

Planning and Environment Act 1987

Panel Report

**Whittlesea and Mitchell Planning Schemes Amendment
GC28
Donnybrook/Woodstock Precinct Structure Plan**

8 September 2016

Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Whittlesea and Mitchell Planning Schemes Amendment GC28

Donnybrook/Woodstock Precinct Structure Plan

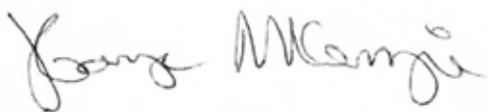
8 September 2016



William O'Neil, Chair



John Hartigan, Member



Gaye McKenzie, Member

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List of Abbreviations

ALARP	As Low As Reasonably Practical
APA	APA Gasnet
BCS	Biodiversity Conservation Strategy
DCP	Development Contributions Plan
DELWP	Department of Environment, Land, Water and Planning
DFC	Dennis Family Corporation
DSS	Development Services Scheme
DTPLI	Department of Transport, Planning and Local Infrastructure (former)
DWPSP	Donnybrook /Woodstock Precinct Structure Plan
EPA	Environment Protection Authority
EPBC	Environment Protection and Biodiversity Conservation
ESO	Environmental Significance Overlay
EVC	Ecological Vegetation Class
FDTs	Friends of the Donnybrook Train Station
GGF	Growling Grass Frog
GRZ	General Residential Zone
GWMP	Green Wedge Management Plan
ICP	Infrastructure Contributions Plan
LCC	<u>Local Convenience Centre</u>
LPPF	Local Planning Policy Framework
LTC	Local Town Centre
MCMC	Merri Creek Management Committee
MPA	Metropolitan Planning Authority (recently renamed Victorian Planning Authority)
MSS	Municipal Strategic Statement
NRZ	Neighbourhood Residential Zone
OMR	Outer Metropolitan Ring Road
PAO	Public Acquisition Overlay
PLEM	Public Land Equalisation Methodology
PTV	Public Transport Victoria
PSP	Precinct Structure Plan

RCZ	Rural Conservation Zone
RGZ	Residential Growth Zone
SMS	MPA Safety Management Study Report
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
UDF	Urban Design Framework
UGB	Urban Growth Boundary
UGZ	Urban Growth Zone
VPP	Victoria Planning Provisions

Overview

Amendment Summary

The Amendment	Whittlesea and Mitchell Planning Schemes Amendment GC28
Common Name	Donnybrook/Woodstock Precinct Structure Plan
Planning Authority	Metropolitan Planning Authority
Exhibition	19 November– 21 December 2015
Submissions	Thirty-four submissions were received, including late submissions. See Appendix A.

Panel Process

The Panel	William O’Neil (Chair), John Hartigan and Gaye McKenzie
Directions Hearing	7 April 2016, Planning Panels Victoria
Site Inspections	Accompanied inspection on 3 May 2016
Panel Hearing	16, 17, 19 23, 24, 25, 27 May 1, 2, 3, 10, 15, 20 June 2016, Planning Panels Victoria
Appearances	See Appendix B
Parties submit further information in response to Panel Directions issued on last day of the Hearing	20 June – 12 July 2016 See Section 1.3 – Panel Process See Appendix C: Documents 96 - 103
Date of this Report	8 September 2016

Executive Summary

(i) Location and features

The Donnybrook Woodstock Precinct (the Precinct) is located approximately 35 kilometres north of Melbourne's Central Business District and covers an area of approximately 1786 hectares, of which approximately 1006 hectares is considered as net developable area. The majority of the Precinct is located in the City of Whittlesea with a portion of the Precinct located north of Merri Creek in the Shire of Mitchell.

The Precinct is largely identified for residential purposes which is anticipated to accommodate between 16,000 – 18,000 dwellings and an estimated population of between 45,000 and 50,000 people. In order to support the lifestyle needs of the population an integrated hierarchy of local town centres and convenience centres are planned throughout the Precinct which vary in terms of their role and function. Each of the centres is co-located with a range of community facilities such as community centres and local parks. Some feature government and non-government education facilities and sports reserves.

Fixed rail public transport is available via V/Line services along the Melbourne-Sydney Railway with an existing station at Donnybrook. It is expected that services will be upgraded progressively as the area develops.

A key feature of the Precinct will be the establishment a conservation area network comprising an area of approximately 394 hectares under the State/Commonwealth agreed Biodiversity Conservation Strategy (BCS). This area comprises conservation area for Nature Conservation, Growling Grass Frog (GGF) habitat and Open Space.

The Precinct encompasses multiple catchments which require the implementation of a number of Development Services Schemes (DSS) to manage stormwater runoff throughout the Precinct. The development of the Precinct will be required to demonstrate compliance with the approved Development Services Schemes prepared by Melbourne Water.

(ii) Overall assessment of the PSP

The Donnybrook/Woodstock Precinct Structure Plan (DWSP) is a comprehensive plan that has been subject of extensive research and consultation in its development. A significant number of modifications to the DWSP and the accompanying Planning Scheme controls that form the Amendment have been agreed between stakeholders and landowners. The Panel acknowledges the extensive effort of staff and representatives of the MPA, the City of Whittlesea and the Shire of Mitchell, as well the various landowners, in order to advance the planning of the Precinct to the stage that it is currently at.

The Panel does not consider the agreed changes, nor the acceptance of the Panel's further recommended changes, will transform the Amendment. While the majority of issues have been determined, either by agreement between parties, or via the Panel's recommendations, the Panel considers that a limited number of matters require further attention prior to finalisation of the DWSP and the Amendment.

(iii) Consolidated list of recommendations

Based on the reasons set out in this Report, the Panel recommends:

Whittlesea and Mitchell Planning Schemes Amendment GC28 be adopted as exhibited, subject to the following:

- 1. Amend the Donnybrook/Woodstock Precinct Structure Plan to reflect the 'proposed changes' listed in Hearing Document 72 which is contained in Appendix D of this Report, except where contrary to an explicit recommendation of the Panel.**
- 2. Amend the Donnybrook/Woodstock Precinct Structure Plan to reflect the following changes requested by the Monteleone family in Hearing Document 89 that are agreed by both the Metropolitan Planning Authority and the City of Whittlesea:**
 - a) Amend Plan 3 to remove reference to 'known trees' on Monteleone land aside from the tree within Local Park LPO5, subject to agreement from Department of Environment Land Water and Planning being obtained**
 - b) Update Table 1 – Summary Land Use Budget following completion of all Donnybrook/Woodstock Precinct Structure Plan updates**
 - c) Delete requirement R36**
 - d) Update requirement R48 as part of the refinement and resolution of the Development Infrastructure Contributions Framework**
 - e) Amend Plan 12 to identify an east-to-west 'key local access street' on the Monteleone family land through the property and roundabout as reflected by the blue line shown on updated revised Urban Design Framework for Local Convenience Centre 1 in Hearing Document 18a**

Development Contributions Reform

- 3. Delay approval of Amendment GC28 and finalisation of the Donnybrook/Woodstock Precinct Structure Plan until the State Infrastructure Contributions reform process has been completed and an Infrastructure Contribution Plan has been prepared for the Precinct.**

Donnybrook/Woodstock Precinct Structure Plan

- 4. Amend 'Plan 2 – Precinct Features' by:**
 - including 'highly sensitive' stony rises and associated view lines**
 - deleting the shading that defines the T74 Measurement length**
 - deleting reference to the now demolished dry stone wall at the southern boundary of 1195 Merriang Road (Boral land).**
- 5. Amend 'Plan 3 – Future Urban Structure' by:**
 - removing the proposed station car park designation from 840 Donnybrook Road**
 - removing the designation 'heritage – post contact' from 975 Donnybrook Road**

6. Amend 'Plan 5 - Character & Housing' by including the walls identified in the *Post Contact Heritage Assessments* prepared by Context as being of 'Very High', 'High', 'Moderate-High' and 'Moderate' value.
7. Amend 'Plan 7 – Open Space' by:
 - removing the land occupied by the existing dwelling from Local Park LP26.
 - deleting Local Park LP03.
8. Amend 'Plan 12 – Street Network' by:
 - designating the temporary eastern section of Gunns Gully Road between Koukoura Drive and Merriang Road as a 'Local Access Street Level 1 Rural Style'.
 - showing the agreed interim intersection design standards, subject to agreement between VicRoads, Whittlesea City Council and the Shire of Mitchell.
9. Replace 'Plan 15 - Utilities' with the revised Plan 15 contained in Hearing Document 60 and further amend the plan to show the 341 metre T74 Measurement Length.
10. The Metropolitan Planning Authority and the relevant services authority determine the appropriate location and costings for the 66kV electricity network for inclusion in the Infrastructure Contributions Plan and reflection on the revised 'Plan 15 - Utilities Plan'.
11. Replace 'Table 3 - Local Town Centre Hierarchy' and 'Table 4 - Local Convenience Centres Hierarchy' with the Panel recommended versions contained in Appendix F of this Report.
12. Amend 'Table 6 - Open Space Delivery Guide' by deleting Local Park LP03.
13. Amend 'Table 10 - Precinct Infrastructure Plan' by adding non-government schools as an exempt item.
14. Retain Guideline G23.
15. Amend the Donnybrook/Woodstock Precinct Structure Plan to reflect the size and location of the Retarding Basin and Wetlands RBWL2 and RBWL4 as shown on the revised Development Services Scheme (Hearing Document 10)
16. Replace 'Local Town Centre (LTC)' and 'Local Convenience Centre (LCC)' - 'Draft Concept Plans and Design Criteria' contained in Appendix 4.2 and 4.3 with the Plans and Criteria contained in Hearing Documents 18a and 18b, subject to the following revisions and further modifications:

LCC-1 - Donnybrook Farmhouse

- The Metropolitan Planning Authority review the layout of LCC-1 in consultation with all relevant stakeholders to refine the location of the north-south connector street in order to maximise active street frontage opportunities for the community and cultural centre without affecting existing buildings and infrastructure.

LCC-2 (LTC-5) - Donnybrook Station

- Replace the existing housing 'Key Design Element' on the LCC-2 (LTC-5) Plan with the following:
 - *Higher density housing should be provided surrounding the mixed use area as a transition to neighbouring residential areas.*
- Update the Land Use Budget for Property 12 to reflect the whole parcel at 1.03 hectare and update the Net Developable Area of Property 15 following the finalisation of the Development Services Scheme
- The Metropolitan Planning Authority undertake further investigations and consultation with relevant stakeholders to address the acquisition of land for the Donnybrook Transport Hub in light of the reduced Yarra Valley Water land acquisition area.

LTC-3 - Lockerbie East

- The Metropolitan Planning Authority review the layout of LTC-3 in consultation with all relevant stakeholders to determine if it is in the best interests of the community and the long term functioning of LTC-3 to relocate the proposed Catholic P-6 school and community facilities, including the kindergarten, to the east of the north-south road
- Include the following additional 'Key Design Element' on the LTC-3 Plan:
 - *Design of housing to encourage medium and high density housing around retail, schools and sports reserve and Public Open Space to contribute to Centre activation and passive surveillance.*

17. Further amend the revised Road Cross Section Plans (Hearing Document 19a) that are to be included in Appendix 4.4 to show reinforced concrete footpaths over both the T74 (300mm) and T119 (400mm) gas pipelines.

18. Replace Appendix 4.6 with the text shown in Appendix G of this report.

Lockerbie East Development Services Scheme

19. Modify and undertake further investigation to refine the revised version of Melbourne Water's Lockerbie East Development Services Scheme (Hearing Document 10 included as Figure 3 in this report) as follows:

- Remove Catchment 5 (as shown in figure 4, page 8, of the May 2016 Expert Witness Statement by Mr Jonathan McLean) from the Development Services Scheme
- Melbourne Water to further investigate the rationalisation of the number of pipes flowing into RBWL2, SB1 and SB2 south of Cameron Street. This work should include whether the small section of open channel in this part of the Development Services Scheme should be replaced with a pipe
- Melbourne Water and the Metropolitan Planning Authority to determine the required changes to the Donnybrook/Woodstock Precinct Structure Plan to include a 1.7 hectares wetland drainage reserve in Catchment 5.

20. In relation to the funding of the Lockerbie East Development Services Scheme:

- The cost of constructing the western section of channel CH1 where it deviates from the natural floodway should be met by Melbourne Water

- The Monteleone Family should be compensated for the land necessary to be acquired for the construction of the western section of channel CH1 where it deviates from the natural floodway.

Modifications common to both the Whittlesea and Mitchell Urban Growth Zone Schedules

21. Amend Schedule 4 to the Urban Growth Zone of the Mitchell Planning Scheme (as reflected in Hearing Doc 4c), and Schedule 6 to the Urban Growth Zone of the Whittlesea Planning Scheme (as reflected in Hearing Document 4d) except where contrary to an explicit recommendation of the Panel.

22. Amend Table 1 in Clause 2.2 'Applied zone provisions' to specify 'Clause 32.08 - General Residential Zone' for 'All Other Land'.

23. Replace the exhibited Clause 3.3 with that provided in Appendix E to this report.

24. Add the following Clause:

A use or development that contains a bedroom and is located on land that is reasonably likely, in the opinion of the Responsible Authority, to be impacted by noise from the train operations on the Sydney-Melbourne railway line must be designed to ensure that internal noise levels in bedrooms is less than 65 dB LAmax and 40 dB Leq9h(night).

25. Include the following Clause 5.0 Notice provision:

5.0 Notice to gas transmission pipeline licensee

Notice of an application of the kind listed below must be given in accordance with section 52(1)(c) of the Act to the person or body specified in the Schedule to Clause 66.06:

An application, on land shown as 'gas pipeline measurement length' on 'Plan 15 – Utilities' in the incorporated Donnybrook/Woodstock Precinct Structure Plan, where the application is to use land for, or to construct a building to accommodate, any of the following:

- Residential Aged Care Facility
- Child care centre
- Cinema based entertainment facility
- Education centre
- Hospital
- Place of assembly
- Retail premises

26. Amend the new proposed Clause 4.8 by:

- Specifying that the trigger for the requirement to prepare a Construction Management Plan is within the 35 metre gas pipeline easement
- Specifying that the Responsible Authority must be satisfied that APA Gasnethas reviewed and approved the Construction Management Plan.

Further Modifications to Schedule 6 to the Urban Growth Zone in the Whittlesea Planning Scheme

27. Amend Table 1 in Clause 2.2 'Applied zone provisions' to specify 'Clause 32.07 - Residential Growth Zone' as the Applied Zone for 'Residential Land within 500 metres of Local Town Centres'.
28. Amend Clause 3.7 to read:

Dry stone walls identified for retention of Plan 5 of the Precinct Structure Plan must be retained as part of any future development, unless otherwise agreed to by the Responsible Authority after consideration of overall design response and following receipt of advice from a suitably qualified professional regarding the condition of the wall.
29. Amend 'Table 2 – Use' in Clause 2.5 by reflecting the 'Retail Floorspace Requirement Sqm' figures in the Panel Recommended Tables 3 and 4 of the Precinct Structure Plan, (as shown in Appendix F of this Report) in the column headed 'Requirement' for the Use 'Shop where the applied zone is Commercial 1 Zone'.
30. Review Schedule 6 to Urban Growth Zone of the Whittlesea Planning Scheme to achieve consistency with new proposed text at Section 4.6 of the Donnybrook/Woodstock Precinct Structure Plan to guide Scattered Tree Retention in the City of Whittlesea.

Further modifications to Schedule 4 to the Urban Growth Zone in the Mitchell Planning Scheme

31. Delete Clause 3.6.

Other Planning Controls

32. Amend 'Clause 21.14 - Reference Documents' of the Whittlesea Planning Scheme by including the *Statement of Significance for 1145 Donnybrook Road*, prepared by Archaeology at TARDIS.
33. Amend Clause 4.0 of Schedule 4 to the Development Contributions Plan Overlay under the Mitchell Planning Scheme and Clause 4.0 of Schedule 17 to the Development Contributions Plan Overlay under the Whittlesea Planning Scheme by:
 - Deleting the first dot point
 - Amending the second dot point to read: "*The permit contains a condition requiring an agreement under section 173 of the Planning and Environment Act 1987 that makes provision for a monetary contribution to items listed in the Precinct Infrastructure Plan within the Donnybrook/Woodstock Precinct Structure Plan, incorporated document with the agreement being required to be entered into prior to the issue of any Statement of Compliance. At the discretion of Council, the agreement may make provision for works in kind to be carried out having regard to the infrastructure projects set out in the Precinct Infrastructure Plan contained in the Donnybrook/Woodstock Precinct Structure Plan*"

- Amending the third dot point to read: *"The responsible authority considers that the permit does not compromise the orderly planning of the Precinct for the construction of a building or construction or carrying out of works associated with:*
 - *Additions or alterations to a single dwelling or development ancillary to the use of land for a single dwelling*
 - *An existing use of land provided the gross floor area of the existing use is not increased by more than 1000 square metres*
 - *A sign*
 - *A permit which only allows the consolidation of land or boundary realignment"*.
 - Inserting the following exemption provision: 'Land required for the following is exempt from the provisions of this overlay:
 - Use and development for a non-government school.
34. Delete the Heritage Overlay HO186, (exhibited as HO184) from the Schedule to Clause 43.01 – Heritage Overlay and Map 4HO of the Whittlesea Planning Scheme.
 35. Delete Public Acquisition Overlay 11 from the exhibited Schedule to Clause 45.01 and from the exhibited Map 5 PAO to the Whittlesea Planning Scheme.
 36. Amend Map 4 PAO to the Whittlesea Planning Scheme to delete the part of Public Acquisition Overlay 2 that relates to the IN-01 intersection that protrudes into the property known as 840 Donnybrook Road.
 37. Amend public open space contribution percentage in the Schedule to Clause 52.01 in both the Whittlesea and Mitchell Planning Schemes once the final location and size of local parks is determined and included in the final versions of the Donnybrook/Woodstock Precinct Structure Plan and Infrastructure Contributions Plan.
 38. Retain the words 'None specified' in the Schedule to Clause 52.37 of the Mitchell Planning Scheme.
 39. Delete the exhibited Schedule 2 to the Rural Conservation Zone from both the Mitchell Planning Scheme and the Whittlesea Planning Scheme.

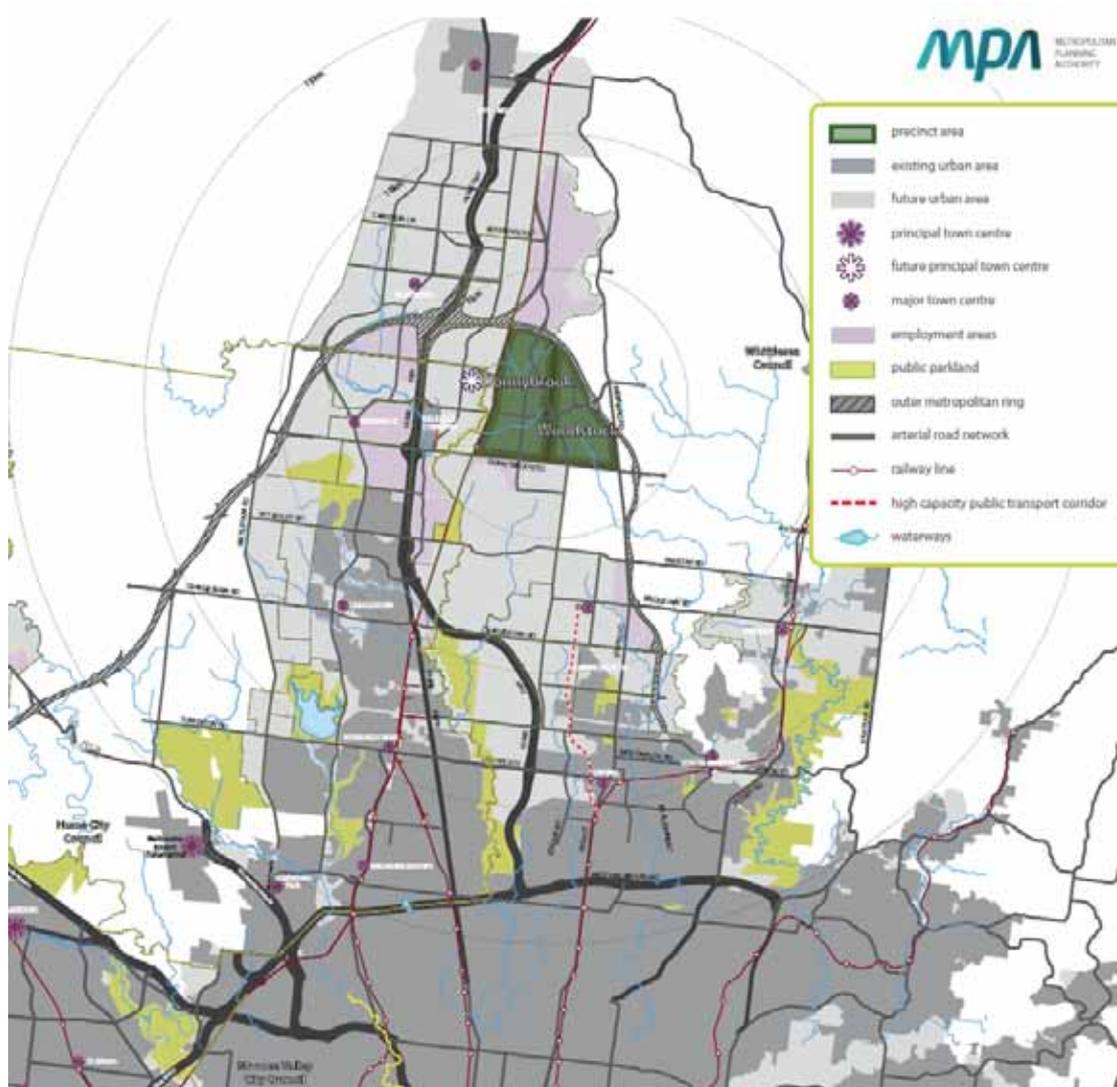
1 Introduction

1.1 Location and content

The Donnybrook/Woodstock Precinct Structure Plan (DWSP) (PSP 1067 and 1096 respectively) have been prepared simultaneously by the Metropolitan Planning Authority (MPA) as one Precinct Structure Plan. The Precinct is located approximately 35 kilometres north of Melbourne's Central Business District and covers an area of approximately 1786 hectares of land as illustrated in Figure 1 below.

The majority of the Precinct is located in the City of Whittlesea with a portion of the Precinct located north of Merri Creek in the Shire of Mitchell.

Figure 1: Regional Context Plan



Surrounding land use and development

The southern boundary of the Precinct is Donnybrook Road and stretches from the east side of the Melbourne-Sydney Railway to Epping / Merriang Road, a distance of approximately

5.3 kilometres. At the eastern edge the Precinct has a frontage to Merriang Road for approximately 1.5 kilometres where the future alignment of the OMR/E6 and Urban Growth Boundary cross. The western boundary of the Precinct is formed by the Melbourne-Sydney Railway for approximately 5.1 kilometres where it also abuts the approved Lockerbie PSP.

The Lockerbie Principal Town Centre, the major centre planned to service the region, is located on the north side of Donnybrook Road in the future PSP area 1069. The City of Whittlesea has commenced the initial stages of planning for this area which will comprise an employment and residential PSP.

The recently completed English Street PSP is located south west of the Precinct.

Rail services and bus network

Fixed rail public transport is available via V/Line services along the Melbourne-Sydney Railway with an existing station at Donnybrook. It is expected that services will be upgraded progressively as the area develops. A new station is planned for the Lockerbie Principal Town Centre and the DWSP makes provision for access to the new station from the east side of the Precinct.

Currently, no bus routes service the area. The provision of a future bus capable road network is proposed.

Open space

The development of the Precinct will establish a conservation area network comprising an area of approximately 394 hectares under the State/Commonwealth agreed Biodiversity Conservation Strategy (BCS). This area comprises conservation area for Nature Conservation, Growling Grass Frog (GGF) habitat and Open Space. This substantial area is located along the environs of the Merri Creek and guarantees this area's preservation. In accordance with the requirements of the BCS this area will provide opportunities for limited recreation activity.

Hayes Hill, a remnant volcanic cone in the central south of the Precinct will be retained in a largely natural state to serve the Precinct as a defining landscape feature. The Merri Creek and Darebin Creek corridors provide key conservation and linear landscape assets for the Precinct. The creek corridors will be retained and habitat reinstated for the GGF.

Development of a network of local sports reserves and local parks is proposed throughout the Precinct. The network has been planned to provide walking and cycling connectivity.

North Growth Corridor Plan

The DWSP is situated within the North Growth Corridor Plan that covers Melbourne's northern corridor and includes large areas of the City of Whittlesea, City of Hume and Shire of Mitchell.

The North Growth Corridor Plan outlines key existing and future infrastructure items in direct proximity to the Precinct that will provide direct or flow-on benefits to future residents in the area, including:

- Roads and public transport

- The Melbourne-Sydney rail line will act as an integral part of the North Growth Corridor with development opportunities focused around this asset
- Planning for connected high capacity public transport corridor with the potential for rail
- Bus capable roads within the Precinct for local bus routes
- E6 transport corridor / Outer Metropolitan Ring road
- The Hume Freeway.
- Community, health and education facilities
 - La Trobe University and RMIT at Bundoora, Kangan Institute at Broadmeadows and Craigieburn and NMIT at Epping and Greensborough will provide the northern corridor with post compulsory education opportunities
 - Northern Hospital at Epping and Kilmore and District Hospital are currently being expanded
 - Primary, secondary and tertiary health services provided by the Northern Hospital, Epping and development of super clinics at Wallan and South Morang
 - Donnybrook and Mickleham town centres will provide comprehensive and specialist education health and community facilities.
- Employment
 - Broadmeadows Metropolitan Activity Centre is expected to be the primary regional centre of the North Corridor, complemented by Epping primary town centre and a new principal town centre at Donnybrook as well as a network of existing and planned major town centres across the corridor
 - New major town centres are identified at Mickleham, South West Beveridge, Wollert, South Morang and Mernda
 - Industrial employment precincts at Wollert, Mickleham and Donnybrook Road.
- Open space and biodiversity
 - Protection of the Darebin Creek and Merri Creek via the Biodiversity Conservation Strategy
 - Suitable habitat along the Darebin Creek for Growling Grass Frog
 - Metropolitan Trail Network.

The approved North Growth Corridor Plan identifies the Donnybrook and Woodstock Precinct as primarily residential with 'Biodiversity values' for the Growling Grass Frog along the Darebin and Merri Creek as well as Conservation Areas designated for Open Space.

1.2 The Amendment

Amendment GC28 to the Whittlesea Planning Scheme and Mitchell Planning Scheme proposes to make a number of changes to facilitate the development and use of land within the DWPSP area. The Amendment inserts a new incorporated document into these Schemes, being the *Donnybrook/Woodstock Precinct Structure Plan*.

Whittlesea Planning Scheme

As exhibited, the Amendment proposes to make the following changes to the Whittlesea Planning Scheme:

- Inserts the Urban Growth Zone Schedule 6 (UGZ6) and applies UGZ6 to part of the land in the amendment area
- Rezones Urban Floodway Zone (UFZ) to Rural Conservation Zone (RCZ)
- Inserts Rural Conservation Zone Schedule 2 (RCZ2) and applies it to part of the land within the amendment area
- Rezones part of the land within the amendment area from Rural Conservation Zone Schedule 2 (RCZ2) to Urban Growth Zone Schedule 6 (UGZ6)
- Removes the Environmental Significance Overlay Schedules 3 and 4 (ESO3 and ESO4) and replaces this with an Environmental Significance Overlay Schedule 6 (ESO6) and modifies the ESO6 to match the proposed shape of the RCZ
- Removes the Rural Floodway Overlay (RFO) on the land and applies a Land Subject to Inundation Overlay (LSIO) within this area
- Inserts Incorporated Plan Overlay Schedule 7 (IPO7) and applies it to land within the amendment area
- Applies the Public Acquisition Overlay Schedule 2 (PAO2) to part of the land to the south of Donnybrook Road
- Introduces Development Contributions Plan Overlay Schedule 16 (DCPO16) and applies the DCPO16 to the land within the amendment area
- Inserts the Public Acquisition Overlay Schedule 10 (PAO10) and applies it to part of the land at 945 Epping Road, Woodstock
- Inserts the Public Acquisition Overlay Schedule 11 (PAO11) and applies it to part of the land at 1085 Merriang Road, Woodstock
- Inserts two properties into the Heritage Overlay Schedule (HO184 and HO185) and applies the Heritage Overlay to specific buildings and structures over this land
- Requires public open space contributions in the *Donnybrook/Woodstock Precinct Structure Plan* area when land is subdivided by amending the Schedule to Clause 52.01
- Amends the Schedule to Clause 52.17 to identify native vegetation exempt from requiring a planning permit
- Updates the Schedule to Clause 61.03 to reflect mapping changes, and
- Amends the Schedule to Clause 81.01 to include a new incorporated document titled '*Donnybrook/Woodstock Precinct Structure Plan, November 2015.*'

Following exhibition and in response to submissions, numerous changes to the ordinance and the content of the DWPSP have been proposed by the MPA. The MPA provided, in Appendix 3 of its Part A submission, a marked up tracked changes copy of the planning scheme ordinance containing all changes in response to submissions and some matters that have been revisited by the MPA.

