ within the boundary of Stage 4

i) In Stage 5:

I. a roundabout at the western north-south local access road intersection with the east west street shown as 'street 1' or alternatively, at the adjacent intersection on ‘Street 1’ subject to agreement with the road authority

j) A 3m wide access shared path along the northern side of the Sayers Road.

k) Revise the layout of the lots in the north-eastern corner of stage 7 to remove the battle-axe lot from the eastern lot.

l) Revise the staging plan to extend all stages abutting a waterway/drainage corridor to the centre of the waterway corridor;

m) Road cross sections showing the location and detail of trunk services within the subdivision permit area

n) An intersection at the intersection of Davis and Sayers Roads including works that protects the intersection from the impacts of the 1:100 year flood event (the later to the satisfaction of Melbourne Water); and

o) Any amendment to the subdivision as a result of a stormwater management strategy submitted to and approved by Melbourne Water;

p) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.
The development as shown on the endorsed plan(s) must not be altered or modified without the prior written consent of the Responsible Authority.

3) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or each stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the application plans but incorporate the following:

   a) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 1

   b) Intersections with Sayers Road showing interim and ultimate treatments

   c) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations

   d) Topography and existing features, including contours for the subject land and any affected adjacent land;

   e) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land

   f) Details of tree protection zones for all trees to be retained on site

   g) Any trees proposed for removal from the site clearly designated

   bg) Typical cross-sections for each street type, dimensioning individual elements, subdivisonal services offsets, trunk services, high voltage electricity lines, bus capable carriageways and any other spatial requirements identified in the precinct structure plan applying to the land

   ih) A table of offsets for all utility services and street trees

   ii) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter islands, pavements, speed bumps or similar

   kj) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres

   lk) The proposed minor drainage network and any land required for maintenance access

   ml) The major drainage system, including any watercourse, lake, wetland, silt pond, and/or piped elements showing preliminary sizing

   nn) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination approved by the relevant drainage authority

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Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance

Preliminary location of reserves for electrical kiosks

Works external to the subdivision, including both interim and ultimate access requirements

Subdivision or a stage of subdivision that is not adjacent to existing or approved infrastructure:
   i. the relationship between the subject subdivision stage and surrounding land
   ii. proposed linkages to future streets, open space, regional path network and upstream drainage

Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges to the satisfaction of Melbourne Water

Safe turning areas at each temporarily terminated road

**Public Infrastructure Plan**

Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

Where this permit is for part of a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

The PIP may be amended with the prior written consent of the responsible authority.

The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the approved Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land.

Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

a) The extent of any storm water drainage works and road works proposed or required under this permit.

b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.
Planning and Environment Regulations 2005 Form 9

Panel – Golden Group – v4 – Panel Preferred Version

c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.

d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

7) The PIP must specifically address the following to the satisfaction of the responsible authority:

a) The construction and timing of works, including relevant parts of Sayers Road, and their intersections as appropriate to the development, plus associated paths and other works required to access development.

b) Definition of works to be in place before the issue of Statement of Compliance of any relevant stage.

8) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

a) The implementation of the Public Infrastructure Plan approved under this permit

b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01;

c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account;

d) The deferral of DCP payments for land by the Council to enable that funding to be put towards DCP infrastructure items on the land, as agreed between the Council and the permit holder;

e) Any works-in-kind the owner wishes to undertake, including any sharing arrangement between developers, if applicable.

Plans of certification

The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council

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Permit No.: WYP6213/13
b) At the first stage of subdivision a road reserve for the whole of the connector street shown on the land between Sayers Road and the shared property boundary with Lot 2 PS701129 in the Precinct Structure Plan applying to the land.

e) A restriction on the Plan of Subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority

d) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available

e) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:

i. A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;

ii. Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and

iii. The rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines

All to the satisfaction of the responsible authority.

The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act

Kangaroo Management Plan

Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries. Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.

The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the Responsible Authority.

Agreement with relevant authorities for utility services

The owner of the land must enter into agreements with:

a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity and gas to each lot shown on the endorsed plans

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b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

13) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

14) The subdivision of the land must proceed in the order of stages shown (if any) on the endorsed plans except with the prior written consent of the responsible authority.

Site Contamination

15) Before the development associated with the subdivision starts, other than preliminary works such as bore holes and excavation associated with an environmental site assessment, an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:

a) The nature of the previous and existing land use/activities on the land
b) An assessment of the potential level and nature of contamination on the land
c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

16) If the environmental site assessment recommends an environmental audit of all or part of the land, then:

a) before the commencement of any use for a sensitive purpose; or
b) before any buildings or works; or
c) before the development associated with the subdivision starts

whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

a) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or

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b) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site)

17) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and

b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land

Residential stormwater drainage

18) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system

19) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

20) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP;

b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;

c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;

d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;

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e) underground drainage, wetlands and water sensitive urban design infrastructure;

f) indented car parking bays where appropriate;

g) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority

h) public lighting (including Sayers Road) and underground electricity supply within all streets, access ways and reserves where appropriate;

i) provision for all street tree planting;

j) traffic control measures;

k) street signs in accordance with Council’s standard design;

l) concrete footpaths in all streets and reserves as appropriate;

m) shared paths and bike paths in accordance with the PSP within streets and reserves;

n) underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;

o) the location and provision of vehicle exclusion devices abutting reserves;

p) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;

q) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;

r) high stability permanent survey marks;

s) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;

t) appropriate line-marking and signage;

u) school crossing(s) where appropriate;

v) Bike path specifications on connector streets to the satisfaction of Public Transport Victoria;

w) any details and requirements of the Stormwater Management Strategy approved under this permit; and

x) Road works, drainage and other civil works must be provided, in accordance with construction plans and specifications as approved by the responsible authority, prior to the issue of Statement of Compliance

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Site environmental and construction management plan

21) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

a) Relevant matters of occupational health and safety;

b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;

c) Environmental controls and cultural heritage protection measures including:
   i. Remnant vegetation protection methods;
   ii. Pest management methods;
   iii. Details of the weed management program for the site;
   iv. Control of sediment and protection of waterways from pollution

d) Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.

e) Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire

f) A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.

g) How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles

h) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

All drawing(s) in the SECMP must be drawn to an appropriate scale.

22) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

23) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

24) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

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Landscape plans

25). Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;

b) The type of species to be used for street tree planting in various stages of the subdivision

c) The areas which will be available for landscaping

d) Landscaping treatment of Davis Creek waterway corridor consistent with the relevant conservation management plan approved under the Environment Protection and Biodiversity Act 1999 unless otherwise agreed by the Department of Environment and Primary Industries and the responsible authority;

e) Entrance treatments;

f) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;

g) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan; and

h) How any relevant landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

26). Before the commencement of works for any stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves;

b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant;

c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture;

d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls;

e) Additional supporting information, such as certified structural designs or building forms;

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f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds;

g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres;

h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land;

i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

27) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Biodiversity-offset requirements

28) Before the construction of a building or the construction or carrying out of works on land starts:

29) The above requirements do not apply if, before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:

30) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement

Part 3 – Conditions required to be satisfied during construction works

Tree Protection Zone

31) Before development (including demolition) commences in Stage 1 and Stage 3 of the subdivision (or such stage as the windrow of trees at the property’s eastern boundary is shown in an amended staging plan approved under this permit) a tree protection fence to the satisfaction of the responsible authority must be erected around the windrow of trees on the eastern boundary of the subdivision at a radius of 4.0metres from the base of the trunks to define “Tree Protection Zone”.

32) The Tree Protection Zone must remain in place until development is complete and the Tree Protection Zone remain in place until development is completed and the Tree Protection Zone must be watered regularly to the satisfaction of the responsible authority.
33) The Tree Protection Zone must include a notice on the fence to the satisfaction of the responsible authority advising on the purpose of the tree protection zone, the need to retain and maintain the temporary fencing and that fines may be imposed for removal or damage of the fencing and trees.

34) Except with the written consent of the responsible authority, within the Tree Protection Zone.

**Layout not altered**

35) Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

**Miscellaneous**

36) Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries, unless with the written consent of the Secretary to the Department of Environment and Primary Industries.

**Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance**

**Provision of access**

37) Before a Statement of Compliance is issued for Stage 1 of the subdivision, the developer must:

   a) Construct an intersection at the intersection of Davis and Sayers Road and the 28.0m connector road entry to the subdivision of Sayers Road; and
   
   b) Construct an intersection at the 28.0m connector entry road and Sayers Road; and
   
   c) Construct Sayers Road to an urban standard from Davis Road to Stage 1 entry road as approved under this permit and to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

38) Before a Statement of Compliance is issued for Stage 5 of the subdivision, the developer must:

   a) Construct Sayers Road to an urban standard up to the Stage 5 entry road; and
   
   b) Construct a Type C intersection at the entry road and Sayers Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).
Construction of works

39) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan and approved construction plans to the satisfaction of the responsible authority.

40) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

41) Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

Filling of land

42) Before a Statement of Compliance is issued for each stage, all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798.

43) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:

   a) the provision of any Site Environmental and Construction Management Plan (or equivalent); and
   
   b) Australian Standard AS 3789 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

44) Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

    a) Cause a nuisance or nearby land through the emission of dust
    
    b) Adversely affect the drainage of adjacent land through sediment and the like
    
    c) Affect overland flow paths

Reticulated services

45) Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and underground electricity reticulation must be available to each lot.

46) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.
Telecommunications

47) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and

b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Developer contributions (where no approved plan for the land)

48) Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to provide for:

a) Contributions to Wyndham City Council for community and development infrastructure,

b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

d) That the agreement ceases to have effect on a lot upon discharging of the relevant liabilities for that lot.

Development Infrastructure Levy (where approved plan for the land)

49) Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

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Signature for the responsible authority
b) where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

**Passive Open Space Contribution and reserves**

50) Before a Statement of Compliance is issued for a stage of subdivision under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Wyndham Planning Scheme Wyndham North Development Contributions Plan must be made to the responsible authority in a manner which is consistent with the incorporated Riverdale Precinct Structure Plan.

51) Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible authority.

52) In accordance with plans approved for public parks under this permit, except where bonded or secured under condition all passive open space must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

   a) Removal of all existing disused structures, foundations, pipelines or stockpiles
   b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless conservation reserve requirements dictate otherwise)
   c) Provision of water tapping potable and recycled water connection points suitable for reserves. Sewer and gas connection points must also be provided to land identified as an active reserve
   d) Drought tolerant plants
   e) Vehicle exclusion devices (fence, bollard or other suitable method) and maintenance access points unless an alternative solution is agreed with the responsible authority
   f) Construction of a 2.5 metre wide concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks identified in the PSP; and
   g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.
53) Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

54) Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans – D Spec and R Spec

54) Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format

b) As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC

c) Location of any permanent survey marks

d) Catchment plans and detailed storm water computations in PDF format; and

e) The various road works must be maintained by the owner until this condition has been complied with

Landscape works

55) The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

56) The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.
Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

Overall requirements:

a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.

b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

Prior to Certification of Plans of Subdivision:

The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

Prior to commencement of works:

Prior to a Statement of Compliance:

City West Water - Water, sewer & recycled water

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.
Powercor

Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

Part 7 – Permit expiry

This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or

b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or

c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.

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Date Issued: [Date]
Date Permit comes into operation:
The permit comes into operation on the same day as Amendment C176 to the Wyndham Planning Scheme comes into operation.
Signature for the responsible authority
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if:
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of:
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed, or
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the responsible authority.

* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
**PLANNING PERMIT**

**Permit no.:** WYP6217/12

**Planning scheme:** Wyndham Planning Scheme

**Responsible authority:** City of Wyndham

**ADDRESS OF THE LAND:**

Hogans Road (Lot 3 on LP 136754)
540 Hogans Road (Lot 2 on PS 500009U)
542 Hogans Road (Lot 1 on LP 136754)
180 Davis Road (Lot 1 on TP 703106)
all in Tarneit

**THE PERMIT ALLOWS:**

Subdivision of land in accordance with the plan endorsed under this permit and subject to the conditions set out in this permit.

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

### Part 1 – Conditions required to be satisfied before submission of a modified subdivision plan

1) Before submission of a modified subdivision plan to the Responsible Authority under Condition 2 of this permit a Stormwater Management Strategy report for the application is to be prepared and submitted to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:

   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.
   d) Increased use of water sensitive urban design in the development.
   e) General modified subdivision plan

2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference (Davis Road, Tarneit, Lot Density Plan, Drawing ref: 8352_UD_LDP02_V17, dated 19/02/2014 by bpd) submitted with the application but modified to show:

   a) replace annotation 'shared path to be extended by others' with 'shared path to connect to the Werribee River Shared Trail'
   b) re-design the frontages to Hogans Road to reflect its availability to provide direct property access between the Davis Creek and Davis Road
   c) the plans clearly identifying the alignment of the access street for Stage 2 so that it is aligned with the existing row of trees to be retained on the property to the west.
   d) cross sections detailing trunk service locations throughout the subdivision area
   e) update all connector streets to comply with the 25.5m cross section detailed in the approved Riverdale Precinct Structure Plan (‘the PSP’)
   f) detail the location of the ‘on-road bike lane & shared paths’ along Davis and Hogans Road & off-road bikeways’ along the east-west connector in accordance with Plan 7 (public transport & path network) shown in the Riverdale Precinct Structure Plan ensuring that the provide the following:
   g) safe and convenient crossing points of connector roads and local streets at all intersections;
h) safe and convenient transition between on and off-road bicycle networks.
i) demonstrate waterway setbacks as approved by Melbourne Water have been provided;
j) locate the shared path on the perimeter of the Biodiversity Conservation Strategy approved Growing Grass Frog corridor;
k) demonstrate the plans comply with the Conservation Area Interface Cross Sections in the Riverdale PSP;
l) revise the staging plan to extend all stages abutting a waterway to the centre of the waterway corridor;
m) any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 1;
n) an intersection at the intersection of Davis and Sayers Roads including works that protects the intersection from the impacts of the 1:100 year flood event (the later to the satisfaction of Melbourne Water) and accommodate a Growing Grass Frog passage to the satisfaction of the Department of Environment and Primary Industries;
o) to show a roundabout in stage 18 on the north-south road and first intersection off Hogans Road;
o) to provide a 3m pedestrian carriageway reserve to any lots with rear vehicle access only and fronting an open space reserve or a 5m pedestrian carriageway reserve to any lots fronting a conservation area.
p) Laneways adjoining rear loaded lots to have a minimum rear laneway cross section of 7 metres.

2) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the application plans but incorporate the following:

q) Any amendment to the subdivision plan as a result of a stormwater management strategy submitted to and approved by Melbourne Water under condition 1;

a) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations;
b) Topography and existing features, including contours for the subject land and any affected adjacent land;
c) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land;
d) Details of tree protection zones for all trees to be retained on site;
e) Any trees proposed for removal from the site clearly designated;
f) Typical cross-sections for each street type, dimensioning individual elements, subdivisional services offsets, trunk services, high voltage electricity lines, bus capable carriageways and any other spatial requirements identified in the precinct structure plan applying to the land;
g) A table of offsets for all utility services and street trees;
h) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter islands, pavements, speed bumps or similar;
i) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres;
j) The proposed minor drainage network and any land required for maintenance access;
k) The major drainage system, including any watercourse, lake, wetland, silt pond, and/ or piped elements showing preliminary sizing;
l) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination approved by the relevant drainage authority;
m) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;
n) Preliminary location of reserves for electrical kiosks.
o) Works external to the subdivision, including both interim and ultimate access requirements.
p) Intersections with (Davis and Hogans Road) showing interim and ultimate treatments.
q) Subdivision or a stage of subdivision that is not adjacent to existing or approved infrastructure:
   I. the relationship between the subject subdivision stage and surrounding land.
   II. proposed linkages to future streets, open space, regional path network and upstream drainage.
r) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges to the satisfaction of Melbourne Water.
s) Safe turning areas at each temporarily terminated road.

Public Infrastructure Plan

4) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

5) Where this permit is for part of a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

6) Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

7) The PIP may be amended with the prior written consent of the responsible authority.

8) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and Wyndham North Development Contributions Plan’ (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

a) The extent of any storm water drainage works and road works proposed or required under this permit.
b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.
c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.
d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.
e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.
f) The PIP must specifically address the following to the satisfaction of the responsible authority:
g) The construction and timing of works, including relevant parts of Sayers, Bethany, Davis and Hogans Roads, and their intersections, as appropriate to the development, plus associated paths and other works required to access the development;
h) Definition of works to be in place before the issue of Statement of Compliance of any relevant stage.

9) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

a) The implementation of the Public Infrastructure Plan approved under this permit.
b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01;
c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account;
d) The deferral of DCP payments for land by the Council to enable that funding to be put towards DCP infrastructure items on the land, as agreed between the Council and the permit holder;
e) Any works-in-kind the owner wishes to undertake, including any sharing arrangement between developers, if applicable.

Plans for certification

The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council.

b) A restriction on the Plan of Subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies without the written consent of the responsible authority.

c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.

d) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:

   I. A material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;
   II. Corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and,
   III. The rear garages shall use a variety of roof lines, and may include pitched rooftlines and reversed angled rooftlines.

all to the satisfaction of the responsible authority.

The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Kangaroo Management Plan

Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries.

The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the responsible authority.

Agreement with relevant authorities for utility services

The owner of the land must enter into agreements with:

a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity and gas to each lot shown on the endorsed plans

b) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

c) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

16) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

17) The subdivision of the land must proceed in the order of stages shown (if any) on the endorsed plans except with the prior written consent of the responsible authority.

18) The staging plan may be amended with the prior written consent of the responsible authority.

Site Contamination

19) Before the development associated with the subdivision starts, (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:
   a) The nature of the previous and existing land use/activities on the land.
   b) An assessment of the potential level and nature of contamination on the land.
   c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

20) If the environmental site assessment recommends an environmental audit of all or part of the land, then:
   before the commencement of any use for a sensitive purpose; or
   before any buildings or works; or
   before the development associated with the subdivision starts,
   whichever is the earlier in respect of all or that part of the land as the case may be, the following must be provided to the responsible authority, either:
   a) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or
   b) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

21) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:
   a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and
   b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.

Conservation Management Plan (Hogans House)

22) Prior to the commencement of works, a Conservation Management Plan for the heritage building must be prepared by a suitably qualified heritage professional (architect or engineer) to the satisfaction of the responsible authority. The conservation management plan must be prepared in accordance with the guidelines for Conservation Management Plans established by Heritage Victoria, which provides for the retention and protection of the heritage site (Hogans House) and includes the following:
   a) Details of the heritage status of the heritage place,
   b) A description of the methodology used to prepare the plan (i.e. the Australian ICOMOS Charter for the Conservation of Places of Cultural Significance (Burra Charter) 1999),
   c) Clearance of the land of any debris and boxthorn,
d) Retention of the cobble and gravel path,

e) Stabilisation of the bluestone ruins,

f) Any use or development of the heritage building must be undertaken in accordance with the Conservation Management Plan to the satisfaction of the responsible authority.

Residential stormwater drainage

20) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

21) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

22) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

a) the minimum level of streetscape diversity required by the PSP;

b) all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;

c) all details of works consistent with the approved functional layout plan and lodged plan of subdivision;

d) design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;

e) underground drainage, wetlands and water sensitive urban design infrastructure;

f) indented car parking bays where appropriate;

23) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;

24) public lighting (including Hogans Road and Davis Road) and underground electricity supply within all streets, access ways and reserves where appropriate;

25) provision for all street tree planting;

j) traffic control measures;

k) street signs in accordance with Council’s standard design;

l) concrete footpaths in all streets and reserves as appropriate;

m) shared paths and bike paths in accordance with the PSP within streets and reserves;

n) underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;

o) the location and provision of vehicle exclusion devices abutting reserves;

p) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;

q) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;

r) high stability permanent survey marks;

s) details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;
Site environmental and construction management plan

At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

a) Relevant matters of occupational health and safety;

b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;

c) Environmental controls and cultural heritage protection measures including:

I. Remnant vegetation protection methods;

II. Pest management methods;

III. Details of the weed management program for the site;

IV. Control of sediment and protection of waterways from pollution;

V. Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.

VI. Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.

VII. A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.

VIII. How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.

A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

All drawing(s) in the SECMP must be drawn to an appropriate scale.

The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

**Biodiversity—Land Management Co-operative Agreement**

Before development of land starts, an agreement must be entered into with the Secretary to the Department of Environment and Primary Industries under section 69 of the Conservation Forests and Lands Act 1987 to be registered on the title of the land, which must provide for the conservation and management of the land including any land not to be developed, and may include any matter that such an agreement may contain under the Conservation Forests and Lands Act 1987.
30) Before the development of land starts, an application must be made to the Registrar of Titles to register the agreement on the title to the land.

31) The owner must pay the reasonable costs of the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

32) The requirement above does not apply to land if any lot or part of a lot within a Conservation Area identified in the Precinct Structure Plan:
   a) is identified in a Precinct Structure Plan as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or
   b) is identified in a Precinct Structure Plan as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or
   c) is within a Conservation Area identified in a Precinct Structure Plan for nature conservation and is vested, or will be vested, in the Secretary to the Department of Environment and Primary Industries for conservation purposes; or
   d) is the subject of an agreement with the Secretary to the Department of Environment and Primary Industries to transfer or gift that land to:
      I. the Secretary to the Department of Environment and Primary Industries;
      II. the Minister for Environment and Climate Change; or
      III. another statutory authority.
      IV. to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

Biodiversity-Offset Requirements

33) Before the construction of a building or the construction or carrying of works on land starts:
   a) offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013);
   b) any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and
   c) the Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority.

34) The above requirements do not apply if, before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Lands Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:
   a) the payment of the fee in instalments; or
   b) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or
   c) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or
   d) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or
   e) a combination of any of the above;
to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

35(38) Before the construction of a building or construction or carrying not of works on the land, an application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act.

36(39) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

Conservation Interface Plan

37(40) Before the development starts, a Conservation Interface Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries which addresses how any development within 20 metres of any Conservation Area shown on a Precinct Structure Plan will be managed.

38(41) The endorsed Conservation Interface Plan must be implemented to the satisfaction of the Responsible Authority.

Landscape plans

39(42) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;
b) The type of species to be used for street tree planting in various stages of the subdivision;
c) The areas which will be available for landscaping;
d) Landscaping treatment of Davis Creek waterway corridor consistent with the relevant conservation management plan approved under the Environment Protection and Biodiversity Act 1999 unless otherwise agreed by the Department of Environment and Primary Industries and the responsible authority;
e) Entrance treatments;
f) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;
g) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan; and
h) How any relevant landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

40(43) Before the commencement of works for any stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves.
b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.
d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
e) Additional supporting information, such as certified structural designs or building forms.
f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.
h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.

i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

44) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Part 3 – Conditions required to be satisfied during construction works

Layout not altered

45) Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Miscellaneous.

41) The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

Construction requirements

42) Before the start of construction of a building or construction or carrying out of works within 15 metres of:

43) a Conservation Area identified in the Precinct Structure Plan;

44) scattered trees or patches of native vegetation identified for retention in the Precinct Structure Plan;

45) a vegetation protection fence must be erected around each scattered tree, patch of native vegetation and the Conservation Area. The vegetation protection fence must:

a) for a Conservation Area, be located at least 2 metres from the Conservation Area, or
b) for a scattered tree or patch of vegetation, be twice the canopy distance of the scattered tree or patch or at least 2 metres, whichever is the greater; and
c) be highly visible and be at least [ ] metres in height; and
d) remain in place for the period of construction.

46) Construction stockpiles, fill, machinery, excavation and works must:

a) be located not less than 15 metres from a waterway;
b) be located outside the vegetation protection fence;
c) be constructed and designed to ensure that the Conservation Area, and any located trees identified in the Planning Scheme Provisions be retained are protected from adverse impacts during construction;
d) not be undertaken if it presents a risk to any vegetation within a Conservation Area; and
e) be carried out under the supervision of a suitable qualified ecologist or arborist.