As summarised in the MPA's Part A submission, the following changes to the exhibited version of the Whittlesea Planning Scheme ordinance are proposed by the MPA:

- The applied zones within the Urban Growth Zone Schedule 6 (UGZ6) have been revised by the MPA to become:
 - Retail – applied Commercial 1 Zone (unchanged since exhibition);
 - Mixed Use – applied Mixed Use Zone (previously Residential Growth Zone); and

- All other land – applied Residential Growth Zone (previously General Residential Zone).
- Rural Conservation Zone Schedule 2 (RCZ2) is no longer sought to be applied to part of the land within the Amendment area;
- The two properties to be inserted into the Heritage Overlay Schedule have been updated from HO184 and HO185 to HO186 and HO187 respectively, while still applying the Heritage Overlay to specific buildings and structures over this land;
- Amend the Schedule to Clause 52.37 to identify dry stone walls exempt from requiring a planning permit; and
- Amend the Schedule to Clause 66.06 to include a notification requirement to the licensee under the *Pipelines Act 2005*.

Mitchell Planning Scheme

As exhibited, the Amendment proposes to make the following changes to the Mitchell Planning Scheme:

- Rezones part of the Special Use Zone Schedule 1 (SUZ1) to part Rural Conservation Zone (RCZ) and part Urban Growth Zone Schedule 4 (UGZ4)
- Rezones part of the Rural Conservation Zone (RCZ) and Farming Zone (FZ) to Urban Growth Zone Schedule 4 (UGZ4) and applies UGZ4 to part of the land in the amendment area
- Inserts the Incorporated Plan Overlay Schedule 3 (IPO3) and applies it to land within the amendment area zoned Rural Conservation Zone
- Removes the Environmental Significance Overlay Schedules 3 and 4 (ESO3 and ESO4) and replaces this with an Environmental Significance Overlay Schedule 6 (ESO6) and modifies the ESO6 to match the proposed shape of the RCZ
- Introduces Development Contributions Plan Overlay Schedule 4 (DCPO4) and applies the DCPO4 to the land within the amendment area
- Requires public open space contributions in the Donnybrook/Woodstock Precinct Structure Plan area when land is subdivided by amending the Schedule to Clause 52.01
- Amends the Schedule to Clause 52.17 to identify native vegetation exempt from requiring a planning permit, and
- Amends the Schedule to Clause 81.01 to include a new incorporated document titled '*Donnybrook/Woodstock Precinct Structure Plan, November 2015.*'

Following exhibition, numerous changes have also been proposed by the MPA to the Mitchell Planning Scheme in response to submissions. Appendix 3 of the MPA's Part A submission also contains a marked up tracked changes copy of the Mitchell Planning Scheme ordinance that shows all changes in response to submissions and other matters that have been revisited by the MPA.

As summarised in the MPA's Part A submission, the following changes to the exhibited version of the Mitchell Planning Scheme ordinance are proposed by the MPA:

- The applied zones within the UGZ4 have been revised by the MPA to become:
 - Retail – applied Commercial 1 Zone (unchanged since exhibition)
 - All other land – applied Residential Growth Zone (previously General Residential Zone).

- Rural Conservation Zone Schedule 2 (RCZ2) is no longer sought to be applied to part of the land within the amendment area
- Amend the Schedule to Clause 52.37 to identify dry stone walls exempt from requiring a planning permit, and
- Amend the Schedule to Clause 66.06 to include a notification requirement to the licensee under the *Pipelines Act 2005*.

Section 4 of this report addresses the following unresolved planning control issues:

- The applied zones
- Development contributions and the Development Contributions Plan Overlay
- Dry stone walls
- Heritage Overlay
- Contaminated land
- Rural Conservation Zone
- Extent of the Land Subject to Inundation Overlay along Darebin Creek
- Public Acquisition Overlay
- Rail noise attenuation
- Deletion of Schedule 4 to the Environmental Significance Overlay
- Retention of Special Use Zone 1
- Schedule 6 to the Environmental Significance Overlay

1.3 The Amendment process

Table 1 provides a timeline of consultation undertaken by the MPA in the development and refinement of the DWSP. The MPA submitted that there has been extensive consultation and interaction with landowners and government agencies such as Melbourne Water, the Department of Environment, Land, Water and Planning (DELWP), Yarra Valley Water and Public Transport Victoria (PTV). The MPA submitted that via the extensive consultation and exhibition process, all stakeholders have been provided the opportunity to have input into the development and refinement of the PSP.

Date	Event
Consultation	
October 2012	Letter to landowners providing notice of commencement of pre-planning and background studies and commencement of PSP planning and calling for expressions of interest for third party funding arrangements
December 2012	Letter to Landowners advising that third Party Funding arrangements had been agreed and that consultants would be engaged to commence background studies
January – April 2013	Background studies commence
April – October 2013	Drafting and consultation with agency on background studies
October 2013	Landowner consultation on background reports

January 2014	Consultation with landowners regarding the Donnybrook Road Services Corridor Plan
February 2014	Services Coordination – Landowner Presentation
April 2014	MPA Newsletter to Landowners
23 September 2014	Consultation on background reports
29 September 2014	Agency consultation period concludes – 15 submissions received
3 October 2014	Consultation on background reports concludes
November 2014	MPA newsletter to Landowners
3 December 2014	Informal community information session hosted by the MPA in conjunction with the City of Whittlesea
13 February 2015	Further Agency consultation period begins. Notification also included landowners within and surrounding the Donnybrook/Woodstock PSP area
Formal Exhibition	
13 April 2015	Circulation of newsletter and exhibition details to landowners, Prescribed Ministers and Agencies
14 April 2015	Exhibition notice appears in Whittlesea Leader and North Central Review
19 November 2015	Notice appears in Government Gazette. Formal exhibition commences
24 November 2015	In conjunction with the City of Whittlesea, MPA hosted an information session
21 December 2015	Formal Exhibition Period Concludes – 34 submissions received (including late submissions)
Further Consultation	
December 2015 – May 2016	Ongoing discussions with stakeholders and agencies to resolve submissions
Panel Hearing	
16 May – 20 June 2016	Panel Hearing (13 Days)

Parties Submit Further Information

20 June – 12 July 2016

Parties provide further information in response to the following Panel Directions issued on the last day of the Hearing.

APA GasNet T119 Pipeline

1. *Representatives of Mirvac are to document their further submissions in relation to the T119 pipeline including modifications sought to the PSP and notice requirements via Clause 5.0 of the UGZ. Mirvac are to circulate this documentation to the Panel and all parties (including APA GasNet) by COB Tuesday 28 June 2016.*
2. *The MPA, Whittlesea City Council and Mitchell Shire Council (and any other interested party) are to respond to the Panel in writing regarding the additional submissions made by Mirvac by close of business Tuesday 5 July 2016.*

Monteleone Family Table of Requested Changes (Hearing Document 89)

3. *The MPA and Whittlesea City Council (and other interested parties) are to review the requested modifications sought by the Monteleone family contained in Hearing Document 89 and are to provide the Panel with a list of the changes that are supported (with or without modification) by close of business Tuesday 5 July 2016.*

MPA and VicRoads response to Anthony Monteleone submission

4. *MPA to forward to the Panel the MPA and VicRoads response to issues raised in the Anthony Monteleone submission regarding the PAO, intersection design and location including the request sought to relocate IN01 further East to enable the retention of the existing family home.*
-

As discussed in Section 3 of this report, as a result of the interaction between the MPA, the Councils and landowners, significant agreement with the majority of landowners within the Precinct has been reached on a wide range of issues.

1.4 Procedural issues

At the Directions Hearing submissions requesting to defer the Hearing were made on behalf of Donnybrook Springs Developments (Mr B & Mrs C Monteleone and family). Mr Galileos supported the deferral request. All other parties to the Hearing supported proceeding with the Hearing as scheduled. The Panel determined to decline the requests for deferral and proceed with the Hearing as scheduled on the grounds that matters raised were issues that could be appropriately dealt with by the presentation of submissions and evidence.

2 The plan and the issues

This section describes the main elements of the DWPSP and the issues raised by submitters in relation to it and the accompanying planning scheme implementation.

2.1 The vision

The DWPSP, as now proposed to be amended, presents the following vision for the Precinct:

The Donnybrook / Woodstock Precincts will develop as an attractive place to call a home, with a strong emphasis on the retention of natural features and high quality landscaping in an urban environment supported by strong transport connections and community facilities. Development of the Precinct will create a diverse mix of residential neighbourhoods linked by a variety of local town centres, schools and other community facilities. The distribution of local centres which serve a variety of roles and functions will promote self-sufficiency for residents of the Precinct in meeting local daily retail and convenience needs. Residential and business development will capitalise on the Precinct's proximity to the existing Donnybrook train station, as well as the future Lockerbie Principal Town Centre and potential future Lockerbie Train Station. The expansion of the existing Donnybrook Cheese Farm into an agricultural, historical and cultural learning hub will provide new residents with connections to the history of the area.

The road network will emphasise connections between the Precinct and surrounding communities, particularly those developing to the west in the Lockerbie Precinct. Donnybrook Road will be upgraded to create a primary arterial road. The street network will be supported by the development of the arterial road and connector street grid. This will include Gunns Gully Road extending east across the Melbourne-Sydney Railway line into the north of the Precinct as a primary arterial road. In doing this Gunns Gully Road will connect the Precinct to the future Lockerbie Principal Town Centre in the west and to the future E6/OMR. The development of Cameron Street will also support east-west movement through the Precinct with a proposed grade separated crossing of the Melbourne-Sydney Railway as a secondary arterial. North-south movement through the Precinct will be supported by the development of Patterson Drive. A new bridge connection on Patterson Drive will connect the Precinct north-south across Merri Creek and ultimately provide another connection point to the OMR/E6 corridor as well as a crossing to the north into the proposed Beveridge Interstate Freight Terminal (BIFT), a major potential future employment area in the north. Koukoura Drive will develop as a secondary arterial to Gunns Gully Road and Cameron Street from Donnybrook Road.

Within the Precinct, a fine grain street network will form a permeable grid pattern to promote walking and cycling to interconnecting neighbourhoods in order to reduce car dependency for access to daily activities. Shared trail and on-road bicycle links will also promote integration with the Principal Public

Transport Network (PPTN), including direct links to the Donnybrook and potential future Lockerbie Train Stations. Local active recreation opportunities for residents in Donnybrook-Woodstock will be provided via a distributed network of sporting reserves, local parks and an integrated trail network.

Development will also respond to the many existing man-made and natural features that characterise the area. This includes crossing the Melbourne-Sydney Railway, Merri Creek at Donnybrook Road, Cameron Street and Gunns Gully Road. The new overpasses will connect the Precinct to employment land in the west and south of the sub-region. A planned upgrade of the existing Donnybrook Station and potential future development of the Lockerbie Station will increase access to rail for the district. Hayes Hill, a remnant volcanic cone in the central south of the Precinct will be retained in a largely natural state to serve the Precinct as a defining landscape feature. The Merri Creek and Darebin Creek corridors provide key conservation and linear landscape assets for the Precinct. The creek corridors will be retained and habitat reinstated for the Growling Grass Frog (GGF) in considering with the Biodiversity Conservation Strategy (BCS) and the Sub- Regional Strategy for the GGF with State and Federal approval.

As well as providing improved habitat for local indigenous species, the major creek corridors will bestow local amenity through native plantings and provide informal recreation opportunities through the provision of linear trails and passive park areas.

The only post exhibition changes included in the above vision statement are the last sentence of the first paragraph regarding the Donnybrook Cheese Farm and revised references to the Lockerbie Train Station – from a ‘proposed’ station to a ‘possible future’ station. These changes are reflected in the table of agreed changes in Appendix D of this report.

By the close of the Hearing, all parties had endorsed the above vision for the Precinct.

2.2 Future Urban Structure

Figure 2 overleaf shows the exhibited ‘Future Urban Structure’ proposed for the Precinct as presented by the MPA in its Part A Submission. A significant number of modifications to the ‘Future Urban Structure’ was suggested during the Hearing process to reflect modifications agreed by the MPA in negotiation with both the Councils, State and Commonwealth stakeholders, and landowners within the Precinct. An overview of the agreed changes is discussed in Section 3 of this report.

Net developable area and dwelling yield

The Precinct covers an area of approximately 1,786 hectares with approximately 1,006 hectares considered as net developable area. The Precinct is largely identified for residential purposes which is anticipated to develop at an average of between 16-18 dwellings per hectare. As calculated by the MPA, it is expected that the Precinct will accommodate around 16,000 – 18,000 dwellings for an estimated population of between 45,000 and

2.3 Town Centres and Housing

The DWPSP seeks to facilitate the development of an integrated hierarchy of local town centres and convenience centres located throughout the Precinct which vary in terms of their role and function. Each of the centres is co-located with community facilities such as Community Centres, future government and non-government education facilities, local parks and sports reserves.

The hierarchy has been established to provide a range of facilities and shops needed to service neighbourhood catchments within the Precinct in such a way as to promote walking and cycling as a viable means of travel that reduces dependency on motorised transport for travel within the Precinct.

The local town centres will cater mostly for supermarket based shopping for household and weekly shopping needs with LTC 1 planned to accommodate a future discount department store. This is done to support the City of Whittlesea's intention to locate a future library with youth and intergenerational services on the site. This will be further supported by the planned provision of a government and non-government secondary school and a future indoor sports facility.

The other smaller local town centres are located within the Precinct with access to future arterial roads with the primary frontage of each of the centres on a connector street.

Local convenience centres are positioned on strategic sites throughout the Precinct to support the development of future activity generating land uses such as the existing Donnybrook Station, the planned Lockerbie Station, Hayes Hill Park and the Donnybrook Farmhouse Restaurant, sports reserves and schools.

Medium and higher density housing is strongly encouraged around the local town centres and the existing and future train stations with specific requirements in the DWPSP that call for higher densities within 800 metres of the stations and 400 metres of the local town centres. The DWPSP also supports housing and lot size diversity throughout the Precinct.

Section 5 of this report addresses the following unresolved Town Centre and Retail issues:

- Retail hierarchy
- Format of Tables 3 and 4
- Revised Urban Framework Plans

2.4 Transport Network

The proposed local road network provides a robust structure for traffic and transport movement within and throughout the Precinct that will satisfactorily meet expected traffic demand.

Donnybrook Road while outside the Precinct has been considered extensively in the preparation of the DWPSP. This includes a plan to introduce a Public Acquisition Overlay (PAO) for Donnybrook Road to cater for its future widening to six lanes. Donnybrook Road is a declared road and VicRoads anticipates it serving a primary arterial and freight route for many years prior to the OMR/E6 Transport Corridor being built. In the future the level crossing of Donnybrook Road over the Melbourne-Sydney Railway will be grade separated allowing for the future development on the south side of Donnybrook Road to integrate with

Donnybrook station via an underpass. The DWPSP specifies that arterial and connector street intersections to Donnybrook Road will be funded by infrastructure contributions levies.

The proposed OMR/E6 forms the majority of the eastern/northern boundary of the Precinct. The proposed OMR/E6 is a long term proposition with construction unlikely to commence within the next 20 years. The road network has been designed with this in mind, allowing for localised connections to the surrounding road network to occur in the interim period.

Within the Precinct, Gunns Gully Road is identified in the North Growth Corridor Plan (NGCP) as a future 6 lane arterial road that connects the Precinct to the Hume Freeway via a future state funded bridge crossing the Melbourne-Sydney Railway and the Lockerbie Principal Town Centre. Gunns Gully Road runs east-west and will provide an interchange point to the future OMR/E6 and to Grants Road. A PAO is already in place and reserves land outside the DWPSP for this purpose. The DWPSP identifies the land for the full six lane width (i.e. 41 metres), construction of the first carriageway and arterial and connector street intersections as local infrastructure to be funded by infrastructure contributions levies.

Cameron Street is planned to provide a secondary east-west arterial connection between Donnybrook/Woodstock and Lockerbie. The exhibited DWPSP shows Cameron Street as providing an arterial function beyond Patterson Drive to Koukoura Drive. VicRoads has since revised its position and confirmed that Cameron Street between Patterson Drive and Koukoura Drive is not required as a future declared road. As such, this section of Cameron Street will be treated as a Boulevard Connector Street to the satisfaction of the City of Whittlesea. Between the Melbourne-Sydney Railway and Patterson Drive the DWPSP identifies the land for the full width (i.e. 34 metres), construction of the first carriageway, arterial and connector street intersections and a bridge spanning the Melbourne-Sydney Railway and Merri Creek as local infrastructure to be funded by infrastructure contributions levies. The MPA advised that the cost of this bridge (BR-01) is to be 50/50 funded between Lockerbie DCP and the future Donnybrook/Woodstock Infrastructure Contributions Plan.

Patterson Drive is identified in the North Growth Corridor Plan as providing a strategic south-north arterial link from the south of Donnybrook Road through the Precinct to the future Beveridge Intermodal Freight Terminal and employment area. Patterson Drive is planned as a four lane arterial and intersects with the future Cameron Street and Gunns Gully Road. The DWPSP identifies the land for the full width (i.e. 34 metres) and construction of the first carriageway and arterial and connector street intersections and the bridge connection over the Merri Creek/Melbourne-Sydney Railway as local infrastructure to be funded by infrastructure contributions levies.

Koukoura Drive is identified in the North Growth Corridor Plan as providing a strategic south-north arterial link from the south of Donnybrook Road connecting to Wollert, Aurora and Epping North through the Precinct to the future Gunns Gully Road. The North Growth Corridor Plan identified Koukoura Drive as being a future six lane arterial, however, through the planning process VicRoads agreed that Koukoura Drive would function appropriately as a four lane arterial as reflected in the exhibited DWPSP. Koukoura Drive intersects with the future Hayes Hill Boulevard, Cameron Street and Gunns Gully Road. North of Gunns Gully Road, Koukoura Drive reverts to a connector street. The DWPSP identifies the land for the

full width (i.e. 34 metres), construction of the first carriageway and arterial and connector street intersections as local infrastructure to be funded by infrastructure contributions levies.

Hayes Hill Boulevard provides an important local connector street that links the east of Precinct to the west and in doing so providing an important amenity driven connection for local centres, sports reserves/facilities and the Donnybrook Railway Station. Hayes Hill Boulevard will form part of the off-road bicycle network and have capacity to serve as a local bus route in the future.

Other connector streets are located throughout the future urban structure to provide local access between various land uses. The connector street and boulevard connector street cross sections are designed to provide an attractive and uniform street treatment with the option of a boulevard treatment with a central tree median.

Local bus services will be ultimately available to the Precinct via the boulevard connector roads and surrounding road network. Special provision has been made to ensure that the road network will support future bus connections to the existing Donnybrook Station and the proposed Lockerbie Station.

Rail transport is currently available at the existing Donnybrook Station via V/Line services to and from Melbourne. It is anticipated services will be upgraded progressively as the area develops. A new station is planned for the Lockerbie Principal Town Centre and the Donnybrook/Woodstock DWPSP makes provision for access to the new station from the east side of the Precinct.

The exhibited DWPSP shows two indicative temporary local access streets, one extending west – east from the end of Gunns Gully Road, the other traversing land outside the DWPSP from the northern end of Patterson Drive. In relation to the temporary road at the end of Gunns Gully Road, this is required to give access to property 25 in the event that the owners of that parcel wish to develop before other roads in the Precinct are developed. The MPA considers that this road is not required to provide access to properties 29, 28, and 26 on the basis that these properties already have access from Merriang Road and the existence of the OMR/E6 PAO does not constitute an actual barrier to access until the land is required for it.

In relation to the temporary road in the north of the Precinct, the MPA accepts that the alignment shown is not helpful or appropriate for the DWPSP. The need for this road is predicated on a requirement from the Country Fire Authority (CFA) that seeks secondary access in and out of properties 3 and 6. In all likelihood the area of the DWPSP north of Merri Creek will not develop until Patterson Drive is constructed through the Conservation Area and into the Mitchell Shire area. This is unlikely to have demand until the Northern Freight PSP (i.e. PSP 1063) is planned and developed. PSP 1063 also known as the Beveridge Intermodal Freight Terminal is currently not on the MPA Work Program.

Section 4.8 of this report addresses the unresolved issue of the Public Acquisition Overlay with respect to the location of Intersection 'Stub' (IN-01).

Section 10 of this report addresses the other following unresolved traffic issues:

- Classification of 'Monteleone Way'
- Intersection Treatments
- Construction Standard of Gunns Gully Road to Merriang Road

2.5 Education and Community Infrastructure

The DWPSP provides for a range of education and community facilities to be located throughout the Precinct to support the future resident population. The types of facilities that are to be accommodated include:

- Government and non-government primary and secondary schools
- Kindergarten rooms and associated outdoor spaces
- Maternal and Child Health Centres
- Meeting rooms
- Hall and kitchen
- Consulting suites including space for Government and non-government community based organisations.

The community facilities are located throughout the Precinct co-located with future Government and non-government schools, sports reserves and generally within the network of local town centres and local convenience centres.

The MPA explained that the co-location of community infrastructure with sporting reserves allows an opportunity to share facilities within the broader community hub. Other identified co-benefits of locating the community facilities with schools and centres is that it helps to establish a basis for non-retail based activity within the local town centres and supports walking and cycling by increasing accessibility and convenience for residents of the Precinct. These facilities will be introduced progressively as the Precinct develops.

Section 4.2 of this report addresses the following unresolved issue relating to community infrastructure:

- Development Contributions and Development Contributions Plan Overlay

Section 6 of this report addresses the following unresolved issues relating to education:

- Designation of non-government schools
- Use of 'non-required' school sites

2.6 Open Space and Conservation Areas

The DWPSP proposes an extensive network of local parks, sports reserves, lineal waterway and creek reserves and Conservation Areas to meet the passive and active open space requirements of future residents.

The exhibited DWPSP provides approximately 44.6 hectares of local park, 54.2 hectares of sports reserves, 61.9 hectares of encumbered waterway and drainage reserve and 20.6 hectares of utilities easement and pipe track creating opportunities for passive recreation

and trail network. In addition, 14.5 hectares of Hayes Hill is reserved as a Municipal Park and will form an important part of the open space network.

The network of local parks is distributed throughout the Precinct with the aim of all residents being within a 400m walkable catchment of open space. The MPA advised that, where possible, local parks have been located to assist with the retention of River Red Gum trees and other notable Precinct features. The MPA explained that the local park in the north and central to the DWPSP also provides a linear link to the Darebin Creek.

The sports reserves provide for a wide variety of organised sports activities to meet the needs of future residents including AFL/cricket, soccer, netball/basketball, lawn bowls and skate-park. The DWPSP allocates land for an indoor sports stadium co-located with SR-05 as part of LTC-1.

In addition to the above land reserves, the conservation areas associated with the State/Commonwealth agreed BCS creates an open non-developable area totalling 394 hectares. While the primary purpose of this area is not to serve as recreation, the retention of this area will add significantly to the amenity and cultural heritage values of the area by conserving significant areas of habitat for River Red gums, Growling Grass Frog and Grassy Eucalypt Woodland along the Merri Creek and Darebin Creek environs.

The GGF corridor along the Merri and Darebin Creeks traverse the Precinct in the north and east. Both creeks provide a key conservation and landscape asset for the Precinct and act as continuous corridors supporting environmental, heritage and recreational values.

The DWPSP has developed Conservation Area Concept Plans (CACPs) that seek to provide for the integration of informal recreation areas and shared trails within the Precinct to allow people to access the creek environs whilst maintaining ecological outcomes.

Section 8 of this report addresses the following unresolved conservation issues:

- Changes to conservation area boundaries
- Dennis Family Corporation

2.7 Integrated Water Management

The DWPSP encompasses multiple catchments. Melbourne Water has commenced the preparation of a number of Development Services Schemes (DSS) to manage stormwater runoff throughout the Precinct.

The exhibited DWPSP outlines the following requirements for integrated water management:

DSS	ASSET ID	ASSET TYPE	LOCATION	AREA (HECTARE)	RESPONSIBILITY
Lockerbie East DSS (6508)					
6508	RBWL-1	Retarding Basin/Wetlands	Property 11	7.00	MWC
6508	RBWL-2	Retarding Basin/Wetlands	Property 17 & 20	4.90	MWC
6508	RBWL-3	Retarding Basin/Wetlands	Property 15	1.36	MWC
6508	WL-1	Wetland	Property 15 & 16	1.01	CoW
6508	SB-1	Sediment Basin	Property 9	0.40	CoW
6508	SB-2	Sediment Basin	Property 8	0.40	MWC
Langley Park Dr DSS					
6503	RBWL-4	Retarding Basin/Wetlands	Property 19	0.76	CoW
6503	RBWL-5	Retarding Basin/Wetlands	Property 20	0.55	CoW
6503	SB-3	Sediment Basin	Property 19	0.15	CoW
Woodstock West DSS					
4566	RBWL-6	Retarding Basin/Wetlands	Property 31	2.48	MWC
Woodstock DSS					
4560	RBWL-7	Retarding Basin/Wetlands	Property 29	2.94	MWC
4560	WL-2	Wetland	Property 30	0.8	CoW
4560	RB-1	Retarding Basin	Property 30 & 33	0.98	MWC
4560	WL-3	Wetland	Property 33	0.76	CoW
4560	RBWL-8	Retarding Basin/Wetlands	Property 33	3.31	MWC
4560	RBWL-9	Retarding Basin/Wetlands	Property 33	3.95	MWC
4560	RBWL-10	Retarding Basin/Wetlands	Property 36	1.4	CoW
4560	RBWL-12	Retarding Basin/Wetlands	Outside the PSP	2.68	MWC
Beveridge East DSS					
6513	RBWL-11	Retarding Basin/Wetlands	Property 6	3.78	MWC
6513	RBWL-11a	Retarding Basin/Wetlands	Property 6	3.78	MWC

The MPA noted that Melbourne Water has responded to a number of submissions and propose a number changes to the location, size and type of assets required for the Precinct.

The development of the Precinct will be required to demonstrate compliance with the approved Development Services Scheme prepared by Melbourne Water.

Section 9 of this report addresses the following issues regarding the proposed Melbourne Water Development Services Scheme:

- Agreed changes
- Constructed waterway versus pipe
- Bypass channel through dam within CA34
- Location of wetland/retarding basin RBWL2 in Lockerbie East DSS

2.8 Heritage

Context Pty Ltd was commissioned by the then Growth Areas Authority at the end of January 2013 to conduct a post contact heritage assessment for the DWPSP. The purpose of the assessment was to identify post contact (i.e. non-Indigenous) cultural heritage within the Precinct so that this information could be used to determine the land uses within the Precinct.

The assessment carried out by Context identified a number of potential heritage places throughout the Precinct, which included buildings, farm ruins and a number of dry stone walls. The DWPSP identifies the location of these sites. The local park network also recognises known heritage places and seeks to retain these features as part of future public open space.

In relation to the treatment of dry stone walls, the MPA advised that it proposes to revise the approach from that outlined in the exhibited DWPSP and intends to make the following changes:

- Plan 2 of the PSP will continue to show the existing Precinct features, rather than nominate the retention value of the existing dry stone walls
- Plan 5 (Character & Housing) will designate dry stone walls with moderate to high retention value and others with potential for removal or reconstruction consistent with the recommendations of the Context Report. This would mean grouping together the dry stone walls with a significance in Table 8.4 of the Context Report as Very High, High, Moderate-High and Moderate as 'dry stonewalls prioritised for retention'. The walls with a significance identified as 'low' in the Context Report would be identified on Plan 5 as able to removed (and potentially reconstructed).

The MPA advised that distinguishing the walls with low significance, as able to be removed, creates the opportunity for the schedule to Clause 52.37 (Post Boxes and Dry Stone Walls) to include an exemption from needing a permit to remove these walls with identified low significance. The MPA advised that this would involve introducing the following (or similar) wording into the Schedule to 52.37 of the Whittlesea and Mitchell Planning Schemes:

All except land shown as 'dry stone wall able to be removed' in the incorporated Donnybrook/Woodstock Precinct Structure Plan.

A follow on effect would be that Clause 3.7 of Schedule 6 to the Urban Growth Zone (Whittlesea) and Clause 3.6 of Schedule 4 to the Urban Growth Zone (Mitchell) would be reworded to reflect that a Dry Stone Wall Management Plan will only be required where a dry stone wall is to be retained.

The MPA also advised that a new Requirement will be included in the DWPSP that states:

Dry stone walls identified as prioritised for retention on Plan 5 must be retained as part of any future development, unless otherwise agreed to by the Responsible Authority after consideration of overall design response and following receipt of advice from a suitably qualified professional regarding the condition of the wall.

Section 4.3 of this report addresses the issue of Dry Stone Walls and Section 4.4 addresses the issue of the Heritage Overlay.

2.9 APA GasNet infrastructure and other utilities

Within the DWPSP there are two gas transmission pipelines that are owned and operated by a number of private companies collectively known as APA:

- Wollert to Wandong Pipeline (T119)
- Keon Part to Wodonga Pipeline (T74)

The pipelines are contained within, and protected by, an easement granted in favour of the APA that runs north-south through the Precinct.

Section 7 of this report addresses the following unresolved gas pipeline issues

- Notice requirements in UGZ Schedule
- Wording of the Construction Management Condition
- Concrete pathways over pipelines

Section 11.1 of this report addresses the issue of utilities infrastructure on the Monteleone family property.

2.10 Other issues

A number of other discreet issues remained unresolved by the close of the Hearing.

Sections 11.2 – 11.9 of this report address the following issues:

- Scattered trees
- Local Park 25
- Configuration of Local Park 26
- Local Parks 06, 07, 30, 31, and 32
- Stony rises and view lines
- Merri Creek corridor
- Donnybrook Railway Station and environs
- Dwelling and population estimates.

3 Resolved matters

3.1 The issue

The MPA prepared and maintained an excel spreadsheet that documented changes to the exhibited DWSP that had been agreed between the MPA and individual submitters. By the close of the Hearing, Version 3 of the document (Hearing Document 72 – see Appendix D of this report) comprised a total of 21, A3 pages and contained 275 specific changes. The majority, but not all, of the changes agreed between the MPA and individual submitters were agreed by all other parties to the Hearing.

3.2 Submissions

The MPA noted that the submissions and evidence generally demonstrate a high level of co-operation and narrowing of issues between parties. Ms Patterson noted that Version 3 of the list of changes “includes the MPA’s most up to date agreed changes to the PSP”.

All parties to the Hearing were provided the opportunity to contribute to the evolution of the list of changes document during the Hearing. Version 3 of the document was circulated on Friday 10 June 2016, 10 days prior to the last day of the Hearing.

On the last day of the Hearing a round-table without prejudice discussion occurred in order to identify specific changes where consensus had not been reached.

There were only a handful of proposed changes from Hearing Document 72 which remained contested by the majority of parties to the Hearing. They are described in Table 1 below together with a reference to where the issue is discussed in this report.

Table 1 Contested ‘Agreed Changes’ Listed in Hearing Document 72

Reference No and Issue in Hearing Document 72 (Refer Appendix D)	Position of Parties	Addressed by the Panel in what section of this Report?
Ref No. 1 <i>Retention of ‘removed’ dry stone wall along the boundary of property 7 and 9 on PSP Plan 2</i>	The removal of the wall from Plan 2 is not supported by City of Whittlesea.	Section 4.3
Ref No. 3 and Ref No. 208 <i>Content of Plan 3 – Depiction of Gas Pipeline Measurement Lengths</i>	Mirvac and Boral request further modifications re APA Gas Pipelines. Subject of further information post hearing.	Section 7
Ref No 5.; No. 8; No. 212 and No. 217 <i>Reference to Infrastructure Contributions Plan</i>	Anthony Monteleone opposes references as there is no DCP or ICP to review.	Section 4.2
Ref No. 21 <i>The use of Plan 6 as a</i>	Anthony Monteleone opposes the use of Plan 6 as the	Section 4.8

<i>background to all plans</i>	background to all plans as currently presented. He requests that the base plan be modified to remove IN01 or relocate it further east and modify the extent of PAO.	
Ref No. 38 <i>Content of Plan 3 – Depiction of Conservation Area</i>	Dennis Family Corporation seek Plan 3 to be modified to reflect its proposed zoning and road modifications to facilitate an additional house lot as per Hearing Document 93	Section 4.6
Ref No. 100 <i>Content and wording of Tables 3 and 4 – Local Town Centre and Local Convenience Centre Hierarchy. (Note: The Tables included are outdated. They should be replaced by Doc 41 – Refer Appendix E)</i>	The tables that were cut and pasted into Hearing Doc 72 need to be replaced with those comprising Hearing Doc 41. Monteleone Family and Mirvac oppose elements of the tables and further clarity is proposed by Whittlesea City Council and MPA.	Section 5.3
Ref No. 143 <i>Deletion of Guideline 23</i>	City of Whittlesea and Dennis Family Corporation seek the retention of Guideline 23 as exhibited.	Section 11.5
Ref No. 207 and 209 <i>‘Reduce details on Utilities Plan’</i>	Monteleone family and others support replacement of the Utilities Plan with Hearing Document Plan 60.	Section 11.1
Ref No. 232 <i>‘Identification of Anglican Diocesan Schools Commission and Catholic Education Office as Lead Agencies for Education Facilities to be included in Table 10.</i>	Supported by Catholic Education Office and MPA but opposed by Mirvac and Dennis Family Corporation	Section 6.1

In addition to the above contested ‘agreed changes’ the Monteleone family submitted a marked up version of Hearing Document 72 that identified all matters to which they did not agree, based on their submissions to the Hearing. This document (Hearing Document 89) identifies the following ‘agreed changes’ that it contests in full or in part: 4, 5, 8, 10, 21, 29, 40, 42, 43, 49, 51, 56, 64, 95, 100, 103, 106, 122, 126, 127, 130, 134, 136, 137, 141, 154, 163, 166, 179, 199, 204, 207, 209, 210, 211, 212, 216, 217, 222, 223, 233, 235, 237, 248, 263, 274, 275.

The Panel directed that the MPA and Whittlesea Council review the requested modifications sought by Monteleone family and provide the Panel with a list of the changes that they support (with or without modifications).

The following table provides a summary of responses where either or both the MPA and the City of Whittlesea agree with the proposed change requested by the Monteleone family.

Table 2 Hearing Document 89 Changes Agreed by MPA and/or City of Whittlesea

Change Requested by Monteleone Family	MPA Response	City of Whittlesea Response
Ref No. 4 <i>'Remove reference to known trees on Monteleone land aside from tree within LPO5 which is the only vegetation identified on Monteleone land in MPA Treetec report (See Monteleone submission to Panel June 2016 paragraph 124)</i>	While the MPA acknowledged that the data in this instance may appear incorrect, the Monteleone family are required to contact DELWP directly to demonstrate to DELWP that the trees in this location are non-native. If the Monteleone family are able to satisfy DELWP, the MPA will be able to remove the trees from the plans.	Agreed
Ref No. 56 <i>'Update(d) land budget required'</i>	Once Panel Report has been received and all plan changes have been finalised, an updated land budget will be produced.	Agreed to the extent that the changes are a corollary of the various matters discussed and raised in the course of the hearing
Ref No. 122 <i>'Also delete R36. Leave to permit process'</i>	MPA supports deleting R36 from the PSP	Agreed
Ref No. 141 <i>'Correct error throughout 3.3.2. Provide proposed text as to what clause 3.3.2 is proposed to say so that it can be understood what POS contribution is to be sought'</i>	Requirement 48 is to be updated once the ICP framework is established	(Not addressed)
Ref No. 166 <i>'Amend plan 12. Key local access street (shown in blue colour in LCC1 UDF) East to West on Monteleone land through the property and roundabout as per updated revised UDF for LCC1'</i>	The MPA does support the proposed Monteleone LCC1 UDF	Para 52 of Council's Closing Submission (Hearing Document 87) notes agreement to the variations to the concept UDF Plans
Ref No. 207 <i>'Either delete plan 15 – Utilities –</i>	The MPA intends to use the revised Utilities Plan tabled	Agreed that a new utilities plan is to be

<i>or replace in accordance with version provided during the Panel hearing overlayed on plan 3 FUS at page 8. Document 60'</i>	during panel (Hearing Document #60) in the finalisation of the PSP	produced.
Ref No. 209 <i>'R85 – ensure Plan 15 is replaced with version provided during Panel being Document number 60 shown as an overlay on Plan 3 FUS'</i>	Maintain position reflected in Doc 72	Agreed that a new utilities plan is to be produced.
Ref No. 210 <i>'R85 – ensure Plan 15 is replaced with version provided during Panel Hearing Shown as Plan 3 FUS at point 207 within this document, if Plan 15 is to stay in the PSP'</i>	Maintain position reflected in Doc 72	Agreed that a new utilities plan is to be produced.
Ref No. 222 <i>'Monteleone's object to this. No information has been given as to what this 'brief description of allowable ICP items' would be. This appears to be an attempt to make this the list of DCP items – this is outside the scope of this amendment. No DCP or ICP has been exhibited. There remains no funding mechanism. Monteleone position is that a funding mechanism is essential – see Monteleone June 2016 submission to Panel. A DCP/ICP ought to be prepared and go through public process for consideration before the PSP is considered further.'</i>	The MPA intends to include wording that relates the PSP to the ICP documentation that is to be prepared.	Agreed as to the last sentence of this proposition as per Council's submissions to the panel.
275 <i>'Unknown what 'Update section in line with the Wollert PSP panel report' means. Panel requested to direct that MPA provide text of exactly what is proposes to parties.'</i>	MPA support inclusion of words from Appendix E of the Wollert Panel Report	Support the inclusion of words from Appendix E of the Wollert Panel Report

3.3 Discussion

The Panel acknowledges the concerted effort by the MPA, both Councils and the landowner submitters to resolve and narrow matters in dispute. The resultant list of agreed proposed changes to the DWPSP and the Planning Scheme provisions are significant.

During the Hearing the Panel regularly sought the views of parties as to their comfort level regarding the quantum and nature of the proposed changes. No party to the Hearing opposed the process adopted by the MPA in recording the 'agreed changes' to the DWPSP via the excel spreadsheet.

The matters identified in Table 1 that were contested by parties are addressed in subsequent sections of this report. Similarly the extensive list of 'agreed changes' that are opposed by the Monteleone family, based on their primary submissions to the Hearing, are addressed in the relevant issue specific sections of this report.

Having noted this, as reflected in Table 2, there are a number of matters raised by the Monteleone family in Hearing Document 89 that are agreed by either or both the MPA and the City of Whittlesea. The Panel has reviewed the matters identified and supports their inclusion to the list of 'agreed changes' as follows:

- Amend Plan 3 to remove reference to 'known trees' on Monteleone land aside from the tree within LPO5, subject to agreement from DELWP being obtained
- Update Table 1 – Summary Land Use Budget following completion of all DWPSP Plan updates
- Delete requirement R36
- Update requirement R48 as part of the refinement and resolution of the Infrastructure Contributions Plan
- Amend Plan 12 to identify an east-to-west 'key local access street' on the Monteleone family land through the property and roundabout as reflected by the blue line shown on updated revised Urban Design Framework for LCC1 in Hearing Document 18a.

Matters raised by the Monteleone family concerning the detail provided in the Utilities Plan are discussed in Section 11.1. Matters concerning the preparation of an Infrastructure Contributions Plan are discussed in Section 4.2 and matters concerning the Wollert Panel response to Scattered Tree Retention within the City of Whittlesea are discussed in Section 11.2.

In relation to agreed changes to the Planning Scheme ordinance of both the City of Whittlesea and the Mitchell Shire Planning Schemes, the Panel notes that the MPA circulated revised Urban Growth Zone Schedules on Day 1 of the Hearing, Hearing Documents 4c and 4d. These versions of the Schedules include a number of changes agreed by the MPA in response to submissions and further discussion with parties to the Hearing. A number of the changes were not discussed at the Hearing in acknowledgment of their acceptance by Parties. The Panel accepts the changes identified in these revised versions to the Schedules except where contrary to an explicit recommendation of the Panel in this report. All parties also agreed that exhibited Schedule to Clause 52.01 in both Schemes will need to be amended once the final location and size of local parks is determined and reflected in the final versions of the DWPSP and Infrastructure Contributions Plan.

3.4 Conclusion

The Panel concludes that it is appropriate for the DWPSP to be amended to reflect the agreed proposed changes listed in Hearing Document 72 except where the proposed change is contrary to an explicit recommendation of the Panel in another section of this report. A number of additional changes sought by the Monteleone family were matters of detail and not contentious and therefore are not discussed elsewhere in this report. These items were agreed by the MPA and the City of Whittlesea and are also supported by the Panel.

3.5 Recommendations

The Panel recommends:

Amend the Donnybrook/Woodstock Precinct Structure Plan to reflect the 'proposed changes' listed in Hearing Document 72 which is contained in Appendix D of this Report, except where contrary to an explicit recommendation of the Panel.

Amend the Donnybrook/Woodstock Precinct Structure Plan to reflect the following changes requested by the Monteleone family in Hearing Document 89 that are agreed by both the Metropolitan Planning Authority and the City of Whittlesea:

- a) **Amend Plan 3 to remove reference to 'known trees' on Monteleone land aside from the tree within Local Park LPO5, subject to agreement from Department of Environment, Land Water and Planning being obtained**
- b) **Update Table 1 – Summary Land Use Budget following completion of all DWPSP Plan updates**
- c) **Delete requirement R36**
- d) **Update requirement R48 as part of the refinement and resolution of the Development Infrastructure Contributions Framework**
- e) **Amend Plan 12 to identify an east-to-west 'key local access street' on the Monteleone family land through the property and roundabout as reflected by the blue line shown on updated revised Urban Design Framework for LCC1 in Hearing Document 18a**

Amend Schedule 4 to the Urban Growth Zone of the Mitchell Planning Scheme (as reflected in Hearing Doc 4c), and Schedule 6 to the Urban Growth Zone of the Whittlesea Planning Scheme (as reflected in Hearing Document 4d) except where contrary to an explicit recommendation of the Panel.

Amend public open space contribution percentage in the Schedule to Clause 52.01 in both the Whittlesea and Mitchell Planning Schemes once the final location and size of local parks is determined and included in the final versions of the Donnybrook/Woodstock Precinct Structure Plan and Infrastructure Contributions Plan.

4 Planning controls

4.1 The applied zones

(i) The Issue

As exhibited, the applied zone provision for 'all other land' in the UGZ4 (Mitchell) and UGZ6 (Whittlesea) is the General Residential Zone. Post exhibition, the MPA advised that its current policy is to apply the Residential Growth Zone (RGZ) to land in urban growth areas. There was limited support for this approach. Both the Whittlesea and Mitchell Councils and others only supported the RGZ over selected areas. The Monteleone family wants the Mixed Use Zone applied to that part of its site occupied by its cheese making business.

(ii) Evidence and Submissions

In support of the MPA current policy to apply the RGZ, Ms Patterson referred to the following purposes of the UGZ:

To manage the transition of non-urban land into urban land in accordance with a Precinct structure plan

To provide for a range of uses and development of land generally in accordance with a Precinct structure plan.

Ms Patterson went on to say that the provisions of Part B (Clause 37.07-9 to 37.07-16) of the UGZ apply where a PSP is in place. These clauses provide for the exercise of discretion as to whether or not a permit should be granted and therefore she believed it makes little difference as to whether the GRZ or RGZ is applied, as *the intensity of the proposed development is settled within the PSP, not with the applied zone.*

Ms Patterson also referred to Plan Melbourne and its recognition that growth areas need to depart from the traditional approach of applying the GRZ and explore the application of alternate zones. She referenced Initiative 2.1.4 of Plan Melbourne which proposed the amendment of the Precinct Structure Planning Guidelines to ensure housing diversity was achieved, with the adoption by the MPA of the RGZ *in Melbourne's greenfield locations in growth areas to allow for residential change and redevelopment in appropriate locations over time.*

In its closing submission, the MPA reiterated its belief that the RGZ provided the greatest flexibility in relation to density, yield and diversity of housing in the DWPSP.

The MPA view was not shared by its planning witness. In response to a question from Mr Montebello, Mr Hooper stated his preference was for GRZ to apply to land in the DWPSP subject to the caveat that the RGZ could be applied in 'appropriate locations'. These would include land near the two railway stations, commercial centres and possibly some other identified areas.

The submissions of Mr Kane for Lavsor (825 Donnybrook Road) and Ms Hicks for Trash Media (855 Donnybrook Road) supported the RGZ for their clients' land. It was Ms Hicks' submission that neither Council had suggested the RGZ was not the appropriate zone for

land within 500 metres of a train station. In his evidence for Lavsor and Trash Media, Mr Black supported “... *at a minimum, the use of the RGZ within proximity (i.e. 500 metres) to the Donnybrook train station and Local Centre*”. He therefore supported the MPA’s approach to apply the RGZ rather than the GRZ. He also believed the planning provisions “... *must ensure that a building height greater than 13.5 metres can be accommodated*”.

Both Councils were opposed to the application of the RGZ on ‘*all other land*’ in the DWPSP. It was their view that the GRZ should be generally applied across the DWPSP, with the RGZ limited to areas adjoining the train stations and LTCs. Mr Tobin did not believe the case had been made out for applying the RGZ to land in Mitchell Shire. He also referred to Plan Melbourne which supported the use of the suite of residential zones in Growth Areas. He stated Mitchell Council supported the application of the RGZ around LTCs and railway stations even though it considered it would not be particularly relevant in Mitchell.

Mr Tobin referred the Panel to the Rockbank PSP (Melton C145) where the Panel rejected the MPA argument for the broad application of the RGZ. That Panel concluded that, given the differentiation between high density residential opportunity areas and other areas, different controls were required so that, when the UGZ was removed, they would reflect the intended development.

Mr Tobin also submitted that it was particularly telling that the MPA’s witness did not support applying the RGZ across all residential areas in the Donnybrook/Woodstock PSP.

In a memorandum to its legal Counsel, Catholic Education Melbourne stated it had no objection to either the GRZ or RGZ being applied, provided the Panel was satisfied there were adequate planning provisions and guidelines to promote positive amenity outcomes for school sites.

In her submission for Mr Dibella, Ms Scullion supported the MPA position to apply the RGZ to all residential land.

On the other hand, Mirvac agreed with Whittlesea and Mitchell Councils that the GRZ is the appropriate zone for the majority of residential land in the DWPSP. While Mirvac is supportive of pockets of RGZ being applied to areas around retail centres. It believes its wholesale application is inconsistent with the zone purpose and the housing outcomes being sought across most of the DWPSP. Mirvac adopted Mr Woodland’s evidence in this matter.

In relation to land in proximity to the Donnybrook railway station, and the Donnybrook Hotel site in particular, and notwithstanding the discretionary 13.5 metres height in the RGZ, Mr Black believed development in this area should be unconstrained. He therefore believed a greater maximum height should be adopted under a Schedule. He recommended the adoption of 27 metres to ensure that eight storey apartment type development could be accommodated in the future. He stated this height was consistent with many developments currently being developed in Melbourne’s middle ring suburbs.

Mr Black stated he was fearful that even though the building height in the RGZ is discretionary, obtaining consent from Council for additional height may be difficult. He went on to say that if additional height was not agreed by way of a zone Schedule, the Mixed Use Zone should be applied to the area near the Donnybrook rail station to enable additional height to be achieved.

Mr Montebello advised of decisions that had been made to allow buildings that exceeded the discretionary provision under the RGZ. He did not support allowing increased height under a schedule.

In relation to that part of the Monteleone land occupied as its cheese making business, Mr Wren submitted this land should be designated Mixed Use in the DWPSP. He believed this was consistent with Mr Hooper's evidence.

Ms Patterson advised the Panel that the MPA does not support the application of the Mixed Use Zone over the land occupied by the Monteleone's cheese making business.

(iii) Discussion

The Panel does not support the proposition put forward for the MPA that the RGZ should be adopted as the applied zone for '*all other land*' under UGZ4 and UGZ6.

The Panel acknowledges Plan Melbourne intends that development in growth areas depart from the more traditional approach of uniform housing lots. To achieve this mix of both higher and lower densities within new precincts, it intends that the suite of reformed residential zones and the Mixed Use Zone be used, and that the RGZ be applied in appropriate locations over time (Panel emphasis). The Panel believes these provisions do not suggest, as asserted by the MPA, that the RGZ should necessarily be adopted as the 'applied zone' over all residential land in all Growth Areas.

The DWPSP is quite explicit that higher densities are to be encouraged near the rail stations and local town centres (O17, O18 and requirement R22). It also recognises that more conventional and lower density development will occupy land close to conservation areas (Guideline G11).

The other DWPSP objective for housing is more general in nature, supporting 'housing diversity, through the provision of a range of housing types and lot sizes' (O9).

Accepting Ms Patterson's submission that the provisions of the DWPSP, not the zoning, will determine the intensity of development in the DWPSP, the Panel believes, based on its objectives, requirements and guidelines, that the GRZ, not the RGZ, is the appropriate applied zone for 'all other land' in the Precinct, except for land within 500 metres of Local Town Centres that is not otherwise to be zoned Mixed Use or Commercial 1. In particular, the Panel believes the applied zone should reflect the intention of the DWPSP which in this case it is not suggesting higher intensity development occur across the whole Precinct. What the Panel is saying is that higher density development is to be located on land in walkable catchments of the train stations and the LTCs. The Panel notes that all of the LTC's are located in the City of Whittlesea. The Panel is also acknowledging there are areas where conventional and lower density dwellings will be built with other (unspecified) areas accommodating a diversity of dwelling types and densities. The GRZ will enable this diversity to be achieved with higher and lower densities in areas specifically referred to for those purposes in the DWPSP.

The Panel adopts the view of the Melton C145 Panel that when the UGZ is removed, the zone should reflect the intended development. The Panel does not believe the RGZ will achieve this outcome.

Turning to the matter of building height, while the Panel agrees that land in proximity to the Donnybrook rail station is suited to higher densities and this may be achieved by a higher built form, it is not persuaded by Mr Black's reasoning for adopting a maximum height of 27 metres (eight storeys).

The Panel believes that the provisions of the DWPSP and the GRZ and RGZ provide the level of discretion to support the approval of buildings that exceed the discretionary zone heights. While the Panel believes it is reasonable to expect that the discretionary zone heights may be exceeded on land in proximity to the Donnybrook Station and at LTCs, it is not convinced this would be the case in other areas. Mr Black in fact acknowledged that if the RGZ was applied across the whole Precinct, it may be necessary to adopt multiple schedules.

The Panel notes the post exhibition version of the Applied Zone provisions at Clause 2.2 of the UGZ in the Whittlesea Planning Scheme replaces the RGZ with the Mixed Use Zone (MUZ) for areas shown as 'Mixed Use' on Plan 3 - Future Urban Structure of the DWPSP. The area adjacent to the Donnybrook Station and LCC-2 is identified as 'Mixed Use' on this Plan and the Urban Design Framework Plan, as amended (Hearing Document 18A), states that development greater than four storeys is encouraged in this LCC.

Turning to the Monteleone land, based on the submissions made to it, it was evident to the Panel that the future of the factory component of the business and the relationship of the business with LCC-1 are still to be resolved. The Panel therefore believes the GRZ should be adopted under the Amendment as the applied zone for this land.

(iv) Conclusions

The Panel does not support the adoption of the RGZ as the applied zone for 'all other land' in the DWPSP, but rather its application should be confined to within 500 metres of Local Town Centres on land otherwise not to be zoned Mixed Use or Commercial 1. It believes the GRZ should be retained, as exhibited, as the applied underlying residential zone. It believes the adoption of these Zones better reflects the provisions of the DWPSP and will allow for higher densities where specifically encouraged.

On the evidence presented to it, the Panel does not support adoption of a Schedule that sets an increased maximum height for land near the Donnybrook rail station. It believes the RGZ, MUZ and the GRZ have the required flexibility to allow buildings to exceed the discretionary height limit in areas where the DWPSP expects more intense development to occur.

(v) Recommendation

The Panel recommends:

Amend Schedule 6 to the Urban Growth Zone in the Whittlesea Planning Scheme by modifying Table 1 in Clause 2.2 'Applied zone provisions' to specify 'Clause 32.07 - Residential Growth Zone' as the Applied Zone for 'Residential Land within 500 metres of Local Town Centres'.

Amend Schedule 4 to the Urban Growth Zone in the Mitchell Planning Scheme and Schedule 6 to the Urban Growth Zone in the Whittlesea Planning Scheme by

modifying Table 1 in Clause 2.2 'Applied zone provisions' to specify 'Clause 32.08 - General Residential Zone' for 'All Other Land'.

4.2 Development Contributions and the Development Contributions Plan Overlay

(i) The Issue

The issue is whether the finalisation of the DWPSP and approval of Amendment GC28 should be delayed until an Infrastructure Contributions Plan (ICP) is prepared.

(ii) Submissions

While Schedules to the Development Contribution Plan Overlay (DCPO) have been applied over the DWPSP area (Whittlesea and Mitchell), a contributions plan setting out the detail concerning the contributions and how they will be applied is yet to be drafted.

The MPA and Whittlesea Council support the processing of the DWPSP but that it not be finalised until an 'Infrastructure Contributions Plan' has been developed and resolved. Others consider the Amendment is deficient in the absence of an appropriately detailed Development Contributions Plan (DCP) that transparently outlines what development contributions each land owner /developer will be required to contribute.

Mr Montebello for Whittlesea Council believed it was prudent to apply the DCPO where PSPs precede the preparation of a contributions plan. He went on to say that this PSP would not be the first to be advanced before the contributions plan was finalised.

In this particular case, based on work done when the Amendment was originally proposed, Mr Montebello stated that the contributions system in this case will be one that adopts the standard levy for growth areas. He believed there was a general understanding as to what the likely costs of the required infrastructure will be. Furthermore, Whittlesea supports the level and type of infrastructure that is proposed in the Precinct Infrastructure Plan (PIP) of the DWPSP as it is consistent with the common approach. He believed, however, that it requires a higher level of certainty to ensure the standard charge will be adequate to fund the infrastructure. He therefore requested the DWPSP not be finalised until the ICP is in place.

Mr Montebello stated that while the DCPO was relevant at the time of exhibition it may no longer be the case if the MPA waits for the new system to be put in place. If the Panel is minded to recommend the DWPSP be approved prior to the Infrastructure Contributions Plan being prepared, he believed the DCPO should be retained as part of the Amendment.

Mr Montebello also believed the DCPO needed 'tweaking' to clarify when contributions were to be paid. He stated it was usual practice that this be prior to the issue of a Statement of Compliance. He also suggested an alternate wording to the option of being able to enter into a section 173 Agreement.

Mitchell Shire raised the difficulty of entering into section 173 agreements where both Councils may be involved with a particular owner/developer.

The absence of a ICP in the Amendment was a significant issue for Mitchell Shire. It believed that if the ICP is progressed in a form that does not adequately fund the infrastructure for which Council is the delivery agency, then that infrastructure may not be appropriate for inclusion in the PSP.

At this time Mitchell is not satisfied that, on the information available to it, shortfall issues will not arise. Because of these concerns, Mitchell requested that the DWPSP not be finalised prior to the ICP being drafted and finalised. It was noted that the MPA has agreed to this approach.

Some submitters considered the Amendment was deficient because of the absence of an appropriately detailed DCP. They also believed there needed to be greater transparency as to what development contributions each land owner/party would be required to pay.

Other submitters saw no reason to prevent the Amendment being approved in the absence of a DCP being prepared.

It was Mirvac's submission that there was no reason to delay consideration or even gazettal of the DWPSP until the funding mechanism had been finalised. Mr Tweedie suggested the Panel should not be concerned about the ability of affected persons to have input into the funding of the DWPSP. He also considered it was unlikely that the Councils would be exposed to a significant shortfall but that if a problem did emerge it could be addressed by the Minister, either by amending the DWPSP or by some other means.

The Panel was also referred to the power of the Minister to require additional notice and consideration of the Schedule.

It was Mr Wren's submission, however, that the funding mechanism for infrastructure is one of the fundamentals of a PSP, as set out in the PSP guidelines. He noted that both Whittlesea and Mitchell have raised concerns in their submissions in relation to the absence of a DCP or ICP. Mr Wren referred to Panel Hearings providing the one and only opportunity to scrutinise a PSP and how it will be funded. This Amendment does not allow this to happen.

Mr Wren also referred the Panel to the Wyndham Panel report for C171 and 172 which noted that, in agreeing that the strategic land use planning could be resolved prior to a DCP being prepared or approved, it was not the ideal approach.

In addressing concerns of the Councils in relation to the DCPO in its closing submission, the MPA agreed to the alternate wording provided by Mr Montebello for Clause 4.0 of the DCPO Schedule in both Schemes, DCPO4 (Mitchell) and DCPO17 (Whittlesea).

The MPA also agreed to the submission of Catholic Education Melbourne, to state that non-government schools are exempt from the provisions of the DCPO, in accordance with the Ministerial Direction to Contribution Plans.

The Monteleone revisions to Hearing Document 72 (proposed changes to the DWPSP) included the deletion of reference to an ICP (page 5 of the DWPSP) and Clause 1.2 (page 6 of DWPSP) on the basis that there is no ICP currently in place and as a result landowners have not had the opportunity to review and provide input into the ICP. These submissions were

opposed by the MPA. Ms Patterson advised the Panel that an ICP would be prepared prior to finalising the DWPSP and therefore it is necessary to retain these references as they are an integral part of the PSP process.

There was general agreement that, in the event disputes arose in relation to the content of the DCP/ICP, the Panel should be reconvened to hear submissions.

(iii) Discussion

The Panel believes it is appropriate to apply the DCPO over land in the PSP, in the absence of having a Schedule of Costs in the Schedules to the Mitchell and Whittlesea Planning Schemes.

The Panel agrees with Mr Montebello that the PSP process provides the opportunity to deal with the big picture, as to how the area will develop rather than getting restrained by the detail of costing individual projects. The Panel also believes, as suggested by Mr Montebello, Mr Connor and other submitters, there is likely to be a reasonable understanding of the costs involved, at least in general terms, of the various items to be funded.

The MPA has stated that its position is to finalise the DWPSP, but not have it approved before the ICP has been prepared. Given the likely time frame, it will require to make the agreed changes to the DWPSP before it can be submitted for approval, the Panel agrees this is appropriate.

The Panel supports the proposed changes to Clause 4: Development Contributions Plan Overlay of the Schedules to the DCPO, as provided by Mr Montebello (Paragraph 61 of Hearing Document 14) and as set out in the MPA closing submission (Hearing Document 91). These include a provision exempting non-government schools from the provisions of the DCP, amendment of the clause in relation to items subject of a section 173 agreement, and development for which a permit may be granted where it is determined it would not compromise the orderly planning of the Precinct.