47) Any earthworks occurring adjacent to or within the Davis Creek floodplain must result in no net reduction or net improvement in floodplain storage during a 1:100 year flood event.

Removal of top soil

53) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance

Provision of access

48) Before a Statement of Compliance is issued for Stage 1 of the subdivision, or where the approved staging plan is amended as approved by the responsible authority, the developer must:
a) Construct an intersection at the intersection of Davis and Sayers Roads including works that protects the intersection from the impacts of the 1:100 year flood event (the later to the satisfaction of Melbourne Water); and
b) Construct Davis Road to an urban standard between Sayers Road and the Stage 1 entry road; and
c) Construct an intersection at the Stage 1 entry road and Davis Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

Before a Statement of Compliance is issued for Stage 2 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

a) Construct Davis Road to an urban standard between Sayers Road and the Stage 2 entry road, and
b) Construct an intersection at the Stage 2 entry road and Davis Road including a median with a pedestrian refuge on Davis Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

Before a Statement of Compliance is issued for Stage 9 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

a) Construct Davis Road to an urban standard between Sayers Road and the Stage 9 connector entry road; and
b) Construct an intersection at the Stage 9 connector entry road and Davis Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

Before a Statement of Compliance is issued for Stage 18 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

a) Construct an urban standard crossing of Davis Creek on Hogans Road including works that protects the crossing from the impacts of the 1:100 year flood event (the later to the satisfaction of Melbourne Water); and
b) Construct Hogans Road to an urban standard between Davis Creek and the Stage 18 entry road; and
c) Construct an intersection at the Stage 18 entry road and Hogans Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

Before a Statement of Compliance is issued for Stage 26 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

a) Construct Davis Road to an urban standard between Sayers Road and the Stage 26 entry road, and
b) Construct an intersection at the Stage 26 entry road and Davis Road including a median with a pedestrian refuge on Davis Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

Before a Statement of Compliance is issued for Stage 28 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must:

a) Construct Davis Road to an urban standard up to Hogans Road; and
b) Construct Hogans Road to an urban standard up to Davis Road; and
c) Construct an intersection at Davis and Hogans Road; and
d) Construct a pedestrian and cyclist crossing of Davis Creek between Hogans Road and Bethany Road to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).
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54.60) Before a Statement of Compliance is issued for Stage 28 of the subdivision, or where the approved staging plan is amended another stage as approved by the responsible authority, the developer must construct the connector road/Bethany Road road crossing of Davis Creek (half of the crossing construction cost to be funded by Wyndham City Council) to the satisfaction of the responsible authority.

Construction of works

55.61) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Infrastructure Plan to the satisfaction of the responsible authority.

Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

Access to each lot created must be provided by a sealed and fully constructed road or other pavement to the satisfaction of the responsible authority.

Filling of land

58.64) Before a Statement of Compliance is issued for each stage, all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798. The results of the tests must be produced and be to the satisfaction of the responsible authority.

59.65) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:
   a) The provisions of any Construction Management Plan, and
   b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

The land must be filled in a manner that does not:
   a) Cause a nuisance or nearby land through the emission of dust;
   b) Adversely affect the drainage of adjacent land through sediment and the like;
   c) Affect overland flow paths.

Reticulated services

62.68) Prior to the issue of a Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and underground electricity reticulation must be available to each lot.

63.69) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.

Telecommunications

64.70) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation to the responsible authority from:
   a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
   b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
Developer contributions (where no approved plan for the land)

Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Act with the responsible authority to provide for:

a) Contributions to Wyndham City Council for community and development infrastructure.
b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.
c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.
d) The agreement ceases to have affect once the liabilities for that lot have been discharged.

The preparation, execution and registration of the agreement must be at no cost to the responsible authority.

Development Infrastructure Levy (where approved plan for the land)

Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) a Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive Open Space contribution and public Reserves

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the Schedule to Clause 52.01 of the Wyndham Planning Scheme and the Wyndham North Development Contributions Plan must be made to the responsible authority in a manner which is consistent with the Riverdale Precinct Structure Plan.

Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible authority.

In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 70 all passive open space must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:

a) Removal of all existing disused structures, foundations, pipelines or stockpiles
b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless conservation reserve requirements dictate otherwise).
c) Provision of water tapping potable and recycled water connection points suitable for reserves. Sewer and gas connection points must also be provided to land identified as an active reserve.
d) Drought tolerant plants.
e) Vehicle exclusion devices (fence, bollard or other suitable method) and maintenance access points unless an alternative solution is agreed with the responsible authority.
f) Construction of a 2.5 metre wide concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks identified in the PSP; and

g) Installation of park furniture including BBQs, shelters, tables, playgrounds and rubbish bins.

Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans – D Spec and R Spec

Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format.

b) As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC.

c) Location of any permanent survey marks;

d) Catchment plans and detailed storm water computations in PDF format; and

The various road works must be maintained by the owner until this condition has been complied with.

Landscape works

The soft landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.

The hard landscaping shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

Overall requirements:

a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.

b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.
Prior to Certification of Plans of Subdivision:

a) the design for the intersection of Sayers and Davis Roads must be submitted in electronic format to Melbourne Water for approval. The design is to accommodate a 100 year flow rate of 50m^3/sec, include two separate culverts under Sayers and Davis Roads and demonstrate provision for fish and Growling Grass Frog passage, to the satisfaction of the Responsible Authority.

b) functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

c) separate approvals from Melbourne Water are to be sought for any works within or in proximity to Davis Creek, such as the installation of Stormwater quality treatment systems in the Creek corridor, road (bridge and culvert) crossings of the Creek, and other authority works including construction of sewer and water mains along and across the Creek, taking into account conditions above.

Prior to commencement of works:

a) Prior to commencement of any works a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

Prior to a Statement of Compliance:

a) Prior to the issue of a Statement of Compliance, the Owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) A Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.

Part 7 – Permit expiry

This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,

b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or

c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?
The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision-
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?
* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or;
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or;
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the responsible authority.

* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

Permit no.: WYP6212/12
Planning scheme: Wyndham Planning Scheme
Responsible authority: City of Wyndham

ADDRESS OF THE LAND: 990 Sayers Road, Tarneit
(Portion D on TP 3206B, Section 15, Parish of Tarneit)

THE PERMIT ALLOWS: Subdivision of land in accordance with the plan endorsed under this permit and subject to the conditions set out in this permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Part 1 – Conditions required to be satisfied before Certification of the Plan of Subdivision
1) Before the certification of the plan of subdivision under the Subdivision Act 1988 a Stormwater Management Strategy report for the application is to be prepared to the satisfaction of Melbourne Water. The report is to consolidate material previously submitted in relation to drainage and water quality treatment, and provide any additional information required by Melbourne Water. The report is to confirm the dimensions of any drainage or natural waterway reserve within or adjacent the land, including any associated water quality treatment assets, to the satisfaction of Melbourne Water. The report is also to consider:
   a) Directing stormwater runoff into nature strips, medians and other planted areas
   b) Local stormwater harvesting for irrigation of public open space
   c) Provision of enhanced liveability through more canopy coverage reduced hard surfaces, increased green space etc.
   d) Increased use of water sensitive urban design in the development.