As to when the contributions are to be paid, as is presently the case in existing schedules, the Panel believes this should be referenced in the DWPSP.

(iv) Conclusions

The Panel concludes that, in the absence of details of the legislation that will determine the contributions required for the stated infrastructure, it would be prudent to delay approval of the DWPSP.

The Panel also adopts the changes to Clause 4 of the Schedules to the DCP which were agreed to by the MPA and both Councils.

(v) Recommendations

The Panel recommends:

Delay approval of Amendment GC28 and finalisation of the Donnybrook/Woodstock Precinct Structure Plan until the State Infrastructure

Contributions reform process has been completed and an Infrastructure Contribution Plan has been prepared for the Precinct.

Amend 'Table 10 - Precinct Infrastructure Plan' of the Donnybrook/Woodstock Precinct Structure Plan by adding non-government schools as an exempt item.

Amend Clause 4.0 of Schedule 4 to the Development Contributions Plan Overlay under the Mitchell Planning Scheme and Clause 4.0 of Schedule 17 to the Development Contributions Plan Overlay under the Whittlesea Planning Scheme by:

- Deleting the first dot point
- Amending the second dot point to read: *"The permit contains a condition requiring an agreement under section 173 of the Planning and Environment Act 1987 that makes provision for a monetary contribution to items listed in the Precinct Infrastructure Plan within the Donnybrook/Woodstock Precinct Structure Plan, incorporated document with the agreement being required to be entered into prior to the issue of any Statement of Compliance. At the discretion of Council, the agreement may make provision for works in kind to be carried out having regard to the infrastructure projects set out in the Precinct Infrastructure Plan contained in the Donnybrook/Woodstock Precinct Structure Plan"*
- Amending the third dot point to read: *"The responsible authority considers that the permit does not compromise the orderly planning of the Precinct for the construction of a building or construction or carrying out of works associated with:*
 - *Additions or alterations to a single dwelling or development ancillary to the use of land for a single dwelling*
 - *An existing use of land provided the gross floor area of the existing use is not increased by more than 1000 square metres*
 - *A sign*
 - *A permit which only allows the consolidation of land or boundary realignment"*.
- Inserting the following exemption provision: *"Land required for the following is exempt from the provisions of this overlay:*
 - *Use and development for a non-government school"*.

4.3 Dry stone walls

(i) The issue

There are a number of dry stone walls in the area contained within the DWPSP. The Heritage Overlay has not been applied to any of these walls but the Schedule to Clause 52.37 currently applies permit control over all walls in the City of Whittlesea. The Schedule to this Clause does not currently trigger permit control for walls in the Shire of Mitchell.

(ii) Submissions

The MPA relies on the Post Contact Heritage Assessments prepared by Context for dry stone walls at Donnybrook and Woodstock. In these assessments the importance of the walls is identified as low, moderate, high or very high. The identified walls are marked on Plan 2 – Precinct Features of the DWSP and are included as Requirements under ‘Image, character and heritage’ (Requirement R10) and ‘Housing’ (Requirements R11, R12 and R13).

Under the Whittlesea Planning Scheme, unless explicitly excluded from permit control under Clause 52.37, the Schedule requires that a permit be obtained to demolish, remove or alter a dry stone wall. Under the Mitchell Planning Scheme, the Schedule to Clause 52.37 is not currently triggered for dry stone walls in that municipality.

Following exhibition of the Amendment, and in response to a Direction of the Panel, Part A of the MPA submission proposed that Plan 2 – Precinct Features would continue to identify the dry stone walls and Plan 5 - ‘Character and Housing’ would *...designate the dry stone walls with high retention value and others with potential for removal or reconstruction consistent with the recommendations of the Context report*. The submission went on to say that this would mean dry stone walls would be grouped, as set out in Table 8.4 of the Context Report, with those identified as ‘Very High’, ‘High’, ‘Moderate-High’ and ‘Moderate’ prioritised for retention. It was also proposed to amend the Schedules to Clause 52.37 of both the Whittlesea and Mitchell Planning Schemes to include the words *“All except land shown as ‘dry stone wall to be removed’ in the Incorporated Donnybrook / Woodstock Precinct Structure Plan”*. Clause 3.7 of Schedule 6 of the Urban Growth Zone (Whittlesea) and Clause 3.6 of Schedule 4 of the Urban Growth Zone (Mitchell) would be modified to only require a Stone Wall Management Plan where a dry stone wall was to be retained and a requirement would be added to the DWSP along the lines of:

Dry stone walls identified for retention of Plan 5 must be retained as part of any future development, unless otherwise agreed to by the Responsible Authority after consideration of overall design response and following receipt of advice from a suitably qualified professional regarding the condition of the wall.

Mr Montebello advised that Whittlesea supported the approach adopted in MPA’s Part A submission, including the proposed Clause 52.37 and revised UGZ6 in relation to the walls identified for retention. He also noted the modified UGZ6 requirement was consistent with the findings of the Wollert Panel. In his closing submission, Mr Montebello confirmed there had been no study undertaken of dry stone walls in Whittlesea as the Council considered the provisions of Clause 52.37 *“adequately deal with”* their management.

Mr Tobin referred the Panel to the Context assessment of the dry stone walls in Mitchell which identified them as having low retention value. He believed this justified deleting Clause 3.6 of the UGZ4, as applying to the dry stone walls located in that part of the Shire.

Mr Connor, for the Boral Property Group, advised the Panel that the dry stone wall referred to on its boundary with the Monteleone land has been removed and therefore reference to it on Plan 2 of the PSP should be deleted. The removal of this dry stone wall was confirmed

at the Hearing by the adjoining land owner (Monteleone). Mr Montebello opposed the deletion of this wall from Plan 2 of the DWPSP.

In its closing submission, the MPA agreed that the walls in Mitchell Shire are of low value and therefore, as planning consent would not be required to remove them, Clause 3.6 of UGZ4, as applying to dry stone walls in Mitchell, could be deleted.

(iii) Discussion

There was general support for the provisions proposed in the DWPSP and Amendment in relation to the protection of those dry stone walls, identified as having medium to very high value in the Context assessments for the Donnybrook/Woodstock PSP.

The Panel accepts submissions of the MPA and Mitchell Shire that because the walls in that Shire have low value and therefore would not require consent for their removal, Clause 3.6 of UGZ4 should be deleted. It follows that the suggested insertion, post exhibition, of a permit requirement under the Schedule to Clause 52.37 in the Mitchell Planning Scheme should also be deleted. This is because, as drafted, although a permit would not be required for the low value walls in this part of Mitchell, it would capture all other walls that may exist in the Shire, and which are presently not controlled under the Schedule to this Clause.

In relation to the Boral submission, and based on advice from that submitter and the neighbouring landowner that this wall no longer exists, the Panel believes there is no reason to retain it on Plan 2- Features Plan in the DWPSP.

(iv) Conclusions

The Panel concludes that the Schedules to the Urban Growth Zone of the Mitchell and Whittlesea Planning Schemes and the DWPSP should be amended as agreed to by the MPA and set out in the recommendations below.

(v) Recommendations

The Panel recommends:

Amend Schedule 4 of the Urban Growth Zone under the Mitchell Planning Scheme by deleting Clause 3.6.

Retain the words 'None specified' in the Schedule to Clause 52.37 of the Mitchell Planning Scheme.

Amend Schedule 6 of the Urban Growth Zone of the Whittlesea Planning Scheme by modifying Clause 3.7 to read:

Dry stone walls identified for retention of Plan 5 of the Precinct Structure Plan must be retained as part of any future development, unless otherwise agreed to by the Responsible Authority after consideration of overall design response and following receipt of advice from a suitably qualified professional regarding the condition of the wall.

Amend Plan 2 - Precinct Features of the Donnybrook/Woodstock Precinct Structure Plan by deleting reference to the now demolished dry stone wall at the southern boundary of 1195 Merriang Road (Boral land).

Amend Plan 5 - Character & Housing of the Donnybrook/Woodstock Precinct Structure Plan by including the walls identified in the *Post Contact Heritage Assessments* prepared by Context as being of 'Very High', 'High', 'Moderate-High' and 'Moderate' value.

4.4 Heritage Overlay

(i) The issues

The basis for applying the Heritage Overlay to one of the two properties under the Amendment is opposed by the owner of the property at 975 Donnybrook Road.

(ii) Submissions

In Part A of its submission the MPA referred to the Post Contact Heritage Assessment it commissioned Context Pty Ltd to prepare in 2013. It stated this assessment "... *had identified a number of heritage places throughout the precinct which included buildings, farm ruins and a number of dry stone walls*". The MPA went on to say "... *the PSP identifies the location of these sites with post contact heritage values and seeks to provide a degree of protection through the application of the Heritage Overlay*".

While Part A of the MPA submission discussed the dry stone walls it made no comment in relation to either of the properties to which the Heritage Overlay has been applied under the Amendment.

In Part B of its submission the MPA responded to Mr Dibella's objection to the application of the Heritage Overlay over his property at 975 Donnybrook Road. It stated that it was working closely with the City of Whittlesea to ensure the application of heritage protection to the site is appropriate and accurate having regard to the heritage values of the site (Panel emphasis). In closing submissions, Ms Patterson reiterated the MPA's support for the Council in relation to the Heritage Overlay over 975 Donnybrook Road and stated applying it to the site remained suitable.

Mr Montebello supported the MPA response to the Dibella submission concerning the heritage values of 975 Donnybrook Road. Council believed the application of the Heritage Overlay over that site is appropriate, to trigger a planning permit for buildings and works or demolition. This submission went on to say that the Heritage Overlay did not necessarily require that the existing buildings be retained, rather they would be subject of an assessment via the planning permit process.

Mr Montebello concluded by saying "*without a requirement not to demolish without a planning permit the recommendations of the Context report, and the warnings flagged by Mr Jackson will come to nothing*".

In his closing submission and in response to Ms Scullion's submission for Mr Dibella, Mr Montebello stated the Heritage Overlay is the control used "*where there is the desire to make an informed decision about whether a building should be demolished or not and if so, whether any conditions should accompany that demolition such as conditions to record the place*". He went on to point out that in the absence of the Heritage Overlay, the UGZ cannot prevent demolition from occurring.

Mr Montebello said the Panel should also refer to the important commentary provided by Mr Jackson, the Assistant Manager Established Areas Planning at the City of Whittlesea, which was included at Part 2.2.2 of the Context report, and reproduced in his submission. In this commentary, Mr Jackson encourages reference to the *City of Whittlesea Cultural Heritage Strategy (currently in preparation)* which sets out action plans for “*building knowledge and recording our heritage*” and “*protecting and managing our cultural heritage*”. He also referred to the retention of places, that under normal circumstances would not be a priority, for the benefit of future communities.

Mr Montebello then stated that the Heritage Overlay in this case “*ensures what the Context report was seeking is actually undertaken*”.

Ms Scullion of Calibre Consulting, appeared for Mr Dibella in opposing the application of the Heritage Overlay over 975 Donnybrook Road. Ms Scullion argued that contrary to the MPA position that her client’s submission “*directly conflicts with work done by Council and the Context report which has been prepared to inform the PSP*”, the opposite is in fact the case.

Ms Scullion referred to the farm buildings on the land: to the acknowledgement by Context that the site may be of archaeological interest: and its recommendation that it be included in the Victorian Heritage Inventory (VHI). It was Ms Scullion’s submission, however, that the onus should not be on her client to demonstrate that the Heritage Overlay is not warranted. She requested the Panel to support the expert findings in the Context report and recommend that the Heritage Overlay be deleted from the site.

Turning to 1145 Donnybrook Road, to which the Heritage Overlay has also been applied under the Amendment, this land was not discussed in the Context Post Contact Assessment. A study was, however, commissioned by the owner of that land and copies of it were provided to the Panel at the conclusion of the Hearing. This report included the Statement of Significance prepared for the site. A copy of the Heritage Inventory (number H7922-0495) that applies to this site was also provided to the Panel.

There was no objection from that property owner to the Heritage Overlay being applied to this land.

(iii) Discussion

Based on the submissions made to it, and in the absence of any evidence provided by the MPA or Council to suggest that 975 Donnybrook Road meets the threshold of local heritage significance, the Panel does not support the application of the Heritage Overlay over this property.

The Practice Note ‘Applying the Heritage Overlay’, provides the necessary guidance relating to the use of the Heritage Overlay. One of the criterion used to identify what places should be included in the Heritage Overlay is “*places identified in a local heritage study provided the significance of the place can be shown to justify the application of the overlay*”. The Practice Note also sets out the heritage criteria against which that significance is to be assessed.

The Practice note goes on to say:

The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage

Overlay. The documentation for each place shall include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria.(Panel emphasis)

In the case of 975 Donnybrook Road, the Post Contact Assessment undertaken by Context neither identifies this place as one of local significance, nor has a Statement of Significance been prepared for it. These are both required by the Practice Note.

The Panel has noted that the draft report *Visual Character Assessment for Donnybrook/Woodside* prepared by the City of Whittlesea and included in the background documents provided to the Panel, identified the farmstead at 975 Donnybrook Road as an element that has value as a place of ‘*heritage visual interest*’. The Report goes on to say there is an opportunity for its adaptive use as a café, community building or commercial use. In the case of 1145 Donnybrook Road, with the exception of photographs of the ruins, there is no discussion of this Place in this draft report, even though the Heritage Overlay has also been applied to it under this Amendment.

The MPA submission to the Panel in relation to 975 Donnybrook Road was that it believed “*the heritage protection of the site is appropriate and accurate having regard to the heritage values of the site”*. However, although the Context report stated the buildings on the site may be of some historical interest in understanding the agricultural use of the land, it did not elevate this interest to that of local heritage significance, which would justify its protection under the Heritage Overlay. If this was the intention a Statement of Significance would have had to be prepared for the site. Evidence was not called to support the heritage values being attributed to the land and its buildings by either the MPA or Whittlesea Council.

It is of note that the Context Report referred to the study previously undertaken by Meredith Gould for the City of Whittlesea (1991) where, in relation to this site, “*it was determined at an early stage that it would not meet the threshold for local significance and it was therefore not recommended for further assessment by that study*”.

In reviewing the Context report and submissions, the Panel noted its reference to consultation it had with the Mitchell and Whittlesea Councils and to Mr Jackson’s comments, as reproduced by Mr Montebello in his closing submissions, that encouraged reference to the *City of Whittlesea Cultural Heritage Strategy*. A copy of this Strategy was not provided to the Panel, nor was evidence called in relation to it.

The Panel has noted, however, that the Gould Heritage Study (1991) and Volumes 1 (Thematic Environmental History), 2 (Findings and Recommendations) and 3 (Citations) of the Context Heritage Study (2013/2014) are reference documents in the Scheme. Neither Study recommended that the HO be applied to 975 Donnybrook Road.

The Panel does acknowledge that this site has been identified as having archaeological potential and that it is recommended that it be placed on the Victorian Heritage Inventory (VHI), so that a ‘consent to disturb’ would have to be obtained from the Executive Director of Heritage Victoria for any works conducted on the site. No objection has been raised to its inclusion on the VHI by the property owner.

The other recommendation made by Context for this site was that a master plan should attempt to reflect this site as a good example of the kind of small scale dairy farms that

existed in the area during the early part of the 20th century. It went on to say that the structures at 975 Donnybrook Road are certainly not the only examples of late 19th or early 20th century buildings within the northern growth corridor and given they are less likely to warrant heritage designation and some level of protection, their numbers are likely to diminish with increasing development. The recommendation did not extend to applying the Heritage Overlay over the land, or the preparation of a Statement of Significance, as required by the Practice Note.

It is of particular concern to the Panel that the Whittlesea Council appears intent on pursuing heritage protection for a Place in the absence of any such recommendation by the author of the studies undertaken for the MPA and Council or the calling of evidence to justify this position.

The Panel is also concerned with comments that the Context report “*did not have as its purpose the making of such specific recommendations*” when the Panel has noted that an ‘assessment aim’ at 1.3 of the Context Study was to both “*assess the significance of identified heritage elements and make recommendations for important elements to be retained.*” (Panel emphasis). Indeed the Context report does make specific recommendations in Chapter 9, including one to include 975 Donnybrook Road on the VHI. Given the extensive experience of this consultant in heritage matters, the Panel believes that if Context had considered that 975 Donnybrook Road met any one of the heritage criteria, it would have recommended heritage protection under the Planning Scheme with the required Statement of Significance prepared to support any such recommendation.

Turning briefly to 1145 Donnybrook Road, based on the recommendation contained in the Tardis Report for DFC, and there being no opposing submission, the Panel supports the application of the Heritage Overlay to that land. This being the case the Statement of Significance, prepared by this consultant for the site, should be a Reference document in the Whittlesea Planning Scheme.

(iv) Conclusions

The Panel has concluded that, in the absence of evidence to support the application of the Heritage Overlay to 975 Donnybrook Road, it should be deleted from the Amendment and Plan 2 – Precinct Features of the DWSP. The Panel is particularly concerned that Council has pursued this matter in the absence of any recommendation in the Context study or by way of evidence at the Hearing to support its view.

In the case of 1145 Donnybrook Road, the Panel believes the prepared Statement of Significance should be a reference document in the Whittlesea Planning Scheme.

(v) Recommendations

The Panel recommends:

Delete the Heritage Overlay HO186, (exhibited as HO184) from the Schedule to Clause 43.01 – Heritage Overlay and Map 4HO of the Whittlesea Planning Scheme. Amend Clause 21.14 (Reference Document Clause) of the Whittlesea Planning Scheme by including the *Statement of Significance for 1145 Donnybrook Road*, prepared by Archaeology at TARDIS.

Remove the designation ‘heritage – post contact’ from 975 Donnybrook Road on Plan 3 – Future Urban Structure of the Donnybrook/Woodstock Precinct Structure Plan.

4.5 Contaminated land

(i) The issue

The requirement to provide a Statement of Environmental Audit for proposed sensitive uses in areas designated as ‘high potential for contamination’ was considered onerous by some submitters.

(ii) Evidence and submissions

The identification of some sites as having ‘High potential for Contamination’ was disputed by some submitters.

Mr Tweedie advised that a ‘Site Remediation and Assessment Works’ report had been prepared by Senversa for Mirvac site and that the necessary site remediation works have been completed with no further work required. On this basis, Mr Tweedie submitted that this site be removed from Table 3 to Clause 3.3 of UGZ6 of the Whittlesea Planning Scheme.

Ms Scullion referred the Panel to the Meinhardt Report prepared for the Growth Areas Authority (GAA) that referred to an external visual inspection of the Dibella land which had led to it being identified as having high contamination potential. Ms Scullion asserted that based on the description in the Meinhardt Report and the guidance provided in the DSE *Potentially Contaminated Land, General Practice Note, 2005*, it was difficult to understand how the ‘high’ potential for contamination could have been attributed to that land.

Ms Scullion referred to her client’s written submission to the MPA which proposed that a Phase 2 environmental assessment be prepared and submitted with any application. She further submitted that, if that report concluded the development is suitable subject to particular remedial works, these could be required as a permit condition. Ms Scullion referred to the submission of DFC which echoed her client’s position.

Ms Scullion referred to the Wollert PSP where the UGZ Schedule requires that a Phase 2 Environmental Assessment be submitted with an application to develop a high or medium risk property for a sensitive use. Given the Wollert and Donnybrook/Woodstock PSP’s are both in Whittlesea, Ms Scullion believed it was logical to adopt the same process.

Mr Morris for DFC advised that he relied on preliminary site investigations by Cardno at four sites. Based on the results obtained he believed that clean up and remediation could be undertaken without the need for an environmental audit.

In their closing submissions, the MPA and Whittlesea responded to submitters who believed the present wording of UGZ6 was onerous in relation to the level of environmental assessment required under the Amendment.

Mr Montebello advised that:

Subject to the final drafting being acceptable to Council, Council is prepared to agree to a revised methodology which provides the potential to avoid a

Certificate of Environmental Audit but only on the basis that the process does not require or call upon Council to exercise a judgement (such as whether land is acceptable or requires an Audit) on matters of site contamination as these issues are beyond its expertise.

Mr Montebello referred to the recommendation of the Wollert Panel and advised that Whittlesea's preference was to follow the same drafting as that Amendment to ensure a consistent approach. Council would therefore agree to adopt the wording in that Amendment instead of what was drafted in UGZ6.

The MPA supported the revised approach adopted by Whittlesea Council. The MPA closing submission included a revised Clause 3.3 based on the above. It also combined Tables 3 and 4 into one Table which retains the Mirvac land at 1025 Donnybrook Road.

(iii) Discussion

Having considered the submissions and the revised position of Whittlesea Council and the MPA, the Panel believes it makes sense to adopt consistent provisions where environmental assessments are required for land in PSPs. It therefore supports the replacement of Clause 3.3 of UGZ4 and UGZ6, to correspond with the wording of UGZ5 (Wollert) in the Melton Planning Scheme, as outlined in the MPA's closing submission.

In relation to the Mirvac land, even though required remediation works may have been carried out on its land, the Panel was not advised that evidence to this effect has been provided to the responsible authority. Until this occurs, the Panel believes it is appropriate to include the land on the list in the revised Table 3 of Clause 3.3 of the UGZ under the Whittlesea Planning Scheme.

(iv) Conclusions

The Panel supports the adoption of the wording contained in the Wollert PSP, in respect of Contaminated Land.

(v) Recommendation

The Panel recommends:

Amend Schedule 4 to the Urban Growth Zone of the Mitchell Planning Scheme and Schedule 6 of the Urban Growth Zone of the Whittlesea Planning Scheme by replacing the exhibited Clause 3.3 with that provided in Appendix E to this report.

4.6 Rural Conservation Zone

(i) The issue

The issue is whether Schedule 2 to the Rural Conservation Zone should be retained in the Amendment. An associated issue was raised by the Dennis Family Corporation (DFC) regarding its desire to amend the zone boundary to facilitate the development of a dwelling in the vicinity of Growling Grass Frog Habitat on Conservation Area CA34.

(ii) Evidence and submissions

The submission of the Department of Environment, Land, Water and Planning (DELWP) was that it did not require an additional Schedule to the RCZ to implement the BCS conservation areas. It stated the provisions of the RCZ of the VPP would be sufficient for that purpose.

DFC raised concerns in relation to the future subdivision of its land at 875 Donnybrook Road which includes land in the RCZ (Growling Grass Frog Habitat).

In its closing submission to the Panel the MPA supported the submission of DELWP to delete the proposed Schedule 2 to the RCZ.

In appearing for the DFC, Mr Morris referred to that part of 875 Donnybrook Road that is in the RCZ (and Conservation Area CA34). He advised that there is no requirement for this land to be transferred to the Crown and referred to the *'Land protection under the Biodiversity Strategy – Melbourne Strategic Assessment'* which, he said, allowed for land in the RCZ to be held in private ownership. He maintained the need for flexibility in the DWSP if this was the outcome in this case. Mr Morris suggested one option would be to expand the boundary of the RCZ by 1000 square metres to enable one dwelling to be sited on the land with the owner responsible for managing the BCS portion of the land. This approach would avoid the need to create a lot that would be in two zones (the RCZ and the 'applied' residential zone).

In his evidence, Mr Barlow recommended the following note be added to Plan 10 – Conservation Area Concept Plan:

Where the conservation area remains in private ownership, any dwellings or other permitted use and development should be located outside the primary conservation area to the satisfaction of the Department of Environment, Land, Water & Planning.

In response to the submission and evidence for the DFC, Ms Patterson stated that the MPA understood DELWP would not support an application for a dwelling within a conservation area. The MPA also believed *Clause 64.03 – Subdivision of land in more than one zone* would allow for the creation of one lot where the land to be subdivided was in more than one zone and the lot created would not comply with the minimum lot area specified under the Scheme.

Mitchell Shire supported the MPA's closing submission on this issue.

At the conclusion of the Hearing Mr Bartley provided the Panel with a plan (Hearing Document 93) that revised the boundary of the RCZ on the DFC land and showed a house lot of 0.1 hectare contiguous to the RCZ. Mr Bartley advised the Panel that a five metres wide interface 'zone' would be provided between the dwelling lot and the conservation area and there would be no need to change the RCZ boundary.

(iii) Discussion

Removal of the RCZ Schedule 2 from the Amendment is straightforward and has the support of all parties.

The RCZ in this case applies over part of two adjoining and separately owned land parcels, at 855 and 875 Donnybrook Road. The Panel was advised that the area of DFC land in the RCZ

is 10.42 hectares while the area in the adjoining landholding is 4.99 hectares, giving a total area of 15.41 hectares. Under the DWPSP, land adjoining this RCZ is earmarked for residential use. The minimum subdivision lot size in the RCZ is 40 hectares as no alternate lot size is to be specified in a Schedule to that Zone.

The Panel does not support increasing the size of the RCZ to include land that has not been identified under the BCS. Also, while the Panel understands that the RCZ land could be retained in private ownership, it believes this could be problematic in ensuring it is appropriately managed. While public ownership of this land would appear to resolve this issue, this is not a matter for this Panel. The Panel believes, however, that the future ownership of this land is a matter that may benefit from further consideration at the time of subdivision.

(iv) Conclusions

The Panel concludes that Schedule 2 to the Rural Conservation Zone should be removed from the Amendment.

(v) Recommendation

The Panel recommends:

Delete the exhibited Schedule 2 to the Rural Conservation Zone from both the Mitchell Planning Scheme and the Whittlesea Planning Scheme.

4.7 Extent of the Land Subject to Inundation Overlay along Darebin Creek

(i) The issue

The issue relates to the extent to which the Land Subject to Inundation Overlay (LSIO) has been applied under the Amendment over land north of Darebin Creek.

(ii) Submissions

It was the DFC submission that the LSIO, as applying over land adjoining and to the north of Darebin Creek, would impose an unreasonable burden on the construction of single dwellings on its land. It was submitted by Mr Morris for the DFC that this Overlay should be removed from this land. As an alternative he suggested a plan that identified this land could be included as part of the 'Integrated Water Management Plan 14', in the DWPSP.

In her closing submission for the MPA, Ms Patterson advised this matter had now been clarified, and that the LSIO would only apply to the BCS area and not to any residential landholdings.

(iii) Discussion

In considering the submissions on this matter the Panel has noted that while most of the land affected by this Overlay is in the Rural Conservation Zone and that IPO7 and ESO6 also apply, the northern-most portion is in UGZ6 and is shown on the 'Future Urban Structure Plan 3' as a waterway corridor. This being the case, the Panel believes it is unlikely that future residential subdivision/development will be affected by this Overlay.

(iv) Conclusions

The Panel concludes that, based on the inclusion of land affected by the LSIO in a waterway corridor on Plan 3 - Future Urban Structure, land to be developed as residential will not be adversely affected.

4.8 Public Acquisition Overlay

(i) The issue

Under the Amendment the Public Acquisition Overlay (PAO) has been applied over land on the south side of Donnybrook Road (PAO2), for the purpose of road widening and future intersections; over land on the south east corner of Donnybrook Road and Epping Road (PAO10), for use as a drainage basin; and over 1085 Merriang Road (PAO11) for future road access into land to its west.

The issues relate to PAO11 and that part of PAO2 that extends to the south into 840 Donnybrook Road.

(ii) Submissions

The reason for applying the PAO over land includes *'to identify land for acquisition by a Minister, public authority or municipal council'*.

PAO10 – Melbourne Water drainage basin

There were no submissions in relation to this item.

PAO11 - 1085 Merriang Road

The PAO11 applies over part of 1085 Merriang Road to provide future road access to land to its west.

Mr Montebello advised the Panel that in the case of PAO11, although the acquiring authority is listed as the Whittlesea Council, it has no interest in acquiring this land. It therefore opposes the inclusion of PAO11 in the Amendment.

The MPA's closing submission referred to an email it had received from the owner of this land which supported the retention of PAO11, subject to it being repositioned to the south, to abut the boundary of his adjoining property at 1075 Merriang Road. This owner stated his valuer and property consultants believe the removal of the PAO will have a negative impact on the land value.

The Panel was advised that the DFC did not oppose the removal of PAO11 as the land was not required to provide access into its adjoining landholding to the west.

The MPA stated that if the Council did not intend acquiring this land there was no reason to retain the PAO over 1085 Merriang Road.

PAO2 - Donnybrook Road widening and future intersections

The PAO2 applies to a strip of land on the south side of Donnybrook Road between the Melbourne-Sydney rail line to the west and Merriang/Epping Roads to the east. This land is

required for future road widening and intersections by VicRoads. The land is not within the Donnybrook/Woodstock PSP.

Mr Anthony Monteleone sought clarification from the MPA in relation to that part of PAO2 that extended into his land which would form part of intersection IN-01. In particular he requested details in relation to the intended purpose of the public acquisition, the dimensions of the road widening on Donnybrook Road and the depth of the overlay into his property and whether it would affect his house. He also sought advice as to whether the alignment of IN-01 could be relocated to the east to avoid impacting his house. An aerial plan provided to the Panel by Mr Monteleone superimposed what he understood to be the location of the proposed intersection and future road through his land. This indicated that his house would have to be demolished. Mr Monteleone opposed the Amendment if this was the case and he asked if the MPA, the Council or VicRoads had details relating to this future intersection that may be relevant for release to him as the landowner.