- General modified subdivision plan
2) A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with plan reference Satterley Property Group, Concept Plan, Section 96A Eastern Precinct, 990 Sayers Road, Tarneit, Drawing no: 36390CP-E-Revision J, dated 19/2/2014 by Watsons) submitted with the application but modified to show:
   a) revise the staging plan to extend all stages abutting a waterway/drainage corridor to the centre of the waterway corridor
   b) detail the location of the 'on-road bike lane & shared paths' along Davis Road in accordance with Plan 7 (public transport & path network) shown in the Riverdale Precinct Structure Plan ensuring that the provide the following:
      i. safe and convenient crossing points of connector roads and local streets at all intersections
      ii. safe and convenient transition between on and off-road bicycle networks
   c) demonstrate that waterway setbacks as approved by Melbourne Water have been provided.
   d) Any amendment to the subdivision plan as a result of a stormwater management submitted and strategy submitted to and “Satterley Property Group & YourLand Properties, Tarneit: Stormwater Quality Strategy (within the Davis Creek DSS) October 2013” approved by Melbourne Water.
e) An intersection at the intersection of Davis and Sayers Roads including works that protects the intersection from the impacts of the 1:100 year flood event (the later to the satisfaction of Melbourne Water) and accommodate a Growling Grass Frog passage to the satisfaction of the Department of Environment and Primary Industries;

f) Traffic management devices to ensure the safe operation of the 13.5m local access road abutting Davis Creek in stages 7, 8 & 9

3) Before the certification of a plan of subdivision, or any other time agreed by Council a functional layout plan for the subdivision or the stage of subdivision must be submitted to and approved by the responsible authority. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the application plans but incorporate the following:

a) Intersections with Davis Road showing interim and ultimate treatments,

b) The proposed bridge crossing from Stage 5 to the north-western corner of the land,

c) A subdivision layout drawn to scale, including proposed street names, lot areas, lot numbers and widths of street reservations.

d) Topography and existing features, including contours for the subject land and any affected adjacent land.

e) The location of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.

f) Details of tree protection zones for all trees to be retained on site.

g) Any trees proposed for removal from the site clearly designated.

h) Typical cross-sections for each street type, dimensioning individual elements, subdivisional services offsets, trunk services, high voltage electricity lines, bus capable carriageways and any other spatial requirements identified in the approved Riverdale Precinct Structure Plan (‘the PSP’).

i) A table of offsets for all utility services and street trees.

j) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls such as signals, roundabouts, splitter islands, pavements, speed bumps or similar.

k) Splays of a minimum 3 metres x 3 metres dimension at all intersections of the local road network excepting an intersection with a laneway where the splay may be a minimum of 2 metres x 2 metres.

l) The proposed minor drainage network and any land required for maintenance access.

m) The major drainage system, including any watercourse, lake, wetland, silt pond, and/ or piped elements showing preliminary sizing.

n) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to a destination approved by the relevant drainage authority.

o) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;

p) Preliminary location of reserves for electrical kiosks.

q) Works external to the subdivision, including both interim and ultimate access requirements.

r) Intersections with Davis Road showing interim and ultimate treatments.

s) Subdivision or a stage of subdivision that is not adjacent to existing or approved infrastructure:

i) plan indicating the relationship between the subject subdivision stage and surrounding land.

ii) proposed linkages to future streets, open space, regional path network and upstream drainage

T) Proposed drainage infrastructure and any other infrastructure proposed within or over a drainage reserve, such as road or pedestrian bridges to the satisfaction of Melbourne Water.
Prior to the construction of a dwelling on each lot less than 300sqm in area, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The dwelling design must be in accordance with Clause 54 of the Wyndham Planning Scheme and provide for each dwelling:

A site plan showing the location of any proposed dwelling, setbacks, private open space area, landscaping, car parking and vehicle cross over;

A floor layout plan;

Elevation plans;

A printed sample of all external materials, colours and finishes;

A copy of any proposed, approved and/or registered restrictive covenant (including memorandum of common provisions), Section 173 Agreement of any other encumbrance applicable to each lot less than 300sqm must be submitted with the plans.

The development allowed by this permit and shown on the plans and/or schedules endorsed to accompany this permit must not be changed for any reason without the consent of the Responsible Authority.

Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Before the use of the development starts, the car parking areas and access ways must be drained, and fully sealed and constructed with asphalt, interlocking paving bricks, coloured concrete or other similar materials to the satisfaction of the Responsible Authority.

In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.

Vehicular access to the site must be by way of a vehicle crossing constructed in accordance with Council’s Vehicle Crossing Specifications to suite the proposed driveway(s) and the vehicles that will be using the crossing(s). The location, design, and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused or redundant crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Road Opening Permit.

Discharge of stormwater from the land will be required by means of an underground pip drainage system designed to the satisfaction of the responsible Authority and discarding into an approved outlet in a street or an underground pipe drain to the requirement of the Responsible Authority. In this regard no water shall be discharged from any pipe or paved area onto the surface of any adjacent land.

Before the use of the development use commences, reticulated (water, sewerage, gas and electricity) services must be constructed and available to the satisfaction of the Responsible Authority.

The permit holder shall be responsible to meet all costs associated with the reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The permit holder shall be responsible for obtaining prior specific written approval for any works involving the alteration of Council or other Public Authority assets.

Prior to the occupation of the dwelling on the subject site, a letter box and house number to the satisfaction of the Responsible Authority shall be provided.

At all times during the construction phase of the development, the permit holder shall take measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site.

Upon completion of all buildings and works authorised by this permit the permit holder must notify the Responsible Authority of the satisfactory completion of the development and compliance with all relevant conditions.
Any litter generated by building activities on the site shall be collected and stored in an appropriate enclosure which complies with Council’s Code of Practice for building/development sites. The enclosures shall be regularly emptied and maintained such that no litter overspills onto adjoining land. Prior to occupation and/or use of the building, all litter shall be completely removed from the site.

During the construction phase, a truck wheel washing facility or similar devise must be installed and used to the satisfaction of the Responsible Authority so that vehicles leaving the site do not deposit mud or other materials on roadways. Any mud or other materials deposited on roadways as a result of construction works on the site must be cleaned to the satisfaction of the Responsible Authority within two hours of it being deposited.

This permit for the development of the land for a single dwelling expires if the development is not completed within ten years following the date of issue of the permit. Before the permit expires or within the three months afterwards, the owner of the occupier of the land to which it applies may ask the Responsible Authority for an extension of time. The Responsible Authority may extend the time within which the development or any stage of it is to be started or the development or any stage of it is to be completed.

Public Infrastructure Plan

4) Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988 a Public Infrastructure Plan (PIP) must be submitted to and approved by the responsible authority.

Where this permit is for part of a broader subdivision of land by the permit holder, the PIP must relate to the land in this permit and as far as reasonably practicable the broader land as shown in the PSP.

Once approved, the PIP must be implemented to the satisfaction of the responsible authority.

The PIP may be amended with the prior written consent of the responsible authority.

5) The PIP must show the proposed location, type, staging and timing of delivery of all infrastructure on the land which is identified in the PSP and the approved Wyndham North Development Contributions Plan (‘the DCP’), or which is otherwise reasonably required on or to the land or on any other land as a result of the subdivision of the land. Without limiting the extent of what must be shown on and in the PIP it must include the following to the satisfaction of the responsible authority:

a) The extent of any storm water drainage works and road works proposed or required under this permit.

b) The land which is required to be set aside for infrastructure identified in the DCP or the PSP including land required for public open space, community facilities and any proposed reconciliation payment in respect of the land having regard to its value set out in the DCP.

c) An estimate of the extent of equalisation which is required in respect of public open space to be provided having regard to the PSP and the DCP.

d) Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which can be provided “in lieu” of development contributions in accordance with the DCP.

e) Any other relevant matter related to the provision of infrastructure reasonably required by the responsible authority.

The PIP may be amended with the consent of the responsible authority.

6) The PIP must specifically address the following to the satisfaction of the responsible authority:

a) The construction and timing of works, including relevant parts of Davis Road, and their intersections, as appropriate to the development, plus associated paths and other works required to access the development;

b) Definition of works to be in place before the issue of Statement of Compliance of any relevant stage.

7) Before the certification of a plan of subdivision or at such other time which is agreed between Council and the owner, if required by the responsible authority or the owner, the owner must enter into an agreement or agreements under section 173 of the Planning and Environment Act 1987 which provides for:

a) The implementation of the Public Infrastructure Plan approved under this permit.

b) The equalisation of open space having regard to the areas set aside in a plan of subdivision and the amount specified in the schedule to clause 52.01;
c) The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP or the public open space account;

d) The deferral of DCP payments for land by the Council to enable that funding to be put towards DCP infrastructure items on the land, as agreed between the Council and the permit holder;

e) Any works-in-kind the owner wishes to undertake, including any sharing arrangement between developers, if applicable.

Plans for certification

8) The Small Lot Housing Code incorporated into the Wyndham Planning Scheme is endorsed under this planning permit.