Ms Patterson informed the Panel that the MPA had been advised by VicRoads that the position of intersection IN-01 is set by the requirements of the future Donnybrook Road/Melbourne-Sydney Railway overpass and while the rail overpass project is not part of the development of the Donnybrook/Woodstock PSP, the PSP must have regard to future requirements of the overpass such as ramp length and clearance. She noted that 840 Donnybrook Road will be subject to a future PSP south of Donnybrook Road. The MPA did not support the request made by Mr Monteleone for further details, however it undertook to seek clarification from VicRoads on this matter. The Panel directed that the Panel be provided with the MPA and VicRoads response to issues raised in Mr Monteleone's submission regarding PAO2, including the intersection design and location and the request by Mr Monteleone to relocate IN-01 further east to enable the retention of the existing family home.

The MPA subsequently provided the Panel with a copy of its letter of 22 March 2016 to Mr Monteleone and a letter from VicRoads to the MPA dated 1 July 2016. These letters are part of the public record of documents submitted to the Panel and Mr Monteleone.

In its letter, VicRoads stated:

- planning for IN-01 was undertaken collaboratively with other responsible authorities
- the planning context for the Precinct's road network included the requirement to provide high quality access to Donnybrook railway station and surrounds
- planning for the location of intersection IN-01 was constrained to the west by the Melbourne-Sydney rail line future grade separation and to the east by impacts to existing dwellings, located on both sides of Donnybrook Road, that are within the scope of possible but less optimal locations for IN-01.

The VicRoads letter went on to say that as a result of these factors, intersection IN-01 is located in its most appropriate position and the proposed PAO for Donnybrook Road is consistent with the PSP process and approved recommendations of VicRoads' earlier Donnybrook Road Corridor Study.

In response to Mr Monteleone's objection to the public carpark shown on his land in the DWPSP, Ms Patterson advised that this was a drafting error and it would be corrected in the final document.

(iii) Discussion

1085 Merriang Road

Based on advice that Whittlesea Council does not intend acquiring 1085 Merriang Road, the Panel agrees there is no reason to retain PAO11 over that land. Furthermore, the Panel believes its retention may have negative implications for the owner in the event of its future prospective sale and use, if Whittlesea does not intend acquiring the land. The Panel agrees with Whittlesea Council and the MPA that PAO11 should be deleted from the Amendment.

840 Donnybrook Road and IN-01

The Panel appreciates the concerns raised by Mr Anthony Monteleone. He finds himself in the unenviable position of not knowing how PAO2 affects his property and more particularly whether the future road to the south will require the demolition of his residence.

The Panel was advised that the location of IN-01 is constrained by the requirements for the future Donnybrook Road railway overpass and existing dwellings although, not apparently, by the location of the Monteleone residence. VicRoads confirmed its view that intersection IN-01 is located at its most appropriate position although plans of the design were not provided to substantiate that view as part of the further information requested by the Panel at the conclusion of the Hearing.

Should PAO2 as it relates to IN-01 remain in place, the acquisition of land and payment for it will not be triggered until such time as VicRoads requires it for construction, or a planning permit is refused because its approval would prejudice future road widening plans. Furthermore, the *Planning and Environment Act 1987* makes provision for compensation to be paid to a landowner after sale of land subject to a PAO where the land has been sold at a price lower than the owner might reasonably have expected to realise if the land was not subject to a PAO.

While it is unlikely the railway overpass, the widening of Donnybrook Road and the ultimate treatment of intersection IN-01 will be constructed for many years, it could be argued that it is sound planning practice for the DWPSP to take into account future requirements for this infrastructure and include appropriate planning provisions in the Amendment, including a PAO based on preliminary designs. In the Panel's view, the strength of this argument is however diminished by the specific circumstances which apply in this case.

The Panel has no particular issue with PAO2 as it applies over the strip of land along the south side of Donnybrook Road. There were no objections put to the Panel on that aspect. Nor were there submissions in relation to the two protrusions further to the east, on the south side of Donnybrook Road.

The Panel is concerned that it is being asked to consider that part of the PAO2 that affects Mr Monteleone's land in the absence of any plans being provided by VicRoads or the MPA as to its effect on the dwelling on that land. This is particularly pertinent given VicRoads'

statement that the location of existing dwellings on both sides of the road were considered in determining where the intersection would be sited.

If this influenced the location of IN-01, the Panel fails to see how VicRoads can be so confident that it is now 'located at its most appropriate position', particularly when the PSP for land on the south side of Donnybrook Road is yet to be finalised and exhibited. This being the case, and given that VicRoads has confirmed that the intersection IN-01 and associated road infrastructure is a long term project, with detailed design apparently not yet available, the Panel believes it would be more appropriate to deal with that part of PAO2 under the PSP for land south of Donnybrook Road. That PSP and the associated Amendment will, of necessity, include greater detail on the road network for that area and this will enable Mr Monteleone to be better informed as to what is being planned on his land.

(iv) Conclusions

The Panel concludes that:

- It is inappropriate to adopt the PAO where the relevant authority, the Whittlesea Council, has no intention of acquiring the land.
- The area of PAO2 that protrudes south into 840 Donnybrook Road should be dealt with as part of the future PSP and Amendment for land on the south side of Donnybrook Road.

(v) Recommendations

The Panel recommends:

Delete Public acquisition Overlay 11 from the exhibited Schedule to Clause 45.01 and from the exhibited Map 5PAO to the Whittlesea Planning Scheme.

Amend Map 4PAO to the Whittlesea Planning Scheme to delete the part of Public Acquisition Overlay 2 that relates to the IN-01 intersection that protrudes into the property known as 840 Donnybrook Road.

Amend the Donnybrook/Woodstock Precinct Structure Plan by modifying Plan 3 – Future Urban Structure to remove the proposed station car park designation from 840 Donnybrook Road.

4.9 Rail noise attenuation

(i) The issue

The issue is whether Requirement R18 of the DWPSP should be included in the Planning Scheme provisions.

(ii) Evidence and submissions

The Mitchell Shire opening submission referred to residential development being located in close proximity to the Melbourne-Sydney rail line, a potential noise source. In supporting Requirement R18 of the DWPSP it believed that it would be appropriate to include this Clause in the UGZ schedules. This submission also referred to clauses in the Melton Planning Scheme that required that an acoustic report accompany applications in specified areas.

In his closing submission for Whittlesea, Mr Montebello supported the Mitchell submission to include the wording of Requirement R18 in the UGZ. This was agreed to by the MPA which proposed its inclusion as an additional Clause in UGZ4 (Mitchell) and UGZ6 (Whittlesea).

It did not believe, however, that it was necessary to refer to the need for an acoustic report in the zone provisions.

(iii) Discussion

There is common ground between the MPA and the Councils that DWPSP Clause R18 - Noise Attenuation be inserted into the Schedules to the Urban Growth Zone of the Whittlesea and Mitchell Planning Schemes. This Clause will require that dwellings located in the vicinity of the Sydney to Melbourne rail line incorporate acoustic measures to protect occupants from noise of trains.

(iv) Conclusion

The Panel concludes it is appropriate to include a clause in the Schedules to the Urban Growth Zone which will allow the Councils to require acoustic measures be incorporated into residential buildings in the vicinity of the rail line to protect the amenity of residents.

(v) Recommendation

The Panel recommends:

Amend Urban Growth Zone 4 of the Mitchell Planning Scheme and Urban Growth Zone 6 of the Whittlesea Planning Scheme by adding the additional clause:

A use or development that contains a bedroom and is located on land that is reasonably likely, in the opinion of the Responsible Authority, to be impacted by noise from the train operations on the Sydney-Melbourne railway line must be designed to ensure that internal noise levels in bedrooms is less than 65 dB L_{Amax} and 40 dB L_{eq9h}(night).

4.10 Deletion of Schedule 4 to the Environmental Significance Overlay

(i) The issue

The issue is whether Schedule 4 of the Environmental Significance Overlay should be deleted where either it is replaced by a new Schedule 6 or where land is to be developed for urban purposes.

(ii) Submissions

In his closing submission, Mr Tobin referred to the deletion of ESO4 over land at the northern extremity of the DWPSP which relates to controlling land containing remnant native vegetation. Mitchell supports the removal of this ESO Schedule where it is inconsistent with future urban development or where it duplicates the application of ESO6 over the same land.

(iii) Discussion

Part of the land where ESO4 currently applies will be protected by ESO6 under the Amendment. The section where ESO4 will not be replaced is to be included in the UGZ, principally for residential development.

The study which identified significant vegetation under the BCS and where it will now to be included in conservation areas will be controlled by RCZ2 and ESO6.

(iv) Conclusions

The Panel concludes that it is appropriate for ESO4 in the Mitchell Planning Scheme to be deleted from the DWPSP.

4.11 Retention of Special Use Zone 1

(i) The issue

A Special Use Zone (SUZ1) currently applies to a parcel of land in the Shire of Mitchell that, under this Amendment, will be rezoned to UGZ4. The owner wants the current Special Use zoning retained over the land.

(ii) Submissions

In referring to the deposits of basalt on his land, Mr Heffernan submitted that the SUZ1 should remain to protect this valuable resource even though there are presently no leases with quarrying companies to extract this stone.

Mitchell Shire opposed the retention of the SUZ1 as did the MPA, considering it would be entirely inappropriate in an area to be developed for urban settlement. Mr Tobin submitted that no compelling argument had been put forward by Mr Heffernan to outweigh the inclusion of the land in the urban growth boundary or its proposed use for residential under the DWPSP.

(iii) Discussion

From its inspection of Mr Heffernan's land and responses to questions from the Panel, it is clear that there have been no quarrying activities on this land for many years. It also appears from Mr Heffernan's oral submission that there are no proposals pending to lease the land for the extraction of the basalt.

A major part of this land has been identified under the BCS and will be included in the RCZ. The remaining portion and adjoining land to its north will be zoned UGZ. In the case of that part of the land in the RCZ, this has been applied to land identified by the BCS under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and therefore the Panel cannot make recommendations for that land. The remaining land is part of a residential area extending to the north to the UGB. The Panel believes it would be inappropriate to retain the SUZ1 given the long term planned use of this land.

(iv) Conclusions

The Panel concludes that it is appropriate to rezone the existing parcels of SUZ1 land to UGZ4 as proposed in Amendment GC28.

4.12 Schedule 6 to the Environmental Significance Overlay

(i) The issue

The issue is whether Schedule 6 to the Environmental Significance Overlay (ESO) should be redrafted to recognise the wider values and role of the Merri Creek corridor.

(ii) Submissions

The Merri Creek Management Committee (MCMC) believes the existing ESO that applies to land adjoining the Merri Creek reflects its broader landscape values. It believes, as drafted, ESO6 is limited to its biodiversity assets. It therefore believes ESO6 should be redrafted to encompass the *'full suite of values'* recognised for the Merri Creek; in particular its broader recreational and amenity value and the regional open space role of the wider Merri Creek Corridor.

In its written response to the MCMC the MPA stated that the broader recreational role of the Merri Creek is acknowledged by Clause 12.04 of the SPPF which will continue to apply and in the DWSP. MPA also believes that reference to the recreational role of the Creek in ESO6 would contradict the purpose of the Conservation Area and the BSC.

(iii) Discussion

The purpose of Schedule 6 to the Environment Significance Overlay, as has been applied to land identified under the BCS, is to protect land identified under the Biodiversity Conservation Strategy.

The Panel supports ESO6, as drafted, because its objective is to recognise and protect the values identified by the BCS which it believes will protect the conservation values of the Creek.

(iv) Conclusions

The Panel concludes that the ESO6 is appropriate as drafted in the Amendment.

5 Town Centres and retail economics

5.1 Retail hierarchy

(i) The issue

The issue is whether the location, size, role and function of local town centres (LTC) and local convenience centres (LCC) in the DWPSP are appropriate and responsive to anticipated community needs.

(ii) Evidence and submissions

The main issue in dispute in respect to the proposed retail hierarchy concerned how much retail floorspace should be provided for within LCC-1 – Donnybrook Farmhouse and whether the centre should include a supermarket. The classification and size of the Donnybrook Station was also an issue in dispute. These matters are discussed in turn.

LCC-1 – Donnybrook Farmhouse

Mr Wren for the Monteleone family provided a detailed outline of the consultation that had occurred between his client and the MPA during the development of the DWPSP noting his clients *“dismay at the apparent total disregard for their aspirations by MPA”* particularly concerning the size, function and layout of LCC-1. He stated that the exhibited document was a literal *“kick in the guts”* to the family’s aspirations and contrary to everything they had been led to believe the MPA, up to that point, had proposed for the site.

Mr Wren stated that his client seeks further modification to Table 4 of the DWPSP as follows:

- Under the heading Gross Land Area (Hectares) insert the figure 0.8ha instead of 0.5ha
- Under the heading Retail Floor Space SQM insert the figure 2,500 instead of 1,500
- Under the heading Commercial Floorspace SQM insert the figure 1,000 instead of ‘None Specified’
- Under the revised heading ‘Role and function’ insert words to reflect the inclusion in the centre of a ‘small supermarket’.

Mr Wren made lengthy submissions on behalf of the Monteleone family in support of inclusion of a supermarket in the LCC-1 and the requested increase in retail floorspace to enable this outcome (pages 14 – 31 of Hearing Document 71). In support of the requested modifications, the Monteleone family called and relied on the retail expert evidence of Mr Chappell. Mr Wren called no Town Planning evidence.

Competing retail evidence was called by the MPA (Nicholas Brisbane of Essential Economics), Mirvac (Rhys Quick of Urbis), DFC and Boral (Matthew Lee of Deep End Services). In addition, a number of Town Planning Expert witnesses were called by parties that contested the merits of the proposed expansion of the retail offer in LCC-1 as advanced by the Monteleone family.

Mr Munt for the MPA provided a very comprehensive overview of the submissions and evidence led and tested during the Hearing on this issue. The Panel chooses to repeat his

summary in full, as the Panel considers it is an accurate and excellent summary of the substantial retail and planning issues that were heard. Mr Munt's summary was as follows:

Substantial retail demand evidence was led before the Panel. No fewer than four experts sought to estimate the likely population of the precinct upon completion and the retail expenditure likely to be captured in the precinct. We submit that their evidence supports the following findings with respect to LCC-1:

- *LCC-1 would be viable with 1,000 sqm of retail floor space, and no supermarket;*
- *LCC-1 would be viable with 1,500 sqm of retail floor space, and no supermarket;*
- *the presence of the existing cheese factory and restaurant has been excluded from all of the retail models employed by the experts, and would therefore have no material impact upon the viability of LCC-1;*
- *the presence of a supermarket at LCC-1 would negatively impact upon the performance of LCC-2, LTC-3 and LTC-2;*
- *an increase in the retail floor space at LCC-1 would negatively impact upon the performance of LCC-2, LTC-3 and LTC-2;*
- *a supermarket generally has a floor space of 1,000 sqm, or more. While brands that operate supermarkets may have shops with less floor space, such shops will lack the breadth of range to warrant classification, either in commercial or planning terms, as supermarkets;*
- *a proposed retail hierarchy embodied in planning policies and controls can guide investment decisions; and*
- *early movers can affect subsequent investment decisions taken by other potential users and developers in a precinct.*

Three witnesses also gave evidence on the planning merits of the exhibited size, function and role of LCC-1. We submit that their evidence supports the following findings with respect to LCC-1:

- *there are constraints on the provision of an appropriate number and type of retail centres in the precinct. These include the gas pipeline easement, the conservation area, the railway line and the OMR;*
- *the location of all of the proposed retail centres accorded with relevant policy principles contained in the VPPs and the broader policy context;*
- *the establishment of a hierarchy between those that would serve daily shopping needs, and those that would serve weekly shopping needs, accorded with relevant policy principles contained in the VPPs and the broader policy context;*
- *it would be undesirable to locate a LCC on an arterial road;*
- *approximately 80% of households in the precinct would be within 1 km of a supermarket, assuming a supermarket was established at LCC-2;*
- *if there is an undersupply of retail floor space in the precinct, it would be in the south western part of the precinct; and*

- *all else being equal, it is desirable to co-locate activity centres with public transport infrastructure such as buses and, where possible, heavy rail.*

Of the seven witnesses who gave evidence on this topic, only one – Michael Chappell of Pracsys – supported an increase in retail floor space at LCC-1 to 2,500 sqm, with support for a supermarket. Michael Barlow, called by DFC, was at best ambivalent about the topic. The other five experts did not support this proposed change to the PSP. Their reasons were as follows:

- *provision of a supermarket at LCC-1 would have the potential to disturb the carefully selected location of LTCs in the precinct by threatening to disrupt the provision of a supermarket at LCC-2 and, perhaps, at LTC-2. This is because the size of the catchment in the south western corner of the precinct may only support one supermarket there and the existence of an early competitor at LCC-1 may affect whether a supermarket would be established at LCC-2;*
- *provision of supermarket at LCC-1 would not increase the number of households within 1 km of a supermarket, especially if a supermarket did not open at LCC-2;*
- *preference ought to be given to elevating the role and function of LCC-2 because of its proximity to a railway station. If there is to be any increase in retail floor area, it should be allocated there; and*
- *LCC-1 does not need a supermarket in order to be viable.*

We submit that this Panel should prefer the views of Nicholas Hooper, Nicholas Brisbane, Mark Woodland, Matthew Lee and Rhys Quick to those of Mr Chappell on this point. Their evidence was well-considered, appropriately informed by detailed and robust retail modelling and relied upon the planning policies and controls applicable in this State to the location of retail centres and their sorting into a retail hierarchy. None were shaken from their views despite very lengthy cross examination.

There were substantial defects in Mr Chappell's evidence. Mr Quick listed many of them in his written response to Mr Chappell's report. The MPA relies upon them in this submission. Mr Chappell had little reliance upon the planning policies and controls applicable in this State to the location of retail centres and their sorting into a retail hierarchy, despite their importance. More significantly, Mr Chappell conceded without notice when he gave evidence before the Panel that he had made significant errors in his report, including in the identification of the trade area and then to his allocation of the likely retail spend in the precinct. He explained that he had had insufficient time to prepare his report, and indicated that still more time would be required to bring his work to his preferred standard.

Simply put, Mr Chappell is a well credentialed expert. One day he may give well-considered evidence to a Panel on an issue within his area of expertise. He did not do so in this Panel hearing.

We therefore submit that the Panel should not recommend that the retail floor space in LCC-1 be increased to 2,500 sqm, with support for a supermarket.

The submissions by Mr Tweedie, Mr Morris, and Ms Hicks on this issue are well reflected in the above summary. It is noted that Mr Kane stated that his client opposes the MPA's 'agreed' additional 500sqm of retail floorspace for LCC-1.

Throughout the Hearing Mr Montebello for the City of Whittlesea refrained from cross examining witnesses on this issue. Mr Montebello articulated the position of City of Whittlesea as follows:

Council's position is that provided it does not affect the role and function of each centre in the network and the overall hierarchy, a minor increase of retail floorspace could be considered at LCC1.

LCC-2 – Donnybrook Station

Mr Taylor, on behalf of Somerton Road Garden Supplies Superannuation Fund Pty Ltd, submitted that in response to the town planning and retail expert evidence heard at the Panel his client requests that LCC-2 – Donnybrook Station be reclassified as a Local Town Centre. He observed that while this modification would not make any significant change to the outcomes envisaged by the DWSP, it will provide clear guidance to future decision makers about the role and function of the centre within the hierarchy of centres. In support of this proposition Mr Taylor provided a detailed response to the evidence heard and tested during the Hearing that he contends supports his proposition. The Panel chooses not to repeat it here.

The MPA in its closing submission lends its support to the submission advanced by Mr Taylor to reclassify LCC-2 to a LTC.

The MPA would not oppose LCC-2 being classified as an LTC. As we have already submitted, the weight of evidence supports the opinion that LCC-2 would have an elevated role in the retail hierarchy to LCC-1, akin to that of a LTC. In particular, the MPA supports a supermarket at LCC-2. It is this function as a centre capable of serving weekly shopping needs that would justify reclassification of LCC-2, irrespective of the total retail floor area of the centre.

All other parties, with the exception of the Monteleone family, either supported or did not oppose the suggested reclassification of LCC-2 to a LTC. Mr Kane observed that it was not surprising that Mr Lee, in presenting his expert evidence, recommended that the designation of LCC-2 be changed to a Local Town Centre and stated that his client *"is not opposed to Mr Lee's recommendation and it would be open for the Panel to adopt his recommendation"*.

(iii) Discussion

The Panel agrees that the weight of the town planning and retail economics evidence is that the town and convenience centres within the DWSP, as modified and reflected in Tables 3 and 4 of Hearing Document 41:

- have been appropriately located within the Precinct

- are viable at the size now proposed; and
- have an appropriate allocation of retail floor space given their intended role and function.

The Panel prefers the weight of economic and town planning evidence submitted by the MPA, Mirvac, DFC, Boral, and Trash Media over the retail evidence of Mr Chappell for the Monteleone family. The evidence opposing the expansion of LCC-1 retail offer to include a supermarket in particular was compelling.

The Panel observes that the Monteleone's chose not to call Town Planning evidence in support of their case. While the submissions advanced by Mr Wren were well considered, articulate and passionate, they do not carry the weight of expert opinion and the Panel has not embraced them in this instance. The Panel does not consider a net community benefit will accrue if the 'soft cap' in retail provision for LCC-1 is increased to 2,500 square metres and provision for a supermarket is accommodated. On the contrary, the Panel considers that such outcomes would likely be detrimental to the retail hierarchy in the DWPSP. In reaching this position the Panel agrees with the evidence submitted and extensively tested that not all centres need to have, or should be allowed to have, each and every type of retailing.

Having noted the above the Panel accepts the evidence that supports moderate increases in the 'soft caps' for a number of centres, including the Monteleone family's other retail centre, LTC-3. The Panel's recommendations reflect this finding. The additions seek to reflect that full line supermarkets have grown in size, and the retail 'soft cap' for centres where a supermarket is planned, should be flexible to accommodate full line supermarket offers.

The Panel also accepts the submissions and the extensive weight of evidence advanced that it is appropriate for the Donnybrook Station Centre to be classified as a Local Town Centre. The Panel accepts that there would be significant local and regional benefits arising from the evolution of the future centre, on both sides of the tracks, at Donnybrook Station. In the opinion of the Panel its designation as a Town Centre, as opposed to a Convenience Centre, will potentially assist in the attraction of investment in the Station from Government and the private sector.

(iv) Conclusions

The Panel concludes:

- It is appropriate for the DWPSP to allocate 1,500 square metres of retail floorspace to LCC-1 – Donnybrook Farmhouse.
- The defined role and function of the LCC-1 should exclude reference to the centre having a supermarket.
- It is appropriate to re-classify LCC-2 - Donnybrook Station as a LTC due to its location and intended role and function and it is appropriate to reinstate a 'soft cap' allocation of 4500 square metres of commercial floorspace.
- The other revised floorspace allocations and role and function descriptions reflected in the MPA's revised Tables 3 and 4 (Hearing Document 41), as agreed between parties, are supported by the Panel.

The above conclusions are reflected in the Panel's recommended version of Table 3 and Table 4 of the DWPSP that is contained in Appendix F of this report.

(v) Recommendation

The Panel Recommends:

Amend the Donnybrook/Woodstock Precinct Structure Plan by replacing Table 3 and Table 4 with the Panel recommended versions contained in Appendix F of this Report.

Amend 'Table 2 – Use' in Clause 2.5 of the Schedule 6 to the Urban Growth Zone of the Whittlesea Planning Scheme by reflecting the 'Retail Floorspace Requirement Sqm' figures in the Panel Recommended Tables 3 and 4 of the Precinct Structure Plan, (as shown in Appendix F of this Report) in the column headed 'Requirement' for the Use 'Shop where the applied zone is Commercial 1 Zone'.

5.2 Format of Tables 3 and 4

(i) The issue

The issue is whether the exhibited Tables 3 and 4 of the DWPSP should be modified to be more precise regarding the various roles and functions of centres and to provide greater clarity as to which items in the tables should have the status as 'requirements' or 'guidelines'.

(ii) Submissions

During the course of the Hearing much time focused on the content and format of Tables 3 and 4 of the DWPSP and the accompanying Urban Framework Plans. Via the discussions of submissions and the testing of evidence, suggestions were advanced on how clarity could be improved regarding the direction provided by the DWPSP on the role and function of centres in the retail hierarchy and what outcomes 'should' be required as opposed to 'must' be met.

Mr Montebello provided an articulate and useful summary of the issue in his closing submission for the City of Whittlesea as follows:

We submit that Table 3 and Table 4 should be redrafted so as to be more concise on what the Role and Function of the various centres is expected to be. We say role and function because Cl.11.01-1 of the SPPF provides that:

*Support the **role and function** of the centre **given its classification**, the policies for housing intensification, and development of the public transport network.*

Therefore, it would be very helpful for the PSP to be clear on what the Role and Function of the centre is given that we are then to support the centre achieve that role and function through the subsequent permit process.

Operationally, as to floor space for the various centres, this is provided for in:

- *The schedule to the UGZ (i.e. floor space limits for the Applied Commercial 1 Zone)*
- *Table 3 and Table 4 of the PSP.*

The floor space in the UGZ Schedule is a soft cap. That is consistent with how the floor space cap in the C1 zone would normally operate.

The floor space caps set out in Tables 3 and 4 are intended to operate as a soft cap. However, how they operate depends upon whether Table 3 and Table 4 comprises a Requirement (which must be met) or a Guideline (which should be met). As drafted, it seems to be a Requirement and consequently, it is not possible to grant a planning permit for a non-compliance with a Requirement.

Accordingly, this suggests that the mechanics of Tables 3 and 4 should be revisited so that the Role and Function of the Centre are Requirements which must be met while the floor space provisions are Guidelines.

In this regard, Council submits that Table 3 and Table 4 would benefit from revision and Council generally agrees with the text proposed by the MPA (per document #41) but also suggests that -

- *The column headed "location and ancillary uses" be relabelled to "Role and Function".*
- *That above the row containing the main headings, the first four columns are identified as Guideline and the Role and Function column be identified as Requirement.*

These changes will ensure that the quantitative items of floor space and area etc will remain variable (subject to the permit process triggered by the UGZ Schedule) but within the context of the fixed Role and Function as explained in the relevant column.

No party opposed the reformatting suggestions advanced by Mr Montebello.

The closing submission on behalf of the MPA noted that it supports the form of the tables provided in Hearing Document 41 and also the above modifications recommended by the City of Whittlesea.

(iii) Discussion

The Panel supports the proposed further modifications to Hearing Document 41 versions of Tables 3 and 4, as articulated in the closing submission of Mr Montebello for the City of Whittlesea. The Panel agrees that the proposed revisions to the Tables provide clarity and an appropriate degree of flexibility.

(iv) Conclusions

The Panel concludes that Hearing Document 41 version of Tables 3 and 4 of the DWPSP should be further modified to reflect the following:

- the column headed "location and ancillary uses" be amended to say to "Role and Function"; and

- above the row containing the main headings the first four columns be identified as 'Guideline' and the 'Role and Function' column be identified as 'Requirement'.

The above conclusions are reflected in the Panel's recommended version of Tables 3 and 4 of the DWSP that is contained in Appendix F of this report.

5.3 Revised Urban Design Framework Plans

(i) The issue

The issue is what, if any, further changes are required to the revised Urban Design Framework (UDF) Plans (Hearing Document 18a).

(ii) Evidence and submissions

The MPA circulated 'UDF Revisions for Panel' (Hearing Document 18a) and accompanying notes (Hearing Document 18b) on day three of the Hearing. The MPA advised that all of LTCs and LCCs have been revised to remove the fine grain detail as requested by DFC and Mirvac and agreed to by Council and the MPA. The MPA agreed that the grain detail was too prescriptive and 'inflexible'.

In addition to removal of the fine grain detail, the MPA agreed to a number of other changes for each Centre which are clearly itemised in Hearing Document 18b. The MPA noted that these other changes have resulted from discussions with landowners, submitters and the City of Whittlesea and the Mitchell Shire.

Mr Tweedie indicated that Mirvac supports the revised UDF Plans. Specifically, he stated that there was general consensus that removal of the text boxes and the provision of 'soft caps' will assist in providing an appropriate level of flexibility in the development of the retail hierarchy and of individual centres.

Mr Morris confirmed that DFC 'endorses' the revised centre design concepts circulated by the MPA.

Mr Montebello confirmed in his closing submission that the City of Whittlesea agrees to the variations to the UDF concept plans as depicted and described in Documents 18a and 18b. He also urged caution about the Panel recommending modifications to the Urban Design Frameworks generally. He submitted:

Importantly, the relationship between retail, schools, diverse housing typologies, community facilities and active reserves has been thought through and planned carefully to provide an accessible and diverse mix of attractions and uses for the surrounding residential catchments in a format most likely to bestow the highest benefits on the community while being practical and deliverable.

...

The Department of Education is expert at the provision of schools but knows little about designing town centres. The panel should assume that all the pieces of the puzzle have been carefully placed for a purpose. Therefore, we urge the panel to proceed with caution and if unsure seek clarification before

making recommendation that move pieces around even if it seems innocuous at first blush.

Having noted the above overarching observations, specific matters raised in relation to individual centres are now discussed.

LCC-1 – Donnybrook Farmhouse

Mr Montebello submitted that Whittlesea Council has worked with the MPA to refine the Urban Design Frameworks for LCC-1 (and LTC-3). He advised that, in particular, Whittlesea Council sought to modify LCC-1 to facilitate greater integration of the proposed cultural hub in line with the MPA Guidelines.

Mr Montebello noted that Council considers the MPA's revised UDF for LCC-1 as contained in Document 18a, provides greater recognition of the existing Donnybrook Cheese Farm and provides for co-location and shared use opportunities between the future retail offer and the proposed Cultural Heritage Centre. He observed that ultimately the layout and configuration of uses will be driven by detailed design, however it is considered that the UDF provides an appropriate concept level framework to guide implementation.

Ms Scullion, for Mr Dibella reviewed the revised UDF prepared by the MPA in particular LCC-1. While noting that the revised plan changes the distribution of public land uses as it relates to the Dibella land at 975 Donnybrook Road, the Dibella's are still satisfied with the resultant development opportunities, noting in particular:

We are satisfied with the relationship between the passive open space, active open space and drainage reserve at the northern end of the centre and would object to any submission which seeks to redistribute the open space or drainage reserve onto the subject land, beyond that currently shown in the draft PSP.

The Monteleone family submitted a revised UDF for LCC-1 (Hearing Document 55). The revised plan includes an expanded area for the proposed cultural heritage centre, the shifting of the retail node closer to Donnybrook Road and a reduced open space and local park provision consistent with their primary submissions discussed elsewhere in this report. They also requested that the inclusion of an additional design element relating to the encouragement of medium and high density housing (as per their submission in respect of LTC-3).

LCC-2 (LTC-5) – Donnybrook Station

The Panel notes that it has addressed submissions regarding the application of the RGZ to land within the 500 metres of the Station in Section 4.1 of this report and addressed submissions regarding the classification of the Centre in Section 5.1. A number of other revisions to the UDF for the Donnybrook Station included:

- Modifying the Land Use Budget for Property 12 to reflect the whole parcel at 1.03 hectares
- Amendment of the high density design element, so as to read as follows, (or deletion of the note):

- *Higher density housing should be provided surrounding the mixed use area as a transition to neighbouring residential areas.*
- Address the acquisition of land for the Donnybrook Transport Hub in light of the reduced Yarra Valley Water land acquisition area.
- Confirm the property specific land budget for Property 15 so as to ensure it correctly reflects the Total Net Developable Area once the DSS has been finalised.

LTC-3 – Lockerbie East

Mr Wren advised that the Monteleone family seeks a modification to the layout of LTC-3 to show the community facility and the non-government school on the eastern side of the north-south road in order to assist with the integration of the centre. Mr Wren submitted this outcome is not resisted by Catholic Education Melbourne provided the Catholic School is co-located with the proposed community facility.

The closing submission on behalf of the MPA noted that the letter from Patrick Love to Mr Wren on 31 May 2016 indicates that the Catholic Education Office Melbourne position is to retain the current layout as exhibited, however they would consider an option for location of the Catholic school on the east of the north south road. The MPA did not oppose the suggested modification to the layout of LTC-3.

The Catholic Education Office Melbourne submitted a further letter to the Panel in response to its consideration of the list of requested modifications to the DWPSP circulated by the Monteleone family (Hearing Document 81). The letter advised:

The optimum location model is where Catholic and Government primary schools are located side by side with and Early Learning Centre centrally located between them; and access to other ancillary childhood services as well as public open space and other community facilities. It is understood that this is what is being promoted by the Monteleone's proposal.

This model will provide the best educational outcomes for students at both schools. It is noted that Catholic Schools educate both Catholic and non-Catholic students and that Government schools also educate Catholic and non-Catholic students.

We welcome this option being explored further as this model promotes a win-win outcome for students at both schools.

The letter however reiterates that if consensus cannot be reached by all parties their firm position is to retain the current layout as shown in the DWPSP as they have a firm commitment from Council that the kindergarten will be provided within the Community Activity Centre to the south of the Catholic school.

A further modification is sought by the Monteleone family in respect of LTC-3, being the inclusion of the following Key Design Element:

- *Design of housing to encourage medium and high density housing around retail, schools and sports reserve and POS to contribute to Centre activation and passive surveillance.*

LCC-6 – Merristock

Mr Tobin advised that the Mitchell Shire is satisfied with the revised Urban Design Framework Plan for Merristock Local Centre (LCC-6). In noting this, he reiterated that all experts consider it appropriate that the UDF for LCC-6 (and the text description in Table 4) continue to identify the potential supermarket.

(iii) Discussion and conclusions

The Panel generally supports the revised UDF Plans as prepared by the MPA in consultation with stakeholders including existing landowners as reflected in Hearing Document 18a and 18b, and further modified as reflected in Hearing Document 72. The Panel considers that the revised Plans better reflect the strategic outcomes envisaged for each centre while maintaining flexibility that will be required later in the detailed design process.

In relation to the specific modifications sought to the various UDF Plans the Panel notes the following:

LCC-1 – Donnybrook Farmhouse

- In Panel does not support the revised UDF LCC-1 Plan submitted by the Monteleone family (Hearing Document 55). The Panel is not satisfied that proposed changes to the size and location of the retail node will deliver a community benefit and the reduction in the size and location of local park and sports reserve are not justified.
- Having noted the above, the Panel accepts the submission by Mr Wren that there may be merit in straightening the North South Road, as per the UDF in the exhibited version of the DWSP so long as the existing buildings on the Monteleone land are not affected.

LCC-2 (LTC-5) – Donnybrook Station

- The Panel agrees that the Land Use Budget for Property 12 should be updated to reflect the whole parcel at 1.03 hectares and that the Net Developable Area of Property 15 should be reviewed following the finalisation of the DSS.
- The Panel considers it appropriate to amend the high density design element so as to read as follows:
 - *Higher density housing should be provided surrounding the mixed use area as a transition to neighbouring residential areas.*
- The Panel considers it appropriate for the MPA to undertake further investigations and consultation with relevant stakeholders to address the acquisition of land for the Donnybrook Transport Hub in light of the reduced Yarra Valley Water land acquisition area.

LTC-3 – Lockerbie East

- The Panel has no in-principle opposition to the relocation of the non-government school and the community facilities to the east side of the north-south road. Detailed planning of the centre may determine that this outcome is workable and in the best interest of all stakeholders and for the future residents in proximity to the centre. Further consultation should occur between all relevant stakeholders to determine if it is in the best interests of the community and the long term functioning of LTC-3 for this to occur.

- Having noted the above, the Panel accepts the submission of the Catholic Education Office Melbourne that any such relocation must honour the agreement already reached with the City of Whittlesea that the Catholic School is to be co-located with the community facilities of the centre, including the proposed kindergarten.
- The Panel supports the inclusion of the following Key Design Element as requested by the Monteleone family:
 - Design of housing to encourage medium and high density housing around retail, schools and sports reserve and POS to contribute to Centre activation and passive surveillance.

(iv) Recommendation

The Panel recommends:

Amend the Donnybrook/Woodstock Precinct Structure Plan by replacing the Local Town Centre and Local Convenience Draft Concept Plans and Design Criteria contained in Appendix 4.2 and 4.3 with the Plans and Criteria contained in Hearing Documents 18a and 18b, subject to the following revisions and further modifications:

LCC-1 - Donnybrook Farmhouse

- Metropolitan Planning Authority review the layout of LCC-1 in consultation with all relevant stakeholders to refine the location of the north-south connector street in order to maximise active street frontage opportunities for the community and cultural centre without affecting existing buildings and infrastructure.

LCC-2 (LTC- 5) – Donnybrook Station

- Replace the existing housing ‘Key Design Element’ on the LCC-2 (LTC-5) Plan with the following:
 - Higher density housing should be provided surrounding the mixed use area as a transition to neighbouring residential areas.
- Update the Land Use Budget for Property 12 to reflect the whole parcel at 1.03 hectares and update the Net Developable Area of Property 15 following the finalisation of the Development Services Scheme.
- Metropolitan Planning Authority undertake further investigations and consultation with relevant stakeholders to address the acquisition of land for the Donnybrook Transport Hub in light of the reduced Yarra Valley Water land acquisition area.

LTC-3 – Lockerbie East

- Metropolitan Planning Authority review the layout of LTC-3 in consultation with all relevant stakeholders to determine if it is in the best interests of the community and the long term functioning of LTC-3 to relocate the proposed Catholic P-6 school and community facilities, including the kindergarten, to the east of the north-south road.
- Include the following additional ‘Key Design Element’ on the LTC-3 Plan:

- **Design of housing to encourage medium and high density housing around retail, schools and sports reserve and Public Open Space to contribute to Centre activation and passive surveillance.**

6 Education

6.1 Designation of non-government schools

(i) The issue

The issue is whether the DWPSP should identify non-government school sites as 'Catholic schools' rather than as non-specific 'Non-government schools'.

(ii) Evidence and submissions

Consistent with its submissions to other PSP Hearings, the Catholic Education Office Melbourne (CEO) submitted that the DWPSP should identify sites identified by its strategic work as 'Catholic schools' as opposed to 'potential non-government schools'. Mr Wren advised on Day 1 of the Hearing that submissions and evidence were led by the CEO at the recent Rockbank Hearing and that rather than duplicate those submissions and evidence, the CEO would 'abide by the outcome of the Rockbank Panel'. The MPA's Part B submission noted that what the CEO is in effect seeking is for the DWPSP to identify the non-Government schools as Catholic schools and that:

- the owner/developer be required to negotiate with the CEO in selling the site; and
- the CEO be given an exclusive right to deal with the landowner in the sale of the site, or alternatively, the first option to buy the site.

In response to the CEO submission the MPA stated that it acknowledges the important role that Catholic schools provide in educating Victorian school children, and the robust strategic work that the CEO has undertaken in identifying future demand for Catholic schools in growth areas, including the Donnybrook/Woodstock PSP.

The MPA advised that it has responded to the CEO strategic site investigations and needs analysis for various PSP's in a number of ways.

The Growth Areas Authority entered into a memorandum of understanding with the CEO, and in order to facilitate the provision of Catholic school sites in PSPs.

The MPA has written to the CEO, and outlining its proposed approach to non-Government schools in PSPs. The MPA, in consultation with the CEO, and on being satisfied that there was a demand for a Catholic school in the Donnybrook Woodstock PSP:

The PSP references the development of a non-Government school in the following ways:

- *Lists the following as an objective of the PSP: "Provide for government and non-government schools sites to meet a strategically justified need for State and Catholic education in the area."*
- *Shows land set aside as a potential non-government school.*
- *In the PSP, specifically refers to the CEO: Lists the CEO as the "Lead Agency" in providing a Catholic primary School.*
- *Does not include this land as subject to a Development Contributions Levy.*

This achieves the appropriate balance of direction and flexibility in achieving PSP outcomes. It identifies that the CEO provided the strategic justification for the non-government school. It provides the opportunity and encouragement for a catholic primary school to establish on the site.

Having noted the MPA approach to accommodate the CEO, Ms Patterson reiterated that the MPA does not support the 'locking in' of the CEO nominated sites:

The CEO, and other non-government schools, do not have the power to compulsorily acquire the land. The land is privately owned. As a result, any use of the land as a school is dependent on the landowner selling the land to the CEO or other non-government education provider. There is therefore no certainty that the land will be owned by the CEO, or other non-Government school.

There is nothing to prevent the CEO from purchasing an alternative site. This could occur if:

- *The existing landowner cannot reach terms with the CEO.*
- *The CEO is able to purchase an alternative site, for a cheaper price, and from another landowner.*

Finally, it is unfair to impose a defacto compulsory acquisition control on the current landowner/developer in circumstances where the CEO may not end up purchasing the land. It blights otherwise developable land.

It is not appropriate to mandate that a particular use be undertaken by a particular operator. The MPA do not mark any particular operators to any particular use. It would be like marking supermarket sites as Woolworths or Coles, which is inappropriate in planning terms.

Instead, and consistent with the operation of the planning system in Victoria, the PSP seeks to facilitate, and not force, the establishment of certain uses in certain locations, let alone certain uses undertaken by specified operators.

On the final day of the Hearing, Ms Patterson noted in her closing submission that the Rockbank PSP Panel Hearing report had been submitted. The following extract was submitted by the MPA:

... The Panel considers that there is a fundamental tension between the understandable wish of the MPA not to identify particular nongovernment providers in a PSP, and the need of CEM to gain the benefit of greater certainty from its appropriate participation the planning process. The Panel accepts that identifying individual providers is not the role of a PSP. The problem appears to be in part that the Catholic education system is effectively defined as a private sector operator, despite educating almost one quarter of students in the state and being majority funded by government.

The Panel agrees with the Panel for Amendment C66 to the Surf Coast Planning Scheme that it is not the role of the Panel to address this policy dilemma in a one off manner, but rather to urge the MPA to further address this policy issue.

The Panel is of the view that more certainty needs to be provided to ensure that where CEM appropriately participates in the PSP planning process, it can be given greater certainty about its ability to purchase the site identified as meeting its needs. Other more 'footloose' private education providers should be discouraged from acquiring sites identified in the planning process when they have not been involved in that process. While the Panel understands the anxiety of CEM to have this issue resolved, there was no evidence provided that in this particular instance that there is an immediate threat from another provider to acquire the site in the Rockbank PSP effectively identified for CEM.

The Panel concluded that:

The Panel concludes that there should be no change to the designation of non-government schools in the Rockbank PSP.

Having heard the Rockbank Panel's discussion and conclusion, Mr Wren bluntly asked Ms Patterson 'what is your response – what are you going to do?'

Ms Patterson replied that the MPA position, as agreed on Day 1 of the Hearing, was to adopt the Rockbank Panel's finding in this matter. Accordingly, Ms Patterson advised that the MPA seeks to retain the 'potential non-government school' designation in the DWPSP.

(iii) Discussion

Based on the extract provided by the MPA of the Rockbank Panel Report, and the position advanced by the CEO that it would abide by the finding of the Rockbank Panel, the Panel considers it has no basis to deviate from the recommended position of the MPA that there be no change to the designation of the non-government schools in the DWPSP.

The Panel's hands are effectively tied as the issues were not ventilated at the Hearing. That said, the Panel questions how and what the MPA intends to do to further address the policy issue as identified by the Rockbank Panel:

- *... it is not the role of the Panel to address this policy dilemma in a one off manner, but rather to urge the MPA to further address this policy issue. (Panel emphasis)*

In this regard the Panel supports Mr Wren's blunt 'what are you going to do?' question of the MPA.

The Panel agrees with the Rockbank Panel '*that more certainty needs to be provided to ensure that where CEM appropriately participates in the PSP planning process, it can be given greater certainty about its ability to purchase the site identified as meeting its needs*'.

(iv) Conclusions

The Panel concludes that there should be no change to the designation of non-government schools in the DWPSP.

6.2 Use of 'Non-Required' school sites

(i) The issue

The issue is whether Guideline G28 should be modified to specify that land not required for a Government school can be used for other purposes akin to the G28 specification with respect to non-government school sites.

(ii) Evidence and submissions

Guideline G28 in the DWSP specifies that where the Responsible Authority is satisfied that land shown as a non-government school site is unlikely to be used for a non-government school, that land may be used for a residential development which is generally consistent with the surrounding land uses and provisions of the applies zone. The Dennis Family submitted that it is appropriate for the same guideline to be applied for a non-required 'government school'.

The Town Planning evidence of Mr Barlow for Dennis Family Corporation is that Guideline 28 provides some positive direction for the alternative use of land designated for non-government schools. Further his view is that:

I can see no reason however: to differentiate between government and non-government schools and I would recommend that this Guideline be amended to apply to any land identified for education use.

Whether a school is designated as government or non-government – it has the same effect of sterilising the potential use of the land if no interested party comes forward for an education use unless there is some form of ability for the land owner to pursue an alternative use.

For these reasons, I consider that the PSP needs to be amended to provide much greater certainty and clarity for landowners that land will not unduly restricted for future uses that might not occur and to provide an opportunity for alternative uses for land to be considered and approved without the need for a planning scheme amendment.

Specifically, Mr Barlow recommended that Requirements R23 and R26 be amended to read:

*Subdivision, land use and development within each [**Insert as appropriate:** Local Town Centre/ Local Convenience Centre] must be generally in accordance with the relevant preliminary [**Insert as appropriate** LTC/ LCC concept plan] except where it is demonstrated that a use, such as a school, will not be realised.*

Further, Mr Barlow recommended that Guideline 28 be further revised as follows:

Where the Responsible Authority is satisfied that land shown as a school (government or non-government school) is unlikely to be used for education purposes, that land may be used for a residential development which is generally consistent with the surrounding land uses and the provisions of the applied zone and without the need to further amend the planning scheme

The submission by Mr Morris for the Dennis Family Corporation urged the Panel to 'go a little further than suggested by Michael Barlow'. Mr Morris argued that the DWPSP needed to provide clear and unambiguous direction that 'residential and related purposes' are appropriate development outcomes for non required school sites. In order 'to remove any doubt' Mr Morris suggested that R23 and R26 could commence with the words:

Despite the other provisions of this PSP, it is consistent with the PSP for a school site to be developed for other purposes in accordance with this clause.

Mr Morris also noted Dennis Family Corporation's agreement with Mr Barlow's evidence that Guideline 28 should apply equally to denominational school sites. Mr Morris again went further than Mr Barlow on this issue. Mr Morris stated:

There is no reason why preference should be given to any one denomination. If a non-government school site is designated on private land, an educational group may acquire the site and develop a school.

If agreement cannot be reached on a price and there is no interest from another educational group in acquiring the site, it should be possible for the land to be developed for residential purposes consistent with the PSP.

Mr Montebello advised that the City of Whittlesea does not embrace Mr Barlow's recommendations on this issue. His closing submission notes the following:

This is not an easy issue to deal with. The temptation is to follow the crowd as it were and agree to a provision in the PSP in the same form of what Mr Barlow suggested for Requirements 23 and 26. However, upon reflection, we submit that this approach should not be followed.

For one thing, the need for the site for a school may not transpire early in the life of the PSP and we envisage that it is likely that the provision opens up the issue to potential abuse by premature applications forcing the issue to be determined ahead of a reasonable time line. The provision of school infrastructure is a long term process but landowners usually require shorter turnarounds in decision making. These two imperatives do not always or more so frequently align in terms of timing. The distinct risk is that these matters get diverted to a VCAT process which is principally concerned with statutory considerations rather than strategic planning considerations.

The planning of the PSP is a strategic planning exercise. It is usually detailed and careful.

In relation to the identification of school sites, there are PSP Guidelines which provide direction as well understanding the requirements of education authorities.

Consequently, a review of any PSP will identify that school sites are very often:

- *Located close to other school sites;*
- *Located close to ovals and sporting facilities;*
- *Provided with excellent access on connector roads*
- *Located very close to activity centres; and*

- *Located so as to enable shared use of community facilities. Indeed, the community facilities are sometimes located near to schools rather than in other suitable locations.*

Consequently, the notion that a school site will always be appropriate for development for residential purposes simply because a school operator does not put their hand up in whatever time lines an owner chooses to press the issue, is not a valid assumption.

We envisage that it may well be appropriate to review the localised structure of the PSP where it becomes apparent that a site for a school is not required for a school. Relevant questions may include whether it would then be appropriate to rejig some other parts of the PSP in view of this new information.

To demonstrate, one only need refer to some of the proposed schools (public and private) to understand the potential outcomes if school sites were simply given over to residential development without proper consideration.

The City of Whittlesea's final position was articulated by Mr Montebello as follows:

Accordingly, it is Whittlesea Council's view that if it becomes apparent that a school site is not required for education purposes, the proper process is that a review of that part of the PSP should be conducted to ascertain whether any changes to the PSP are required. If not, then the school site can be removed from the PSP with the consequential changes being made and in those circumstances a permit may subsequently granted for residential subdivision.

On this basis, we submit that if it becomes apparent that a school site is not required, the PSP should be modified to provide for a rejigging of the PSP and to make provision for the alternative use. To this end, it is not a simple procedural matter.

The closing submission for the MPA was consistent with the submissions advanced on behalf of the City of Whittlesea:

The MPA consider that government school sites should not have a 'release' requirement or guideline for residential redevelopment if the school for some reason does not proceed. This has not been included for any government school site in any previous PSPs.

If a government school does not proceed in a location that is generally in accordance with a PSP, that PSP may need to be amended.

It is appropriate that the PSP be reviewed and amended as government schools are very often a significant land holding as well as significant destination and component of a PSP and community hub. If a government school does not go ahead, the location of other features (community centres, sports fields etc etc) might also need to be reviewed and altered.

This is due to the fact that when government school sites are strategically chosen by the Education Department they are purposely located close to other school sites, activity centres, sporting facilities and community facilities.

The planning and locational requirements for schools is very detailed, in accordance with the standards of the PSP Guidelines.

It is also Whittlesea Council's view that if a government school site is not required for education purposes, that a review of that part of the PSP should be undertaken to ascertain whether any changes to the PSP are required.

(iii) Discussion

As per the position articulated by the MPA and supported by the City of Whittlesea, Guideline G28 is proposed by the MPA to remain unchanged. The Panel supports this outcome. In reaching this finding the Panel accepts the submissions by the MPA and the City of Whittlesea that if it transpires that a government school is not to be developed in a location specified in a PSP it will likely have significant implications for other PSP elements, such as the location of community facilities, sports reserves and the like. The impacts on the further urban form of the PSP are likely to be greater than if a non-government school did not proceed.

Accordingly, the Panel considers it appropriate to undertake a review of the DWSP if a government school does not go ahead.

It is noted that MPA has agreed to amend the wording of R23 and R26 to enable consideration of alternative concepts (Refer Reference 104 and 107 in Hearing Document 72). The 'agreed change' includes the following proposed drafting for R23:

Subdivision, land use and development within each Local Town Centre must be generally in accordance with the relevant Town Centre Concept Plans and Local Town Centre Performance Criteria – Attached as Appendix 2.

Alternative concepts may be considered where it can be demonstrated that the key design elements, principles and guidelines have been achieved, to the satisfaction of the Responsible Authority. (Panel emphasis)

Similar drafting is utilised for Requirement R26:

Subdivision, land use and development within each Local Convenience Centre must be generally in accordance with the relevant Convenience Centre Concept Plans and Local Convenience Centre Performance Criteria – Attached as Appendix 2.

Alternative concepts may be considered where it can be demonstrated that the key design elements, principles and guidelines have been achieved, to the satisfaction of the Responsible Authority. (Panel emphasis)

While these amendments do not provide the explicit direction sought by the Dennis Family Corporation and others, it does facilitate the consideration of alternative concepts.

(iv) Conclusions

The Panel does not support further modification to Guideline G28 as sought by DFC.

7 APA GasNet

7.1 Notice Requirement in UGZ Schedule

(i) The issue

The issues include whether the APA should receive notice or advice of permit applications and if so, for what type and location of development, and what form of notice or advice is appropriate. A related issue is what, if any, changes should be made to the Plans within the DWPSP in relation to gas pipeline infrastructure.

(ii) Evidence and submissions

APA lodged a number of submissions to the Amendment. It chose not to appear at the Hearing. In its latest submission dated 12 May 2016 in relation to the issue of notice, the APA submitted that the Urban Growth Zone should be amended to include:

(a) a requirement for a permit to be obtained for any of the following uses;

- (i) child care centre;*
- (ii) education centre;*
- (iii) hospital;*
- (iv) aged care accommodation;*
- (v) service station*
- (vi) cinema based entertainment facility or*
- (vii) accommodation, other than a single dwelling on a lot; and*

(b) a new referral provision requiring applications for any of the above uses within a 341 metre radius of APA's pipelines be referred to either Energy Safe Victoria or the Minister administering the Pipelines Act.

The MPA and City of Whittlesea made comprehensive submissions in response, as did the Dennis Family Corporation and Mirvac.

The Dennis Family Corporation was the only party to the Hearing that called planning evidence on the issue, that being provided by Mr Barlow of Urbis. His evidence focused on the consideration of the planning controls in the exhibited PSP that relate to the presence of the APA high pressure gas pipelines and their impact on planning outcomes and the statutory planning process. The evidence statement was detailed and addressed matters under the headings of: *Context; Gas Pipelines – Recent Considerations in other PSP's including Lara West and Wollert; Gas Pipeline Related Controls in the DWPSP; Measurement Length; Safety Management Study; Sensitive Uses; Correct Policy Approach; Referral Authority and Construction Management Plan Requirements.*

In relation to what is an appropriate 'notice' requirement Mr Barlow concluded:

I accept that the pipeline operator is required to know about land use changes that might be occurring in order to undertake its responsibilities under AS2885, however, this can be achieved through a simple planning permit requirement that applies to land within the measurement length.

I make the recommendation that a new application requirement be introduced into the PSP that requires any planning permit application within the measurement length of the pipeline to submit evidence that it has notified the pipeline operator of the application. This will ensure that the pipeline operator can be kept up to date with all current planning permit activity and ensure that it meets its obligations, under separate legislation and AS2885, to maintain pipeline safety in response to changing land use considerations.

This will also avoid the administrative burden of a Clause 66.06 notice provision being put forward by the MPA in its Part A Submission.

No party materially challenged the evidence of Mr Barlow on the Gas Pipeline issues addressed by him. In addition to the Dennis Family Corporation, the MPA, Whittlesea City Council and Mirvac all agreed with the substance of his recommendations. Having noted this, during the course of the Hearing as well as post hearing, subtle differences emerged in the position of parties with regards to the various aspects of the proposed planning scheme controls and proposed content of the DWSP.

Mr Tweedie in his opening submission stated:

While Mirvac accepts that APA may be entitled to some notice of a limited range of permit applications, Mirvac says that:

- *Notice is all that APA should receive, and APA should not be given status as a referral authority;*
- *There is no need for any new permit triggers;*
- *There is no need for notice of applications for dwellings of any density to be given to APA (or any other body); and*
- *'density based' notice provisions for dwellings are not workable in practice and not necessary to ensure the safe operation of pipelines.*

Mr Tweedie reiterated orally when presenting Mirvac's primary submission that 'We support Mr Barlow's evidence entirely.' Mirvac does not accept that there is any need for applications to be 'referred' to APA. Mr Tweedie noted that neither ESV nor the Minister administering the Pipelines Act have expressed any desire to be a referral authority. He noted that the Wollert Panel correctly rejected APA's proposition be a referral authority.

Mr Montebello in closing for the City of Whittlesea noted:

The relevant part of UGZ 6 currently states that notice must be given to the person or body listed in the schedule to clause 66.06 of an application on land shown within: [a specified distance] ... for ... dwelling where density will equal or exceed 30 dwellings per net developable hectare ... etc

In our opening submissions we submitted that this is likely to be unworkable and difficult to administer. We have been provided with a copy of a proposed clause which removes the reference to the density control in preference for a far more simple and black or white test. We support that methodology and drafting.

The MPA's closing submission provided the revised drafting of Clause 5.0 of the UGZ Schedules referred to by Mr Montebello. The submission noted:

As compared to the Panel version, the reference to ‘ Dwelling where density will equal or exceed 30 dwellings per net developable hectare ’ has been removed and replaced with a trigger for the construction of dwellings. The clause has also been reformatted to better reflect VPP formatting standards.

In the applied residential zones, even though use of a dwelling is as-of-right, a permit is required to construct a dwelling on lots under 300sqm in area or to construct more than one dwelling on a lot. It is proposed to remove the previously stated ‘ 30 dwelling per hectare ’ trigger, which has inherent uncertainties in its application, as raised by Whittlesea, with the more certain triggers of one dwelling on a lot less than 300sqm and more than one dwelling on a lot triggers under the residential zones.

The gas transmission pipeline licensee will not be notified of ordinary residential subdivisions or single dwellings on lots more than 300 sqm.

The MPA submitted the following wording, which it reiterated, had been agreed by the City of Whittlesea:

5.0 Notice to gas transmission pipeline licensee

Notice of an application of the kind listed below must be given in accordance with section 52(1)(c) of the Act to the person or body specified in the Schedule to Clause 66.06:

An application, on land shown as ‘ gas pipeline measurement length ’ on ‘ Plan 2 – Precinct Features ’ in the incorporated Donnybrook/Woodstock Precinct Structure Plan, where the application is to use land for, or to construct a building to accommodate, any of the following:

- *Accommodation (other than a Dependent person’s unit)*
- *Aged Care Facility*
- *Child care centre*
- *Cinema based entertainment facility*
- *Education centre*
- *Hospital*
- *Place of assembly*
- *Retail premises.*

Note: There are two gas transmission pipelines in the same easement within the Donnybrook/Woodstock growth area precinct: 1) The 300mm diameter Keon Park to Wodonga pipeline, which, for the purposes of AS2885.1-2012 generates a ‘ measurement length ’ of 341 metres either side of the pipeline; and 2) The 400mm diameter Wollert to Broadford pipeline, which, for the purposes of AS2885.1-2012 generates a ‘ measurement length ’ of 590 metres either side of the pipeline. The measurement lengths are represented as the ‘ gas pipeline measurement length ’ in the precinct structure plan

Mirvac’s post hearing submission noted that the MPA is proposing to:

- amend the PSP to include the measurement length of the T119 pipeline on Plans 2 and 15 of the PSP, and

- require notice of applications for sensitive uses (including Accommodation, which should not be considered a sensitive use in this context) within the measurement length of both pipelines.