9) The plan(s) of subdivision submitted for certification must be generally in accordance with the endorsed plans but modified to show the following to the satisfaction of the responsible authority:

   a) All existing and proposed easements and sites for existing or required utility services and roads on the land in favour of the relevant authority for which the easement or site is to be created. An easement must not detrimentally impact on the primary function of a recreation reserve unless agreed by Wyndham City Council.

   b) A restriction on the Plan of Subdivision to the effect that development must not be constructed otherwise than in accordance with the Small Lot Housing Code on the lot(s) to which it applies, **without the written consent of the responsible authority**.

   c) A restriction which provides that no dwelling or commercial building may be constructed on any lot unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it become available.

   d) A restriction on the plan of subdivision to the effect that development must not be constructed otherwise than in accordance with approved design guidelines for lots proposed to be accessed by a rear access way, and to which the Small Lot Housing Code does not apply. The design guidelines within the restriction must include:

      i. material schedule detailing garage finishes, including building materials, mechanical doors, colours, paving treatments and landscaping treatments to the rear of the subject lots;

      ii. corner allotments are to provide two storey building envelopes on rear garages to allow for the option of development of studios or decks above the rear garage; and,

      iii. the rear garages shall use a variety of roof lines, and may include pitched rooflines and reversed angled rooflines.

   all to the satisfaction of the responsible authority.

10) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Kangaroo Management Plan

11) Before the certification of the plan of subdivision, a Kangaroo Management Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries.

12) The endorsed Kangaroo Management Plan must include information concerning responsibility for the implementation of the Plan and the Plan must be implemented to the satisfaction of the Responsible Authority.

11) Once approved the plan will be endorsed by the Responsible Authority and form part of the permit.

Agreement with relevant authorities for utility services

13) The owner of the land must enter into agreements with:

   a) the relevant authorities for the provision of potable water supply, recycled water supply, drainage, sewerage facilities, electricity, and gas to each lot shown on the endorsed plans

   b) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
c) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Part 2 - Conditions required to be satisfied prior to commencement of works

Staging of the subdivision

14) A staging plan must be submitted to and approved by the responsible authority. The plan must show all land in the permit area as within a stage. When approved the plan will be endorsed and will then form part of this permit.

15) The subdivision of the land must proceed in the order of stages shown (if any) on the endorsed plans except with the prior written consent of the responsible authority.

16) The staging plan may be amended with the prior written consent of the responsible authority.

Site Contamination

17) Before the development associated with the subdivision starts, (other than preliminary works such as bore holes and excavation associated with an environmental site assessment), an environmental site assessment of the land by a suitably qualified environmental professional must be undertaken which provides the following information:

a) The nature of the previous and existing land use/activities on the land.

b) An assessment of the potential level and nature of contamination on the land.

c) Advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

18) If the environmental site assessment recommends an environmental audit of all or part of the land, then:

a) before the commencement of any use for a sensitive purpose; or

b) before any buildings or works; or

c) before the certification of a plan of subdivision for a stage that includes an area of land identified as being impacted by contamination.

d) development associated with the subdivision starts.

whichever is the earlier in respect of all or that part of the land as the case may, the following must be provided to the responsible authority, either:

(i) A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or

(ii) A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

19) If a Statement of Environmental Audit is provided rather than a Certificate of Environmental Audit and the Statement of Environmental Audit indicates that the environmental conditions of the relevant land are suitable for a sensitive use subject to conditions, the owner of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 before the construction of any building on the relevant land proving for the:

a) implementation and on-going compliance with all conditions in the Statement of Environmental Audit; and

b) the payment of the responsible authority’s reasonable legal costs and expenses of drafting/reviewing and registering the agreement by the owner of the relevant land.
Residential stormwater drainage

20) Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the relevant drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system.

21) All urban storm water systems must incorporate measures to satisfy the objectives of “Best Practice Environmental Management Guidelines” (CSIRO 1999) or later publication as relevant to the satisfaction of the relevant drainage authority.

Construction plans

22) Before any roads or drainage works associated with a stage of the subdivision commence and after the approval of the relevant functional layout plan, detailed construction plans for the stage of works must be submitted to and approved by the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include as appropriate:

- the minimum level of streetscape diversity required by the PSP;
- all necessary computations and supporting documentation for any structure, traffic data, drainage infrastructure and geotechnical investigation report;
- all details of works consistent with the approved functional layout plan and lodged plan of subdivision;
- design for full construction of pavements with kerb and channel and vehicular crossings where appropriate;
- underground drainage, wetlands, and water sensitive urban design infrastructure;
- indented car parking bays where appropriate;
- provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the responsible authority;
- public lighting and underground electricity supply within all streets, access ways and reserves where appropriate;
- provision for all street tree planting;
- traffic control measures;
- street signs in accordance with Council’s standard design;
- concrete footpaths in all streets and reserves as appropriate;
- shared paths and bike paths in accordance with the PSP within streets and reserves;
- underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;
- the location and provision of vehicle exclusion devices abutting reserves;
- details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;
- appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;
- high stability permanent survey marks;
- details in relation to all filling on the site which must be compacted to specifications approved by the responsible authority;
- appropriate line-marking and signage; and
- school crossing(s) where appropriate.
- Bike path specifications on connector roads to the satisfaction of Public Transport Victoria; and
- any details and requirements of the Stormwater Management Strategy approved under this permit.
Site environmental and construction management plan

23) At least 7 days prior to the commencement of works a Site Environmental and Construction Management Plan (SECMP) must be submitted to and approved by the responsible authority and where relevant other affected authorities as relevant (including Melbourne Water, the CFA and DEPI). When approved, the plan will be endorsed and then form part of the planning permit. The SECMP must describe:

   a) Relevant matters of occupational health and safety;
   b) Traffic management including the proposed route for construction vehicle access to the site including a program for the upgrade and maintenance works required along this route while any works are in progress;
   c) Environmental controls and cultural heritage protection measures including:
      i. Remnant vegetation protection methods;
      ii. Pest management methods;
      iii. Details of the weed management program for the site;
      iv. Control of sediment and protection of waterways from pollution;
      v. Means by which foreign material will be restricted from being deposited on public roads by vehicles associated with building and works on the land.
      vi. Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire.
      vii. A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas.
      viii. How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles
   d) A monitoring schedule showing the proposed monitoring procedures to mitigate environmental harm or nuisance and corrective actions outlining the procedures to be followed in the event of non-compliance with the monitoring schedule.

24) All drawing(s) in the SECMP must be drawn to an appropriate scale.

25) The developer must keep the responsible authority informed in writing of any changes to the SECMP. If in the opinion of the responsible authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.

26) Before the commencement of works the SECMP must be made available to any authorised representatives of the construction contractor and project superintendent as appointed by the developer.

27) The approved SECMP must be implemented at all times to the satisfaction of the responsible authority.

Land Management Co-operative Agreement

28) Before development of land starts, an agreement must be entered into with the Secretary to the Department of Environment and Primary Industries under section 69 of the Conservation Forests and Lands Act 1987 to be registered on the title of the land, which must provide for the conservation and management of the land including any land not to be developed, and may include any matter that such an agreement may contain under the Conservation Forests and Lands Act 1987.

29) The owner must pay the reasonable costs of the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement.

30) The requirement above does not apply to land if any lot or part of a lot within a Conservation Area identified in the Precinct Structure Plan:

   a) is identified in a Precinct Structure Plan as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or
   b) is identified in a Precinct Structure Plan as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or
c) is within a Conservation Area identified in a Precinct Structure Plan for nature conservation and is vested, or will be vested, in the Secretary to the Department of Environment and Primary Industries for conservation purposes; or
d) is the subject of an agreement with the Secretary to the Department of Environment and Primary Industries to transfer or gift that land to:
   i. the Secretary to the Department of Environment and Primary Industries;
   ii. the Minister for Environment and Climate Change; or
   iii. another statutory authority.
to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

**Biodiversity—Threatened species habitat offset requirements**

31) Before the construction of a building or the construction or carrying of works on land starts:
   a) offsets for the loss or deemed loss of threatened species habitat and native vegetation on land must be secured; offsets must be secured by making a request for offsets to the Secretary to the Department of Environment and Primary Industries in accordance with the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013);
   b) any fee payable for securing the offsets through the Secretary to the Department of Environment and Primary Industries under the Conservation Forests and Land Act 1987 must be paid; and
   c) the Secretary to the Department of Environment and Primary Industries must have certified in writing that the relevant fee for the development has been paid and such certification must be submitted to the Responsible Authority.