Mirvac submitted that the inclusion of the measurement length of the T74 pipeline in the DWPSP (i.e. 341 metres), but not the T119 pipeline, is appropriate given the conclusions of Safety Management Study (SMS) (Hearing Document 31) prepared in relation to the pipelines.

Mirvac reiterated that the SMS determined that the operation of both pipelines within the precinct is “As Low As Reasonably Practical” (ALARP). The submission highlighted that his conclusion is based upon an analysis that classified the land within the T74 pipeline measurement length as ‘Residential’ (within the meaning of the relevant Australian Standard for pipelines, AS2885). This ‘Residential’ classification anticipates residential development including high density residential development.

The submission noted that the analysis with respect to the T119 pipeline proceeded on the basis that future land uses located between the T119 and T74 measurement lengths (as anticipated by the DWPSP, including two government schools and community facilities) should be classified as ‘Sensitive’ within the meaning of AS2885, a higher standard than Residential and necessitating more stringent safety management requirements.

Further, the supplementary submission on behalf of Mirvac states:

The consequence of showing the measurement length of the T74 pipeline on plans contained within the PSP is also related to the proposed notice requirements contained in Clause 5 of the Urban Growth Zone Schedule 6 (UGZ6)

Mirvac does not oppose the giving of notice of applications for sensitive uses (other than for Accommodation, which has been assessed as ALARP by the SMS) within the measurement length of the T74 pipeline because the assessment within the SMS was not conducted on the basis that the land should be classified as Sensitive, rather it was classified as Residential.

However, it is not necessary to show the measurement length of the T119 pipeline within plans contained within the PSP, or to require notice of applications for sensitive uses within the T119 pipeline measurement length, as sensitive uses have already been assessed and planned for, as documented in the SMS. To put this another way, the operation of the T119 pipeline has already been assessed as “ALARP” for Sensitive land uses located within the 590m measurement length of this pipeline.

Accordingly, there is no purpose served in providing notice to the APA, or to any other suggested referral body, for an assessment of risk for sensitive use applications within the T119 measurement length and no utility in showing the T119 measurement length on the PSP plans.

This position is consistent with the final APA position, as stated in its submission to the MPA dated 12 May 2016 (stated to replace all other submissions) which does not seek that the measurement length for the T119

pipeline be indicated on any plan, nor that notice of applications for sensitive uses within this wider measurement length be required.

LTC2 was deliberately located outside the measurement length for the T74 pipeline. The measurement length for the T119 pipeline will cut through LTC2 and will locate two schools and community facilities (including a childcare centre) within its measurement length.

There is simply no reason to reflect the 590m measurement length on either Plan 2 or 15 and therefore neither plan should be amended in this manner. Nor is there any reason to require notice of applications for Sensitive uses within the measurement length of T119 pipeline, or for Accommodation within the measurement length of the T74 pipeline.

Mirvac circulated an amended version of Clause 5.0 which it considers should be included in the UGZ4 (Mitchell) and UGZ6 (Whittlesea). The key changes to the proposed version circulated by the MPA in its closing submission included:

- notice in respect of use of the land for Accommodation is deleted
- the wording of listed land uses modified slightly to match defined land use terms in the planning scheme
- the 'Note' below the clause is deleted as Mirvac considers the note is unnecessary as the notice requirement is set according to the map shown in the incorporated document.

Mirvac's recommended version of Clause 5.0 reads as follows:

5.0 Notice to gas transmission pipeline licensee

Notice of an application of the kind listed below must be given in accordance with section 52(1)(c) of the Act to the person or body specified in the Schedule to Clause 66.06:

An application, on land shown as 'gas pipeline measurement length' on 'Plan 2 – Precinct Features' in the incorporated Donnybrook/Woodstock Precinct Structure Plan, where the application is to use land for, or to construct a building to accommodate, any of the following:

- *Aged Care Facility*
- *Child care centre*
- *Cinema*
- *Education centre*
- *Hospital*
- *Place of assembly*
- *Retail premises*

DFC's response to Mirvac's additional submissions on this issue reiterated its primary position that '*within the measurement length of the T74 pipeline, ESV or the APA should receive 'advice' of an application for a sensitive use*'. DFC is concerned however that Mirvac's comments do not distinguish between 'notice' and 'advice'. It also urged the Panel to consider that the obligation to provide 'advice' on an application should fall to the Responsible Authority rather than the permit applicant.

DFC's proposed wording of Clause 5.0 is as follows:

5.0 Advice to gas transmission pipeline owner and operator

Advice must be given by the Responsible Authority to the owner or operator of the pipeline of an application on land shown within 341 metres of the Keon Park to Wodonga (T74.2-300mm) pipeline with Pipeline Licence PL101 and shown as gas transmission pipeline on Plan 15 – Utilities in the incorporated Donnybrook/Woodstock Precinct Structure Plan for a Child care centre, an Education centre, a Place of Assembly, Retail premises, a Cinema based entertainment facility, Hospital or Aged Care Facility.

DFC reiterated that its submission to replace the word 'notice' with the word 'advice' is advanced in order to remove any sense that the Clause 5 of the Schedule represents a statutory 'notice' and potentially elevating APA to the status of a referral authority of any kind. It agrees with Mirvac's submission that 'Accommodation' should not be listed as a sensitive use for the reasons advanced by Mirvac.

In relation to further modifications to the Plans within the DWPSP, DFC:

- agrees with Mirvac that there is no need for the T119 (590 metres) measurement length to be shown on the DWPSP Plans
- considers that showing the T74 measurement length on the DWPSP maps (as the exhibited version of Plan 2 of the DWPSP already does) is a pragmatic approach to assist the APA to perform its statutory obligations in relation to the Safety Management Study.

The MPA's response to the post hearing submissions of Mirvac is as follows:

In closing, MPA submitted to the Panel that Clause 5.0 of UGZ4 (Mitchell) and UGZ6 (Whittlesea) should be revised in relation to the notice requirements to the gas transmission pipeline licensee. Drafted wording was provided to the Panel in MPA's closing submission, which attempted to clarify and simplify the provisions originally presented to the Panel with the Part B document package.

MPA's drafting providing in closing, compared to the Panel version (Part B), removes reference to 'Dwelling where density will equal or exceed 30 dwellings per net developable hectare' and replaced this with a trigger for the construction of dwellings.

It is MPA's view that applications for use or development of 'Accommodation' within the measurement length should trigger notice to the gas transmission pipeline licensee.

In the applied residential zones, even though use of a dwelling is as-of-right, a permit is required to construct a dwelling on lots under 300sqm in area or to construct more than one dwelling on a lot. It is these types of dwellings (e.g. small lot and multi-unit) that represent dwelling densities approaching and exceeding 30 dwellings per hectare.

Therefore, MPA considers it reasonable to translate the previously stated '30 dwelling per hectare' trigger, which has inherent uncertainties in its

application, with the more robust triggers of one dwelling on a lot less than 300sqm and more than one dwelling on a lot triggers under the residential zones.

The gas transmission pipeline licensee will not be notified of ordinary residential subdivisions, as these in themselves will not cause any dwellings to be constructed or occupied. In general, these subdivision applications will never exceed 30 dwellings per hectare in density (i.e. density targets in PSP are less than 30 dwelling per hectare). In instances where subdivided lots will accommodate higher densities, the construction of the dwelling(s) on those lots will generate a notice to the licensee.

In light of this, the MPA retains Accommodation as a notifiable use as drafted, noting that conventional dwelling development will not trigger notification.

Clause 5.0 of the UGZ schedules will refer to the 'gas pipeline measurement length' shown on 'Plan 15 – Utilities' of the PSP, which is a change documented in MPA's Version 3 list of changes (Panel Document 72, line item 208).

MPA does agree with Mirvac that the Gas Safety Management Study (SMS) did consider the school locations, which are outside of the measurement length of the T74 Pipeline (341 metres), but within the measurement length for the T119 Pipeline (590 metres) and did assess them as "As Low As Reasonably Practical" (ALARP). With this in mind, it is considered appropriate to amend the drafting of the UGZ to exclude uses shown as part of the Donnybrook Woodstock Precinct Structure Plan within the measurement length, as these have been considered to be acceptably located as part of the SMS. Revised drafting reflecting this is provided on page 3 of this document.

Further, MPA partly agrees with Mirvac's notes specified in their drafting of Clause 5.0. These notes state that the wording of listed land uses should be slightly revised to accord with Planning Scheme terminology. Specifically, the list should state 'Residential aged care facility' in lieu of 'Aged care facility'.

However, 'Cinema based entertainment facility' should be retained in this list, as this land use definition differs from 'Cinema'. Pursuant to Clause 74, 'Cinema' is nested under 'Place of assembly', whereas 'Cinema based entertainment facility' is not.

MPA's recommended final revised version of Clause 5.0 reads as follows:

5.0 Notice to gas transmission pipeline licensee

Unless an application is generally in accordance with a use listed below and that use is described in the incorporated Donnybrook/Woodstock Precinct Structure Plan, notice of an application of the kind listed below must be given in accordance with section 52(1)(c) of the Act to the person or body specified in the Schedule to Clause 66.06:

- An application, on land shown as 'gas pipeline measurement length' on 'Plan 15 – Utilities' in the incorporated Donnybrook/Woodstock Precinct*

Structure Plan (PSP), where the application is to use land for, or to construct a building to accommodate, any of the following:

- Accommodation (other than a Dependent person's unit)*
- Residential Aged Care Facility*
- Child care centre*
- Cinema based entertainment facility*
- Education centre*
- Hospital*
- Place of assembly*
- Retail premises*

Note: There are two gas transmission pipelines in the same easement within the Donnybrook/Woodstock growth area precinct: 1) The 300mm diameter Keon Park to Wodonga pipeline, which, for the purposes of AS2885.1-2012 generates a 'measurement length' of 341 metres either side of the pipeline; and 2) The 400mm diameter Wollert to Broadford pipeline, which, for the purposes of AS2885.1-2012 generates a 'measurement length' of 590 metres either side of the pipeline. The measurement lengths are represented as the 'gas pipeline measurement length' in the precinct structure plan.

The Mitchell Shire advised that as initially submitted it does not have the expertise to fully understand the risks associated with the gas pipeline and that it is comfortable with the wording proposed by the MPA.

The City of Whittlesea responded as follows:

As set out in Council's submission to the Panel, Council's primary concern in relation to the APA pipelines issue is implementation. In Council's submission, it is extremely important that the UGZ6 contains clear direction on what must be provided to the APA Group as part of the clause 5.0 notice provision.

In light of this, Council has reviewed both notice provisions proposed by Mirvac and the MPA. Council acknowledges that both parties have attempted to address Council's concern in relation to density triggers and the overall streamlining of the permit notice process.

Council agrees with components of the amended text provided by the MPA in response to the Mirvac submission. However from an implementation perspective, Council considers that the opening references (suggested by the MPA) to an application being 'generally in accordance with' a use in the list is confusing and unnecessary. Council also agrees with Mirvac that the 'note' should be deleted. The note is considered unnecessary where the provision refers to Plan 15 within the PSP.

The wording provided over page represents Council's preferred wording.

5.0 Notice to gas transmission pipeline licensee

Notice of an application of the kind listed below must be given in accordance with section 52(1)(c) of the Act to the person or body specified in the Schedule to Clause 66.06:

An application, on land shown as ‘gas pipeline measurement length’ on ‘Plan 15 - Utilities’ in the incorporated Donnybrook/Woodstock Precinct Structure Plan (PSP), where the application is to use land for, or to construct a building to accommodate, any of the following:

- *Accommodation (other than a Dependent person’s unit)*
- *Residential Aged Care Facility*
- *Child care centre*
- *Cinema based entertainment facility*
- *Education centre*
- *Hospital*
- *Place of assembly*
- *Retail premises.*

(iii) Discussion and conclusions

The Panel is concerned that an agreed and consistent approach regarding how best to reflect gas pipeline issues and responses in PSP’s (including the wording of UGZ provisions) has not yet been determined between the MPA, APA, ESV, the Minister administering the Pipelines Act and the land development industry. In this regard the Panel firmly agrees with the following views expressed by Mr Barlow:

I believe it is important that a metropolitan response to this matter is formulated soon because I am of the opinion that the response to gas pipelines in each new PSP is learning incrementally from those already considered by a Panel without actually understanding the broader impacts.

...

What I believe is evident from my review of the broader range of submissions to the Major Hazard Facilities review and other PSPs where gas pipelines are located is that a more definitive, balanced and metropolitan-wide planning policy approach is necessary in order to bring clarity and certainty to the issue of land use planning alongside gas pipelines and ensure that broader planning objectives are not compromised.

The Panel eagerly anticipates the findings of the *Major Hazard Facilities Review* with the hope that they will provide definitive direction. Based on the submissions advanced at the Hearing and the Panel’s review of the approved Safety Management Study (SMS) (Hearing Document 31) the Panel agrees with the MPA, Whittlesea City Council, DFC and Mirvac that neither APA, Energy Safe Victoria or the Minister administering the Pipelines Act should be afforded the status of a referral authority in the Planning Scheme. The wording and content of the DWSP should also avoid inferring such status. This finding is consistent with previous Panel hearings.

Other areas of agreement can be summarised as follows:

- Clause 5.0 of the Urban Growth Zones should include a notice (or advice) provision to the owner or operator of the T74 gas pipeline of applications, for the following uses and developments within the 341 metre measurement length of the Pipeline:
 - *Child care centre*
 - *An Education centre*
 - *A Place of Assembly*
 - *Retail premises*
 - *Cinema*
 - *Hospital*
 - *Aged Care Facility*

The issues where there remains a difference of opinion, and the Panel's response, can be summarised as follows:

Should the Clause in the UGZ Schedule be referred to as 'Notice' or 'Advice'?

The Panel is comfortable with the use of the word Notice in the provision. All parties other than DFC accept this wording. The Panel does not share DFC's concern that word 'notice' in the proposed Clause 5 of the Schedule will be interpreted as a statutory 'notice'.

Should the Clause in the UGZ Schedule refer to Clause 66.06?

The Panel is comfortable with the notice provision referencing Clause 66.06 as drafted by the MPA, and accepted by the City of Whittlesea and Mirvac. The reference to Clause 66.06 provides appropriate clarity as to the form of notice that is being given.

Should 'Accommodation (other than a Dependent's person unit)' be included in the list of uses or developments?

The Panel accepts the submissions and evidence advanced by DFC, and which are supported by Mirvac, that it is appropriate to remove '*Accommodation (other than a Dependent's person unit)*' from the list of land uses and development activities subject to the notice provision.

The Panel agrees that the SMS has considered the *Future Urban Structure* of the DWPSP and determined that primary location classification for both pipelines is consistent with Residential (T1) as defined by section 4.3.4 of AS2885.1-2012 (Panel emphasis). The Panel notes the following reference to housing density which is included of definition of Residential (T1):

Residential land use may include isolated higher density residential areas provided they are not more than 10% of the land use. Land Used for other purposes but with similar population density shall be assigned Residential location class.

The conclusion of the SMS that the primary location classification for both pipelines (Panel emphasis) being Residential (T1) was reached having considered and assessed the future land use structure to be facilitated by the DWPSP including areas of high density residential development. Page 9 of the SMS clearly states:

It is expected that areas of high density residential development will be located in or in the vicinity of the local town centres, most of which are located outside of the measurement length of both pipelines.

The residential structure of the DWPSP has not materially altered since the finalisation of the SMS.

Should the Clause refer to ‘Aged Care Facility’ or ‘Residential Aged Care Facility’; and ‘Cinema’ or ‘Cinema based entertainment facility’?

The Panel supports the following terminology: ‘Residential Aged Care Facility’ and ‘Cinema based entertainment facility’ as per the definitions contained in the nested definitions in the Planning Scheme.

Which DWPSP Plan should be referenced: Plan 2 – Precinct Features or Plan 15 - Utilities?

The Panel agrees that the Clause should reference Plan 15 – Utilities and that it is appropriate to only reflect the T74 (341 metres) measurement length in the Plan.

(iv) Recommendation

The Panel recommends:

Amend the exhibited Schedule 6 of the Urban Growth Zone of the Whittlesea Planning Scheme and the exhibited Schedule 4 of the Urban Growth Zone of the Mitchell Planning Scheme to include the following Clause 5.0 Notice provision:

5.0 Notice to gas transmission pipeline licensee

Notice of an application of the kind listed below must be given in accordance with section 52(1)(c) of the Act to the person or body specified in the Schedule to Clause 66.06:

An application, on land shown as ‘gas pipeline measurement length’ on ‘Plan 15 – Utilities’ in the incorporated Donnybrook/Woodstock Precinct Structure Plan, where the application is to use land for, or to construct a building to accommodate, any of the following:

- ***Residential Aged Care Facility***
- ***Child care centre***
- ***Cinema based entertainment facility***
- ***Education centre***
- ***Hospital***
- ***Place of assembly***
- ***Retail premises***

Amend Plan 2 – Precinct Features of the Donnybrook/Woodstock Precinct Structure Plan by deleting the shading that defines the T74 Measurement length. Amend Plan 15 – Utilities of the Donnybrook/Woodstock Precinct Structure Plan by showing the 341 metre T74 Measurement Length on the Plan.

7.2 Wording of the Construction Management Plan condition

(i) The issue

The issue is how should the proposed Construction Management Plan (CMP) condition, to be included in both Schedules to the Urban Growth Zone be worded.

(ii) Evidence and submissions

Mr Barlow's town planning evidence was critical of the wording of the exhibited version of Clause 2.7 of the Schedules to the Urban Growth Zone that address CMP requirements in the 'gas pipeline buffer'. The key elements opposed by Mr Barlow include:

- requiring the CMP to be submitted to 'and approved by' the operator of the gas transmission pipeline
- the excessive distance (up to 350 metres) where a requirement to prepare a CMP is triggered.

In response to submissions, the MPA prepared a revised CMP requirement which it included in its Part A submission version of the UGZ Schedules. Those versions were further revised by the MPA in its Part B submission (Hearing Documents 4c & 4d). The revised versions contain a new Clause 4.8 'Condition – Construction Management Plan required in gas transmission pipeline protection area'. The key changes agreed to by the MPA include:

- Removing the requirement that the CMP must be submitted to 'and approved by' the operator of the gas transmission pipeline and replacing it with the following:

The plan must:

- *Be endorsed by the operator of the gas transmission pipeline where the works are within or crossing the relevant gas transmission easement.*
- Specifying 50 metres from the gas pipeline as the trigger for the preparation of a CMP.

Mr Barlow acknowledged that the modifications are an improvement on the exhibited version of the Clause however he considers the 50 metres distance "somewhat arbitrary given the immediate threat to the pipeline is directly next to it". In relation to the requirement that the CMP must be endorsed by the pipeline operator he submitted:

I remain of the opinion that the pipeline operator should not be required to endorse it as this could unduly delay the planning process. Where works are to be carried out in the pipeline easement, the covenants on title already address the need to seek approval of the pipeline operator, outside the planning process.

Mr Barlow's alternate CMP condition reads as follows:

4.8 Condition – Construction Management Plan required in gas transmission pipeline protection area.

Prior to the construction of a building or the carrying out of works, including demolition, on land within 30m of the centre of the gas pipeline shown on 'Plan 2 – Precinct Features' in the incorporated Donnybrook/Woodstock Precinct Structure Plan, a Construction Management Plan must be submitted to and approved by the responsible authority. The plan must:

- *Demonstrate that consultation has occurred with the operator of the gas transmission pipeline.*
- *Prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the operator of the gas transmission pipeline.*
- *Include any other relevant matter to the satisfaction of the responsible authority.*

The Construction Management Plan must be implemented to the satisfaction of the responsible authority.

The Construction Management Plan may be amended to the satisfaction of the responsible authority.

Mr Morris stated that DFC relies on the evidence of Mr Barlow, including his proposed re-drafting of Clause 4.8 of the Urban Growth Zone Schedule as presented above. Mr Morris noted:

Mr Barlow's use of the 30m buffer essentially covers the area of the existing easement, although the 30m might cover future road reserves and possibly some lots. We note that as drafted this would include all forms of development, including dwellings and arguably some works ancillary to a dwelling.

The further submissions on behalf of DFC in response to the post hearing correspondence on behalf of Mirvac reiterated that DFC accepts that:

A Construction Management Plan should be required for works within 30 metres of the centre of each pipeline, and accordingly a permit application should be required to demonstrate that consultation has occurred with the operator of the pipeline

(iii) Discussion and conclusions

The approved SMS (Hearing Document 31) under the heading 'Pipeline Details' states:

*The **35m pipeline easement** contains the DN300 Keon Park to Wodonga (T74) pipeline and the DN400 Wollert to Wandong (T119) pipeline. (Panel Emphasis)*

The threats and the Action that the CMP condition is responding to are identified within Table 7 of the SMS - *Action Summary*. The Action summary states unambiguously:

*Contractor to provide Work Method Statement and Construction Management Plan for **APA review and approval** for any works in the **pipeline easement**. (Panel emphasis).*

The 'Organisation Responsible' is the 'Construction Contractor'.

Much weight has been placed on content and findings of the approved SMS by DFC and Mirvac in support of its position in relation to the 'Notice' provision. The Panel agrees this is the appropriate response. The Panel considers the same degree of weight should be afforded this element of the SMS. It is clear to the Panel that the SMS 'ALARP' finding is reliant on the implementation of the SMS Actions.

The 'Action Detail' listed in the 'Action Close Out Sheets' contained in the Appendix of the SMS reiterates:

*Contractor to provide Work Method Statement and Construction Management **Plan for APA review and approval** for any works in **the pipeline easement**.*

The Panel therefore considers it appropriate for the revised Clause 4.8 to refer to 35 metres, not 30 metres as proposed by the DFC nor 50 metres as proposed by the MPA. Further, based on the above, the Clause should be drafted to satisfy the Responsible Authority that APA has reviewed and approved the CMP.

(iv) Recommendation

The Panel recommends:

Amend the new proposed Clause 4.8 of Schedule 6 to the Urban Growth Zone of the Whittlesea Planning Scheme and the exhibited Schedule 4 of the Urban Growth Zone of the Mitchell Planning Scheme by:

- **Specifying that the trigger for the requirement to prepare a Construction Management Plan is within the 35 metre gas pipeline easement.**
- **Specifying that the Responsible Authority must be satisfied that APA Gasnet has reviewed and approved the Construction Management Plan.**

7.3 Concrete pathways over gas pipelines

(i) The issue

The issue is whether APA GasNet or developers should be encouraged or required to construct one or more concrete pathways over gas pipelines.

(ii) Submissions

Mr Montebello noted in the closing submission that the revised DWPSP Requirement R95 requires a particular cross-section of the easement to be constructed noting:

that one of the gas pipelines (the smaller one) is covered and presumably protected by a concrete shared pathway. Under the PSP, this is to be provided by and at the cost of developers. We do not understand there to be any objection to this by the developers.

It is also clear that the larger pipeline running parallel to the smaller pipeline is not covered by a pathway.

Mr Montebello submitted that Council would have no objection to the pipeline operator constructing a pathway over the length of the larger pipeline consistent with the obligations of the pipeline operator to operate the pipeline to a risk level which is ALARP. He stated:

Given the obligation is to prevent interference with the pipe, a concrete above ground cover seems like a good idea. We submit that because the obligation sits with the pipeline operator to reduce risk to ALARP, it would not be appropriate to shift that cost to the community.

On this issue Mr Montebello concluded that the construction of a second path would have the benefit of allowing one of the paths to operate as a high speed bike path and the other as a dedicated pedestrian path along a fairly linear route north south through the DWPSP area.

(iii) Discussion

No other party to the Hearing raised matters associated with construction of concrete pathways in the revised cross sections for land abutting gas pipeline easements.

Due to the matter first being advanced by the City of Whittlesea in its closing submissions, the MPA, and other parties did not have a reasonable opportunity to comment on Mr Montebello's 'presumptions' and 'good ideas'.

The approved SMS (Hearing Document 31) notes that the T74 and T119 pipelines are separated by a nominal distance of 7 metres. Section 8 of the Safety Management Study (SMS) (Hearing Document 31) states that twelve required actions have been nominated as a result of the SMS assessment. These are listed in *Table 7: Action Summary*. The SMS states that the actions are applicable '*to both pipelines*'. In response to '*Threat No 2*' (*Third Party Excavation – Post construction of development, for example during maintenance of roads or buried services*) the following action is listed:

Concrete footpath to be installed over the T119 pipeline in addition to the T74 pipeline.

The relevant '*Action Sheet*' for the task is listed in Appendix G of the SMS. In addition to reiterating the requirement that concrete footpaths are to be installed over both the T119 and T74 pipelines, the Action Sheet states that marker tape is to be installed under the concrete footpaths during construction to indicate that there is a pipeline below and notes that the footpath is to be constructed from reinforced concrete.

The SMS states the importance of the implementation of the SMS Actions:

The acceptable risk rankings of identified threats is contingent on a number of actions being implemented

With the implementation of these new measures and the continued utilisation of existing mitigation measures, the risks posed to the integrity of the pipeline and the safety of all stakeholders will be controlled to acceptable levels.

Based on the above content of the SMS the Panel accepts that reinforced concrete 'footpaths' must be constructed over both the T74 and T119 pipelines.

In the absence of other submissions on the issue, the Panel has not turned its mind to the end function of the 'footpaths', be they dedicated or shared footpaths or cycle ways.

(iv) Conclusion

The Panel concludes that the DWPSP should be amended to reflect that reinforced concrete footpaths must be constructed over both the T74 and T119 gas pipelines.

(v) Recommendation

The Panel recommends:

Amend the Road Cross Section Plans to be included in Appendix 4.4 of Donnybrook/Woodstock Precinct Structure Plan (Hearing Document 19a) to show reinforced concrete footpaths over both the T74 (300mm) and T119 (400mm) gas pipelines.

8 Conservation Areas

8.1 Changes to Conservation Area boundaries

(i) The issue

Boral and the Mason Family have requested that DELWP review the boundaries of the conservation area set under the Biodiversity Conservation Strategy (BCS). Mr Heffernan raised concerns in relation to the objectives of the nature conservation areas and the accuracy of the 'time stamping' of vegetation on his land.

(ii) Evidence and submissions

MPA submission

Ms Patterson advised that three of the Conservation Areas are being reviewed by DELWP but as this work is not yet complete it cannot be incorporated into the PSP.

Ms Patterson went on to say that the Conservation Areas Concept Plans will be updated when any revised boundaries are identified. She noted that any increase in developable area associated with a reduction of the Conservation Areas would be subject to the payment of native vegetation offsets and compliance with the City of Whittlesea tree retention policy.

Her submission for the MPA also referred to the Wollert PSP and comments made by that Panel regarding its role in the same matter.

The MPA submission explained the methods used in preparing the time-stamped dataset which were carried out according to published native vegetation assessment methodology. Where field assessments were not carried out there was direct consultation with land owners who were given the opportunity to review and revise the Department's understanding of native vegetation on their properties.

The MPA advised 'time stamping' is part of the BCS for Melbourne and cannot be changed through the Panel process.

Mr Montebello advised that Whittlesea did not support the wholesale reduction of conservation areas to accommodate additional developable land. He noted that in the case of the Mason land this could isolate significant river red gums from the broader Merri Creek environs. He believed this could be addressed if the majority of the trees were identified for protection within a local Conservation Area and part of a contiguous link to Merri Creek. He also noted that, ideally, any changes to the Conservation Area should be dealt with as part of the DWSP process. If this were not possible they would have to be dealt with as a separate amendment.

In his closing submission Mr Montebello advised that Whittlesea does not, in principle, object to adjustments to the Conservation Area CA22 boundaries to better reflect the conservation values of the area which may result in more developable land, but that the final boundaries will need to be the subject of discussion.

Boral land

The RCZ applies over the northern part of the Boral land at 1195 Merriang Road, Donnybrook which has been identified as a Nature Conservation area under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

In representing Boral, Mr Connor referred to condition 4 of that approval which he described as a secondary consent arrangement which, as relevant to this land, states:

Persons must not take any actions that would cause, or otherwise facilitate, a change in the boundaries of the conservation areas numbered....22...as described in Section 5 of the Biodiversity Conservation Strategy for Melbourne's Growth Corridors (Victorian Government Department of Environment and Primary Industries, June 2013) unless agreed to by the Minister.

Mr Connor believed that condition 4 anticipated that, subject to the approval of the Commonwealth Environment Minister, there may be changes to boundaries of Conservation Area 22, when further required surveys were undertaken to determine the habitats of national environmental significance.

Mr Connor referred to the following comments of the Wollert Panel in this matter:

It is not the Panel's role to determine the boundaries of the Conservation Areas that are subject to Commonwealth approval; it is the Panel's role to be satisfied that:

- *the land identified for development is capable of being developed*
- *the consequent changes to the PSP would not adversely affect a party who has not had the opportunity to make submissions about the change.*

Mr Connor went on to say that, in the Wollert case, DELWP has now agreed to a boundary change for Conservation Area 31 and he understood Commonwealth approval is pending.

In relation to Conservation Area 22 of the DWSP, if approved by the Commonwealth, the change will equate to 11.1 hectares of additional developable land, or around 1 percent of the total DWSP area.

Mr Connor also referred to the agreement concerning the realignment of Gunns Gully Road to more closely conform with the southern boundary of Conservation Area 22.