32) The above requirements do not apply if, before the start of construction of a building or the construction or carrying out of works, the owner has entered into an agreement with the Responsible Authority and the Secretary to the Department of Primary Industries under section 173 of the Planning and Environment Act 1987, which provides for the payment of the fee required under section 28 of the Conservation Forests and Land Act 1987 to secure offsets through the Secretary to the Department of Environment and Primary Industries by:
   a) the payment of the fee in instalments; or
   b) the transfer or vesting of land within a Conservation Area identified in the Precinct Structure Plan for Nature Conservation to or in the Secretary to the Department of Environment and Primary Industries in lieu of payment of the fee for the land; or
   c) the carrying out of works within a Growling Grass Frog corridor identified in a Precinct Structure Plan in lieu of payment of the fee for the land; or
   d) the retention in perpetuity of native vegetation on the land that is a scattered tree, in lieu of payment of the fee for the extent of native vegetation; or
   e) a combination of any of the above;
to the satisfaction of the Secretary to the Department of Environment and Primary Industries and/or the Commonwealth.

33) Before the start of the construction of a building or construction or carrying out of works on the land, an application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the Act.

34) The owner must pay the reasonable costs of the Responsible Authority and the Secretary to the Department of Environment and Primary Industries in the preparation, execution and registration of the agreement

**Conservation Interface Plan**

35) Before the development starts, a Conservation Interface Plan must be submitted to and approved by the Secretary to the Department of Environment and Primary Industries which addresses how any development within 20 metres of any Conservation Area shown on a Precinct Structure Plan will be managed.

36) The endorsed Conservation Interface Plan must be implemented to the satisfaction of the Responsible Authority.
Landscape plans

37) Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:

a) The landscaping theme and graphical concepts to be developed for the subdivision;

b) The type of species to be used for street tree planting in various stages of the subdivision;

c) The areas which will be available for landscaping;

d) Landscaping treatments of Davis Creek waterway corridor consistent with the relevant conservation management plan approved under the Environment Protection and Biodiversity Act 1999 unless otherwise agreed by the Department of Environment and Primary Industries and the responsible authority;

e) Entrance treatments;

f) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves; and

g) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan.

38) Before the commencement of works for any stage of the subdivision, a detailed landscape plan prepared by a person suitably qualified or experienced in landscape design must be submitted to and approved by the responsible authority for that relevant stage. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must be consistent with any endorsed landscape master plan and must show:

a) New plantings including their layout to be provided in any road reserves and municipal reserves.

b) A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.

c) The proposed layout, materials and finishes paths, areas of pavement, playgrounds, play items, structures and street furniture.

d) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.

e) Additional supporting information, such as certified structural designs or building forms.

f) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.

g) All proposed street-tree planting using semi-advanced trees, with minimum container size of 45 litres.

h) The implementation of any relevant requirements and guidelines contained in the precinct structure plan applying to the land.

i) Soil quality and planting techniques in median or verge tree planting zones along arterial roads (including service road nature strips) that will support full growth of medium to large trees.

39) The landscape works shown on the approved landscape plan must be carried out and completed to the satisfaction of the responsible authority.

Part 3 – Conditions required to be satisfied during construction works

Layout not altered

12) Subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Miscellaneous
13) The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the Responsible Authority.

14) The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Melbourne Strategic Assessment) (Department of Environment and Primary Industries, 2013) must be implemented in the carrying out of development to the satisfaction of the Secretary to the Department of Environment and Primary Industries, unless with the written consent of the Secretary to the Department of Environment and Primary Industries.

15) No top soil must be removed from land to be subdivided without the written consent of the responsible authority.

**Construction requirements**

16) Before the start of construction of a building or construction or carrying out of works within 15 metres of:
   a) a Conservation Area identified in the Precinct Structure Plan;
   b) scattered trees or patches of native vegetation identified for retention in the Precinct Structure Plan;
   c) a vegetation protection fence must be erected around each scattered tree, patch of native vegetation and the Conservation Area.

17) The vegetation protection fence must:
   a) for a Conservation Area, be located at least 2 metres from the Conservation Area;
   b) for a scattered tree or patch of vegetation, be twice the canopy distance of the scattered tree or patch or at least 2 metres, whichever is the greater;
   c) be highly visible and be at least 1.2 metres in height; and
   d) remain in place for the period of construction.

18) Construction stockpiles, fill, machinery, excavation and works must:

45) be located not less than 15 metres from a waterway. Construction stockpiles, fill, machinery, excavation and works must:
   a) be located not less than 15 metres from a waterway;
   b) be located outside the vegetation protection fence;
   c) be constructed and designed to ensure that the Conservation Area, and any located trees identified in the Planning Scheme Provisions be retained are protected from adverse impacts during construction;
   d) not be undertaken if it presents a risk to any vegetation within a Conservation Area; and
   e) be carried out under the supervision of a suitable qualified ecologist or arborist.

46) Before a Statement of Compliance is issued for a stage of the subdivision, the developer must complete all construction works associated with that stage as specified in the approved Precinct Structure Plan to the satisfaction of the responsible authority.

**Part 4 – Conditions required to be satisfied before the issue of Statement of Compliance**

47) Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the Country Fire Authority.

48) Access to each lot created must be provided by a vehicle cross over constructed to the responsible authority standards from a fully constructed carriageway to the satisfaction of the responsible authority.

**Removal of Temporary Egress.**

49) After a Statement of Compliance is issued for Stage 3, and before a Statement of Compliance is issued for any subsequent stage, the temporary egress between Davis Road and the Stage 1 land must be removed to the satisfaction of the responsible authority.
Planning and Environment Regulations 2005 Form 9

**Filling of land**

50) Before a Statement of Compliance is issued for each stage, all land to be filled and to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS 3798. The results of the tests must be produced and be to the satisfaction of the responsible authority.

51) All filling over 300mm in depth on the site must be supervised, carried out, completed and recorded in accordance with:

   a) The provisions of any Construction Management Plan, and
   b) Australian Standard AS 3798 2007 (Guidelines on earthworks for commercial and residential developments) to the satisfaction of the responsible authority.

52) Before the issue of a Statement of Compliance for each stage unless otherwise agreed in writing by the responsible authority, compaction test results and a report certifying that the filling has been properly carried out shall be provided to the satisfaction of the responsible authority.

53) The land must be filled in a manner that does not:

   a) Cause a nuisance or nearby land through the emission of dust
   b) Adversely affect the drainage of adjacent land through sediment and the like
   c) Affect overland flow paths

**Provision of access**

54) Before a Statement of Compliance is issued for Stage 1 of the subdivision, the developer must:

   a) Construct an intersection at the intersection of Davis and Sayers Roads including works that protects the intersection from the impacts of the 1:100 year flood event (the later to the satisfaction of Melbourne Water) unless otherwise agreed by the Responsible Authority.

   Construct an intersection at the Stage 1 entry road and Davis Road unless otherwise agreed by the Responsible Authority as approved under this permit and to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

55) Before a Statement of Compliance is issued for Stage 3 of the subdivision, the developer must:

   a) Construct an intersection at the 25.0m east west connector road and Davis Road to the satisfaction of the Responsible Authority.
   b) Construct Davis Road to an urban standard between the entry road to Stage 1 and the entry road to Stage 3 unless otherwise agreed by the Responsible Authority.

   as approved under this permit and to the satisfaction of the responsible authority (or to the satisfaction of the collecting agency where provided as works-in-lieu under the Wyndham North Development Contributions Plan).

56) Prior to the Statement of Compliance for each stage, domestic standard services for reticulated water, provision for reticulated recycled water, drainage, sewerage and electricity reticulation underground must be available to each lot, including reserves.

57) Each reserve shown on the endorsed plan(s) must be provided with services and facilities to a domestic service standard to the satisfaction of and at no cost to the responsible authority including power and water are required for neighbourhood parks, and power, water, gas and sewer are required for active recreation reserves and district open space.
Telecommunications

58) Prior to the Statement of Compliance for any stage of the subdivision the owner of the land must provide written confirmation to the responsible authority from:

a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and

b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Developer contributions (where no approved plan for the land)

59) Where a development contributions plan has not been approved for the land, prior to the commencement of works, or such other time which is agreed in writing by the responsible authority, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to provide for:

a) Contributions to Wyndham City Council for community and development infrastructure.

b) Those contributions to be no less than any liability assigned to the land by a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

c) Reimbursement of any contributions in excess of the amount specified in a future development contributions plan applying to the land under Development Contributions Plan Overlay 13 of the Wyndham Planning Scheme.

d) That the agreement ceases to have effect on a lot upon discharging of the relevant liabilities for that lot.

Development Infrastructure Levy (where approved plan for the land)

60) Where a development contributions plan has been approved for the land and unless otherwise agreed with the collecting agency:

a) A Development Infrastructure Levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. If there is no approved Public Infrastructure Plan or if the approved Public Infrastructure Plan does not specify a time when payments must be made, then the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

b) Where there is no approved Public Infrastructure Plan a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Passive Open Space Contribution and Reserves

61) Before a Statement of Compliance for a stage of subdivision is issued under the Subdivision Act 1988, a public open space contribution as specified in the schedule to clause 52.01 of the Scheme and the Wyndham North Development Contributions Plan must be made to the responsible authority in a manner which is consistent with the Riverdale Precinct Structure Plan applying to the land, unless otherwise agreed to in writing by the responsible authority.

62) Before the Statement of Compliance is issued under the Subdivision Act 1988, unless the information is shown in an approved Public Infrastructure Plan, a schedule of public open space must be submitted to Council showing the amount of public open space provided for each stage together with cumulative totals of any credit/balance in the amounts provided, to the satisfaction of the responsible Authority.

63) In accordance with plans approved for public parks under this permit, except where bonded or secured under condition 6564 all parks must be finished to the following levels of development to the satisfaction of the responsible authority, prior to the transfer of land:
a) Removal of all existing disused structures, foundations, pipelines or stockpiles
b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless conservation reserve requirements dictate otherwise).
c) Provision of water tapping potable and recycled water connection points suitable for reserves. Sewer and gas connection points must also be provided to land identified as an active reserve.
d) Drought tolerant plants.
e) Vehicle exclusion devices (fence, bollard or other suitable method) and maintenance access points unless an alternative solution is agreed with the responsible authority.
af) Construction of a 2.5 metre wide concrete off-road shared path around the perimeter of the reserve, connecting and linking into any other off-road shared path networks as identified in the Riverdale PSP;
g) Installation of park furniture including BBQs, shelters, tables, local scale playgrounds and other local scale play elements such as ½ basketball courts and hit-up walls, rubbish bins and appropriate paving to support these facilities.

64) Except where bonded as permitted under this permit, where lots shown on the endorsed plan(s) have a common boundary with any municipal reserve, tree reserve, floodway reserve, or other such reserve, that boundary must be fenced to the satisfaction of and at no cost to the responsible authority prior to the issue of a Statement of Compliance under the Subdivision Act 1988.
65) Landscaping bonds or such other form of security as is agreed, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 100% of the total value of the outstanding landscaping works to cover those works and a further 20% of the total value of the outstanding landscaping works to cover the relevant maintenance period. If the works have been completed to its satisfaction, the responsible authority must notify the Developer or Owner that the works maintenance period has commenced within 7 days of the date of inspection and refund the relevant deferred works component of the form of deposit within 14 days of the date of inspection.

Part 5 – Conditions required to be satisfied following construction works

As constructed plans

66) Before the issue of a Statement of Compliance of any stage, or any other time which the responsible authority agrees, the following must be provided to the responsible authority:

a) Copies of the “as constructed” engineering roads and drainage drawings in PDF or CAD format
b) As constructed measurements as digital data in a GIS ready format of the information component of the subdivision relating to drainage assets and assets with the road reserve in accordance with the current version D-SPEC and R-SPEC;
c) Location of any permanent survey marks; and
d) Catchment plans and detailed storm water computations in PDF format.
67) The various road works must be maintained by the owner until this condition has been complied with.

Landscape works

68) The soft landscaping shown on the endorsed landscape plan must be maintained to the satisfaction of the responsible authority for a period of two summers from the practical completion of the landscaping including that any dead, diseased or damaged plants are to be replaced.
69) The hard landscaping shown on the endorsed landscape plan must be maintained to the satisfaction of the responsible authority for a period of three months from the practical completion of the landscaping works.

Part 6 – Further conditions required to be satisfied by referral authorities

Melbourne Water

70) Overall requirements:

a) No polluted and / or sediment laden runoff may be discharged directly or indirectly into Melbourne Water’s drains or watercourses.
b) Engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for its records. These plans must show road and drainage details and the 1 in 100 year flood levels for major overland flow paths.

c) Any road access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water’s Land Development Manual to the satisfaction of the responsible authority.

d) All new lots are to be filled to a minimum 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline and 600mm above the 1 in 100 year flood level associated with an existing or proposed waterway, wetland or retarding basin.

e) The creation of any Reserve or Easement over a Melbourne Water asset, shall be to Melbourne Water’s satisfaction.

71) Prior to Certification of Plans of Subdivision:

a) the design for the intersection of Sayers and Davis Roads must be submitted in electronic format to Melbourne Water for approval. The design is to accommodate a 100 year flow rate of 50m3/sec, include two separate culverts under Sayers and Davis Roads and demonstrate provision for fish and Growling Grass Frog passage, to the satisfaction of the referral authority.

b) functional designs of drainage assets and waterways included in the relevant Melbourne Water Development Services Scheme are to be submitted to Melbourne Water for approval, and are to show location of access tracks and any adjacent pathways or recreation assets.

c) separate approvals from Melbourne Water are to be sought for any works within or in proximity to Davis Creek, such as the installation of Stormwater quality treatment systems in the Creek corridor, road (bridge and culvert) crossings of the Creek, and other authority works including construction of sewer and water mains along and across the Creek, taking into account condition ##(a) above

72) Prior to commencement of works:

b) a separate application, direct to Melbourne Water, must be made for any new or modified stormwater connection to a Melbourne Water asset. Prior to accepting an application, evidence must be provided to demonstrate that a connection to the Council drainage system is not feasible.

73) Prior to a Statement of Compliance:

a) the owner must enter into an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the land directly or indirectly into Melbourne Water’s drainage systems and waterways and the provision of drainage works in accordance with statutory powers of Melbourne Water Corporation.

b) a Certified Survey Plan is to be submitted for approval after the completion of filling, verifying that the specified fill levels have been achieved. This will be required prior to an issue of a Statement of Compliance for the Subdivision.

City West Water - Water, sewer & recycled water

74) Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with City West Water for the provision of water supply.

75) Unless an alternative time is agreed by City West Water, before the issue of a Statement of Compliance the owner of the subject land must enter into an agreement with City West Water for the provision of sewerage.

76) The construction of the subdivision must comply with the provisions of any agreement between the owner and City West Water relating to the supply of water, the provision of recycled water or the provision of sewerage as appropriate. All works in relation to the supply of water, recycled water or sewerage must be completed prior to the issue of a Statement of Compliance unless an alternative arrangement is set out in any agreement.

Powercor

77) Unless an alternative time is agreed by Powercor, before the issue of a Statement of Compliance the owner of the land must enter into an agreement with Powercor for supply of electricity, including provision of any associated works by the owner, to each lot on the endorsed plan.
Part 7 – Permit expiry

This permit will expire if:

a) The plan of subdivision for the first stage is not certified within five years of the date of this permit; or,
b) The plan of subdivision for the last stage of the subdivision is not certified within ten years of the date of this permit, or
c) The registration of the last stage of the subdivision is not completed within five years of the certification of that plan of subdivision.
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. The permit was granted by the Minister administering the Planning and Environment Act 1987 under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if -
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if -
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision -
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* Any person affected may apply for a review of -
  * a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or.
  * a decision of the responsible authority refusing to extend the time within which a plan under the Subdivision Act 1988 is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987; or.
  * the failure of the responsible authority to extend the time within one month after the request for extension is made.

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the responsible authority.
* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.