Mr Organ, of Ecology and Heritage Partners Pty Ltd, appeared for Boral in support of adjusting the southern boundary of Conservation Area 22 as it applied to the Boral land. He stated that the proposed adjustment meets the criteria outlined in the BCS application criteria and should this occur it will result in habitat compensation obligations which can be directed to the purchase and management of other areas within Conservation Area 22 or conservation reserves set aside as part of the BCS.

Mason land

An area of 84 hectares of the land owned by the Mason family at 1235 Merriang Road, Woodstock has been included in Conservation Area 22 under the land management category of the BCS.

A report prepared by Mr Galbraith, and submitted as an expert report, assessed the existing trees on the Mason land that are located in that part of the DWPSP shown as Open Space Conservation on Plan 9 in the DWPSP. In his report he referred to Requirement R36 of the DWPSP that states *“all trees shown for retention of Plan 5 must be retained to the satisfaction of the Responsible Authority”*.

Following discussion with the parties at the Hearing, Mr Galbraith was not required to be called to give evidence. The Panel notes his report however in which he advised that each of the trees surveyed is mature and the majority are River Red Gums although their health is variable. Based on the criteria used, he believed 47 trees or 31 percent were in poor condition with low retention value, 34 trees or 22 percent were graded as being of high value and the remaining 72 or 47 percent ranged from low-moderate to high-moderate value.

In his report, Mr Galbraith stated that residential development in this area would retain a high tree density as only the trees of low retention value, or 31 percent would be removed.

In appearing for the Mason family, Mr Cicero referred to representations made by his client to have the decision to include much of its land in the conservation area reviewed. This request has now been acceded to by DELWP, although its outcome, and the Federal Minister’s consideration of the request, was not known at the time of the Panel Hearing.

Mr Cicero advised that as part of its considerations DELWP required an up to date report from the owner’s consultant, Brett Lane and Associates. A copy of this report was annexed to Mr Cicero’s submission. On the basis of its investigations, it recommended a Nature Conservation Reserve encompassing the southern 22.5 hectares of the property that supports the listed threatened community and two additional Nature Conservation Reserves (based on its autumn findings) in the north-west (10.8 hectares) and south-west (9.2 hectares) form part of Conservation Area 22.

It considered the balance of the property could be excluded from the reserve boundary as it was unlikely to support remnant patch native vegetation or vegetation that qualifies as an EPBC Act listed community and does not contain threatened flora species. It also noted that the north eastern part of the property is subject to a road acquisition overlay, hence it did recommend it as a nature conservation reserve.

Mr Cicero concluded by urging the Panel to make a recommendation that, in the event that Conservation Area 22 is reduced to exclude part of the Mason land, then it should be able to be developed for urban purposes, subject to an appropriate design response to ensure the protection of those River Red Gums that are worthy of retention. Two concept plans were included as examples of possible subdivisions of this land.

Heffernan property

Mr Heffernan was concerned that the native vegetation values attributed to his land were greatly exaggerated when ‘time stamped’. He also questioned the difference dimensions of the GGF corridor.

(iii) Discussion

The Panel understands from submissions that the boundaries of Conservation Area CA22 are currently being reviewed by DELWP. When this is finalised, and if any changes are agreed to by DELWP and the Federal Minister, the MPA will need to make the required changes to the DWPSP. It would be preferable if this could occur as part of the current process.

As understood by the parties in this matter, this Panel is unable to make a recommendation as to whether the boundaries of Conservation Area CA22 should be varied. This is a matter for the DELWP and the relevant Federal Minister. However, as referred to by Mr Cicero the Panel can consider whether the land would be suitable for urban development should the boundaries change and whether any such changes would adversely affect another party.

In the case of land owned by Mirvac at 1195 Merriang Road and the land owned by the Mason family at 1235 Merriang Road, based on the submissions and evidence to it, the Panel believes it is possible the land would be developable should the boundaries of the Conservation Area CA22 change subject to an appropriate design response that retains those river red gums identified as worthy of retention.

The Panel also considers that it would be unlikely that the required consequent changes to the DWPSP to include land released from Conservation Area 22 would adversely affect a party who has not had the opportunity to make submissions about such a change.

In relation to the strip of land on the north side of the proposed Gunns Gully Road reserve between the road reserve and the Conservation Area 22, the Panel agrees this land should not be developed but be retained in association with the reserve of Gunns Gully Road, as agreed to by the MPA and Mirvac.

In response to Mr Heffernan's concerns the Panel confirms the MPA submission that these matters fall under the BCS and are therefore not ones the Panel can determine.

(iv) Conclusions

The Panel concludes that:

- land potentially released from Conservation Area CA22, which is owned by Mirvac at 1195 Merriang Road and the Mason family at 1235 Merriang Road, is potentially capable of development without requiring major changes to the DWPSP
- if the strip of land located on the north side of the proposed Gunn's Gully Road, between the road and the Conservation Area CA22, is released from Conservation Area CA22 it should not be developed but rather incorporated into the Gunns Gully Road Reserve.

8.2 Dennis Family Corporation (DFC) submission

(i) The issue

The issue is whether a note should be added to the DWPSP to clarify that changes could be made to the boundary of the conservation areas.

(ii) Submissions

The Dennis Family Corporation written submission noted that the BCS could be amended with the consent of the Minister of Environment. It referred to its understanding that DELWP had a program to review these areas and it therefore considered the DWPSP and the RCZ should be redrafted to provide this flexibility. It recommended the Conservation Concept Plans in the DWPSP should identify the potential for revision to the satisfaction of the Minister.

In response the MPA stated that three of the areas were currently being reviewed by DELWP and the Conservation Concept Plans would be updated when any revised boundaries are identified. It did not support the change put forward by the DFC.

(iii) Discussion

The EPBC Act allows for applications to be made to change the boundaries of the conservation areas. The Panel notes that there are applications currently with DELWP to review some boundaries. The Panel therefore does not believe the note requested by DFC is necessary.

(iv) Conclusions

The Panel does not see the need to include a note referring to the fact that the boundaries can change with the necessary approvals from the Minister.

9 Melbourne Water Development Services Scheme

9.1 Agreed changes

(i) The issues

The exhibited DWPSP was based on a version of the Lockerbie East Development Services Scheme (DSS) that has been superseded. The Hearing proceeded on the consideration of a revised DSS (Hearing Document 10) which is shown in Figure 3. In reports and evidence during the course of the Hearing, expert witnesses recommended two changes to the revised DSS:

- rationalisation of the three pipes flowing into RBWL2, SB1 and SB2 south of Cameron Street
- removal of Catchment 5 (as shown in figure 4, page 8, of the May 2016 Expert Witness Statement by Mr Jonathan McLean) from the DSS and the inclusion in the PSP of a 1.7 hectares wetland drainage reserve in Catchment 5.

(ii) Evidence and submissions

As part of changes to the location and design of works at the eastern end of the Lockerbie East DSS, Mr Prout proposed that two pipe runs (which he described as D2-SB1BLA and D4-SB1ALA) could be removed to save costs. These changes were part of his proposal to relocate the wetland and retarding basin (described as WL1/RB1 by Mr Prout and shown as RBWL2 on the Lockerbie East DSS) east from the Monteleone land onto the Mirvac land.

Mr McLean agreed that the current DSS pipelines upstream of WL1/RB2 could be rationalised and made more efficient. He noted however, that the cost savings through the rationalisation of these pipelines could be achieved with the wetland/retarding basin located on the Monteleone land or on the Mirvac land.

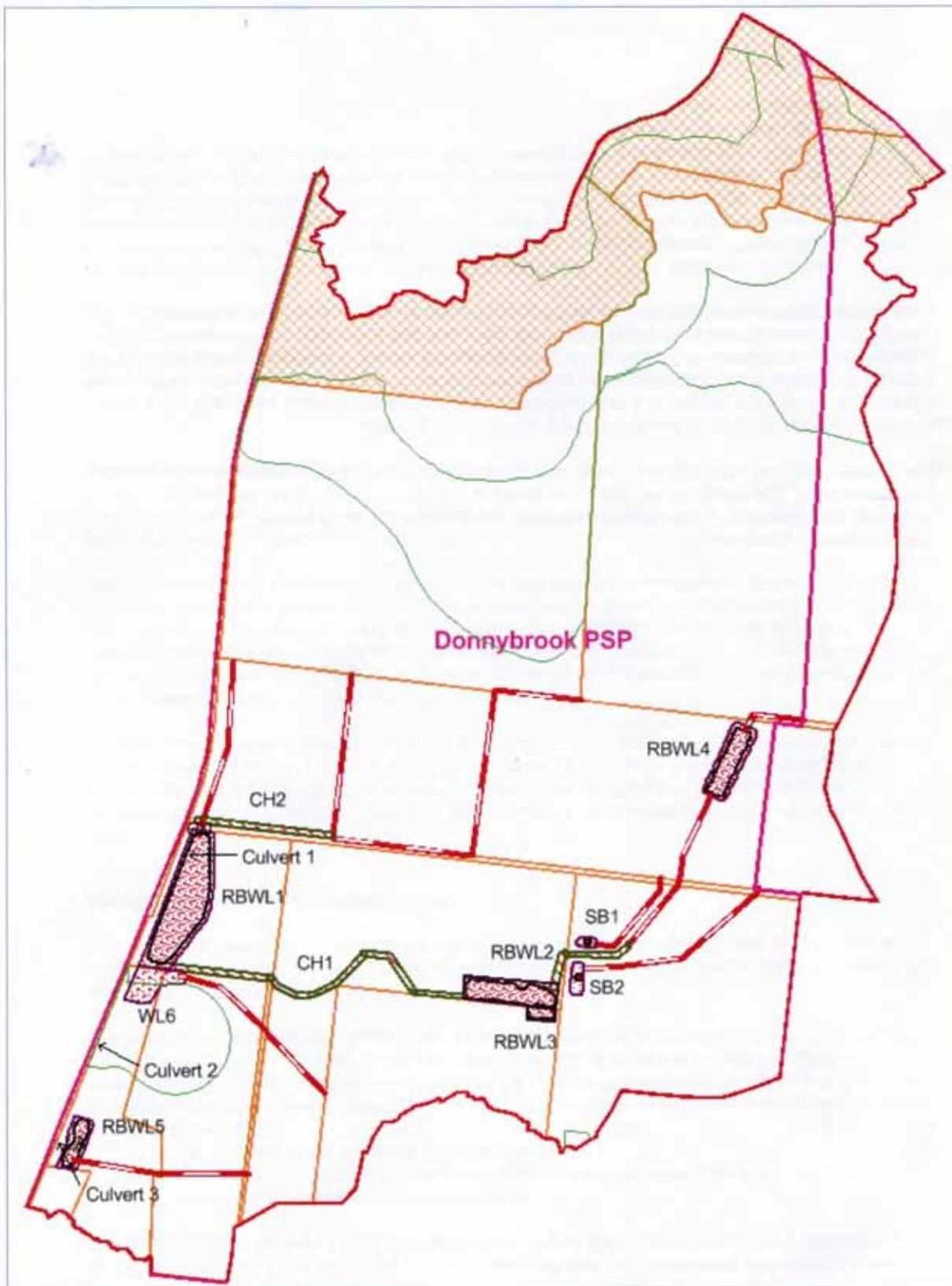
Mr Tweedie indicated that Mirvac supported the rationalisation of these pipelines.

Ms Patterson stated that Melbourne Water supports the revised DSS. She did not specifically comment on the proposal to rationalise the pipes south of Cameron Street.

With respect to the second change, it was Mr McLean's evidence that, *...the current PSP layout was not an appropriate response to manage stormwater runoff from Catchment 5 as it does not provide a wetland asset in the north western corner of property 8.* He recommended that the DWPSP should include a wetland of some 1.7 hectares at the low point of Catchment 5. McLean stated in his report that Melbourne Water had agreed that this area (Catchment 5) could be removed from the Lockerbie East DSS and considered as a standalone drainage strategy.

Mr Connor stated that Boral (the owner of property 8) agreed to the inclusion of the wetland in the PSP. He noted that Mr McLean's analysis had the support of the MPA and Melbourne Water. Mr Connor stated that Mr McLean had clarified at the Hearing that this infrastructure should be identified in the DWPSP in:

Figure 3: Revised Version of Lockerbie East DSS (Document 10)



- (a) Plan 3 (page 8)
- (b) Table 1 (page 13)
- (c) Plan 14 (page 44)
- (d) The utilities plan (Plan 15 on page 46)
- (e) Table 9 (page 49)
- (f) Table 4.1 at pages 60-61.

Mr Connor asked that the Panel recommend that these inclusions be made to the DWPSP.

In closing, Ms Patterson confirmed that Boral and Melbourne Water had agreed to the inclusion of a 1.7 hectares wetland in Catchment 5 as detailed in the submissions of Mr Connor.

(iii) Discussion

There is general agreement between all relevant parties that the two changes referred to in the evidence of Mr Prout and Mr McLean should be made to the Lockerbie East DSS along with the consequent change to the DWPSP to include a 1.7 hectares wetland in Catchment 5.

It is unclear to the Panel, however, as to whether Melbourne Water specifically supports the rationalisation of the three pipes south of Cameron Street. As noted above, Ms Patterson did not go to this particular detail in her submissions to the Panel. The evidence before the Panel suggests that there would be cost savings by reducing the number of pipes in this area of the DSS and that this could be achieved without compromising the efficacy of the DSS.

While Mr Prout presented in his evidence (see figure 5-12 at page 18) an indicative revised pipe network based on his proposed relocation of the wetland, the Panel was not presented with specific agreed changes to the revised DSS. Rather, the evidence was that the number of pipes in this area could be rationalised through further design work. The revised DSS also shows an open constructed waterway for the southern section of channel between RBWL2 and RBWL4. This is discussed in section 9.2 below.

The agreed changes with respect to Catchment 5 are uncontroversial and supported by all parties. The changes to the DWPSP as detailed above to reflect the inclusion of the 1.7 hectares wetland in Catchment 5 are endorsed by the Panel with the exception of a change to Table 9 at page 49. This Table details the infrastructure included in the DSS covering the DWPSP. The agreed change is for Catchment 5 to be removed from the Lockerbie East DSS and treated as a standalone drainage scheme. How best to include the proposed 1.7 hectares wetland in Catchment 5 in the DWPSP Table 9 will need to be considered further by the MPA in consultation with Melbourne Water.

(iv) Conclusions

The Panel concludes that the agreed changes set out above in relation to the revised Lockerbie East DSS are appropriate.

(v) Recommendation

The Panel recommends:

Modify and undertake further investigation to refine the revised version of Melbourne Water's Lockerbie East Development Services Scheme (Hearing Document 10 included as Figure 3 in this report) as follows:

- **Remove Catchment 5 (as shown in figure 4, page 8, of the May 2016 Expert Witness Statement by Mr Jonathan McLean) from the Development Services Scheme**
- **Melbourne Water to further investigate the rationalisation of the number of pipes flowing into RBWL2, SB1 and SB2 south of Cameron Street. This work should include whether the small section of open channel in this part of the Development Services Scheme should be replaced with a pipe (see section 9.2 below).**
- **Melbourne Water and Metropolitan Planning Authority to determine the required changes to the Donnybrook/Woodside Precinct Structure Plan to include a 1.7 hectares wetland drainage reserve in Catchment 5.**

9.2 Constructed waterway versus pipe

(i) The issues

The issue is whether the constructed open channel waterways in the revised Melbourne Water Lockerbie East Drainage System Scheme (see Figure 3) can and should be replaced by pipes.

(ii) Evidence and submissions

Mr Wren stated that the current DSS proposes a 45 metres wide drainage reserve through several hundred metres of Monteleone land that would otherwise be developable land. He submitted that the approach of Melbourne Water has been inconsistent as demonstrated by the replacement of 50 metres wide constructed channels on Mirvac land with piped systems. He also submitted that there is simply no existing waterway in the location nominated by Melbourne Water, as defined in the *Water Act 1989* or more commonly in the Macquarie Dictionary. Mr Wren suggested that as the Panel would have observed during its inspection of the area, one cannot see a channel or waterway on the land in question. He refuted the arguments made by Mr Tweedie on behalf of Mirvac that a waterway existed.

Mr Wren submitted that while the choice between a piped drainage system and open constructed channels rests with Melbourne Water, the Panel is able to consider town planning consequences in terms of land use implications and make recommendations on appropriate planning scheme controls to deal with compulsory acquisition of land.

He stated that the Monteleone family was seeking findings from the Panel that:

- there is no waterway
- the piped drainage system is technically feasible and be several million dollars less expensive than the current MW DSS
- the piped drainage system will increase the amount of developable land; and

- the proposed drainage system is consistent with DSS principles.

Finally, he sought:

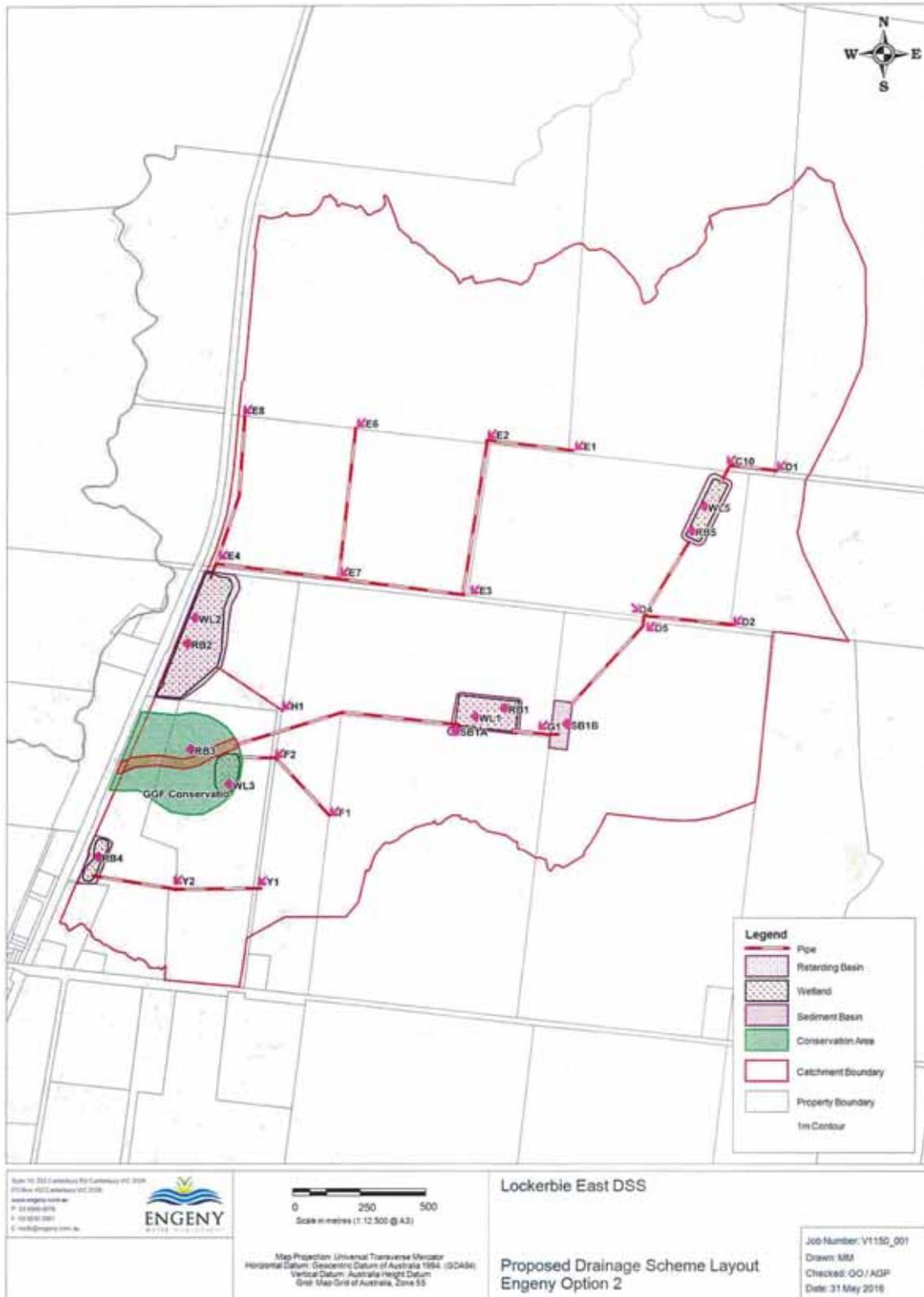
A recommendation from the Panel that in the event that Melbourne Water demand an open constructed channel, that Melbourne Water is specified as the acquiring authority under a Public Acquisition Overlay covering the pathway of the proposed open constructed channel. This last recommendation is not dependent upon the other matters sought from the Panel. This is because whether or not the piped system is feasible, the fact remains that there is no waterway and if Melbourne Water insist upon acquiring land from the Monteleones for the purposes of constructing an open channel, then the principles of land acquisition in this State dictate that Melbourne Water ought pay for it.

Mr Wren added that his submission applied equally in relation to SB1 (i.e. the proposed section of waterway on the downstream end of the connection between RBWL2 and RBWL4) as no one was suggesting it was a waterway.

The Panel heard evidence from five expert witnesses in relation to ecology, drainage and water quality issues.

Mr Prout put forward an alternative piped drainage scheme (see Figure 4).

Figure 4: Engeny Proposed Option 2 Drainage Scheme Layout for the Lockerbie East DSS



Mr Prout stated in his evidence that when applying the Melbourne Water DSS Guidelines to a catchment the size of this drainage scheme, a natural or constructed waterway is required for several reasons. He argued, however, that in this case none of those reasons applied. He

noted that based on his own observations and the opinions of Mr Wright and Mr Bishop, the area lacked the presence of a waterway or any environmental values. In his view, replacing the constructed waterway with an upstream wetland/retarding basin and a pipe through the Monteleone land would not necessarily create a precedent for Melbourne Water and there was already a precedent for his proposed design being the piped system through the Mirvac land.

Mr Prout also recommended that the pipe system and open channel within the Mirvac land feeding into RBWL4 could be further rationalised to reduce the cost of the scheme.

He concluded that:

My opinion is that in the circumstances in this catchment that an upstream wetland/retarding basin with a 100 year ARI capacity downstream pipe through the Monteleone land is an appropriate and more cost effective design than a constructed waterway.

In his expert statement, Mr Wright (Brett Lane and Associates) stated that given the absence of native vegetation normally associated with a natural waterway, he considered that from an ecological standpoint, the gully marked as a waterway on DWSP Plan 14 is not functioning as a natural waterway. He made a similar assessment for other open channels proposed in the Lockerbie East DSS.

He concluded that:

Proposed open channels would not provide habitat for the Growling Grass Frog, and there is no known habitat to the east that requires linking to the Merri Creek metapopulation nodes. Therefore, the Engeny proposal to pipe stormwater in this drainage scheme will not reduce the overall area available for habitat for the frog in this south-western section of the PSP.

Mr Bishop (Water Technology) stated in his written evidence that he considered the proposal (by Mr Prout) to replace the east-west waterway by underground piping was a technically feasible solution but the waterway and amenity implications of that option would need to be discussed with Melbourne Water.

In his supplementary statement (Hearing Document 28), Mr Mclean suggested that one of the key reasons given by Mr Prout to support the piped option was that the outflow from upstream wetland WL1 (RBWL2 on the revised DSS) and basin SB1a would be treated to best practice and could be discharged directly into the frog ponds without further treatment. Mr McLean disagreed with that assessment. He stated that he did not believe that the water quality treatment would be adequate.

Mr McLean stated that he agreed with Mr Prout that pipelines upstream of RBWL2 shown on Melbourne Water's revised DSS could be rationalised and made more efficient irrespective of the location of the wetland/retarding basin RBWL2.

On the matter of compensation, Mr McLean stated that in his opinion, Mr Prout's cost comparison table incorrectly identified that the full length of the constructed waterway (CH1) would be the subject of land compensation/acquisition. He noted that MW schemes do not include compensation for the provision of a waterway corridor unless it is being

artificially diverted. Therefore, in his view, only the western section of the waterway corridor would be subject to compensation/acquisition.

At the Hearing, Mr Organ (Ecology and Heritage Partners) stated in oral evidence that the proposed open channel CH1 could provide habitat for the Growling Grass Frog. In his opinion it was highly likely that the frog would use the open channel for foraging and refuge and as a connection through the landscape. He added that it was critical to maintain high water quality in GGF habitat areas.

Mr Tweedie indicated that Mirvac accepts that it would be possible and probably cheaper to pipe flows through the Mirvac and Monteleone land rather than the open waterways proposed in areas of the DSS. Mirvac did not accept, however, that the piped system is either appropriate or preferable because, in particular, the piped system proposed by Mr Prout either ignores or significantly understates the significant community benefits in terms of environmental and landscape values of the open channel waterways.

He refuted Mr Prout's statement that Melbourne Water agreed that there is no existing defined waterway between RBWL2 and RBWL1. He submitted that Melbourne Water does not agree and that it was pure semantics to argue that the existing flood path and channel across the Monteleone land is not a 'waterway'. Mr Tweedie posited that either definition in the *Water Act 1989* would seem apt to describe the existing flow path. He added that:

While historical land management practices may have significantly compromised its environmental values, and included the removal of native vegetation from the waterway, this does not prevent its rehabilitation and enhancement to restore those values.

Mr Organ's evidence is that, if constructed as a natural waterway, the corridor is likely to be colonised by the growling grass frog (GGF). Further, it is obvious that such a corridor would be greatly beneficial to a future community from an amenity and landscape perspective.

Mr Montebello noted in his closing submission that all the other landholders affected by this DSS (Mircvac, Boral, DFC and the Dibella family) have indicated their support for the latest version of the Lockerbie East DSS. He added Melbourne Water submitted that the revised DSS is one which balances all of the State planning and integrated water management objectives, particularly integrating stormwater treatment into the landscape and protection of water quality. He noted the expert evidence of Mr Bishop that, in addition to better water health, open waterways provide amenity to the community and recreational opportunities.

Mr Montebello stated that the Council believes the cost savings of around \$7 million which underpin Mr Prout's evidence may not accurately reflect the potential costs associated with the 'undergrounding' option because:

- Council's engineers have advised that a minimum of three metres would be required to ensure appropriate access to the pipe infrastructure. This will require a widened road reserve and for continuity, open space linkages will have to be set aside. These requirements eat into developable land.

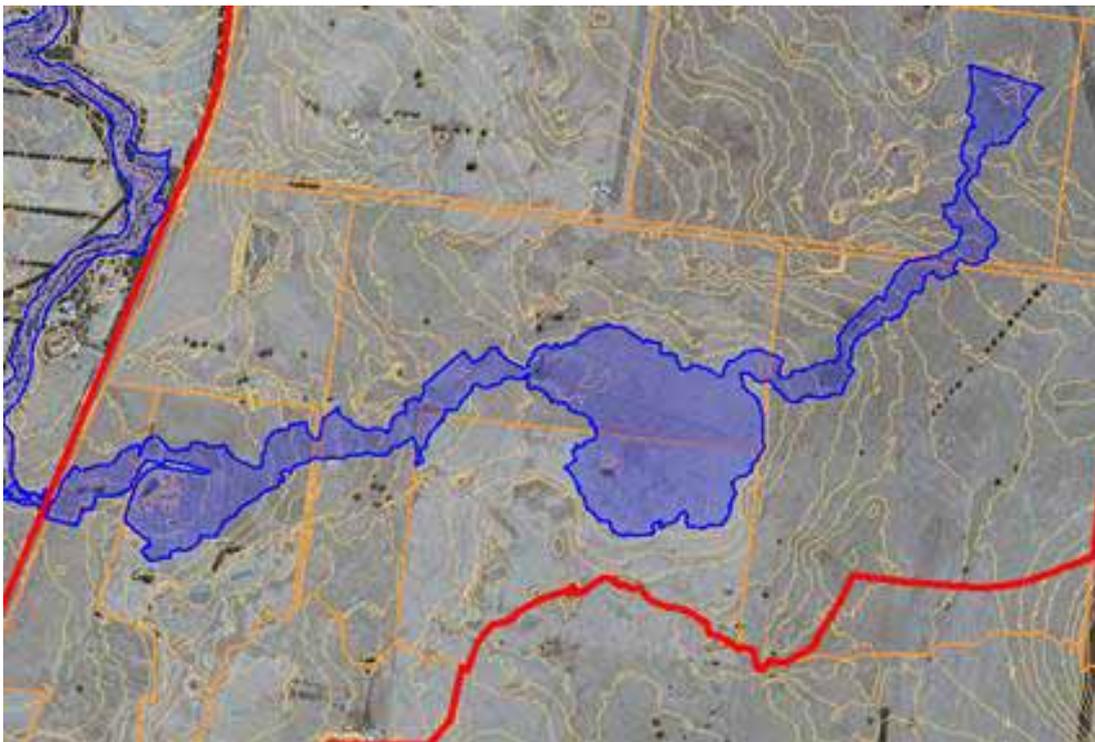
- Secondly, the DWPSP has been framed on the basis that there is an open space link which includes a bike/pedestrian path provided along the alignment of the proposed constructed watercourse. If the underground pipe option is adopted, there will be additional costs associated with providing a continuous bike/pedestrian link.

Mr Montebello concluded by stating that:

Thus whereas, a constructed watercourse may have been something that would have to be compensated in parts by Melbourne Water at the cost of the DSS (even though MW would say that it is not so required), it is certain that the land required to accommodate either the (widened) road reserve or the open space linkage required for the shared pathway (the width of which will need to be considered and determined) will be required to be provided as localised infrastructure at the owner's cost not funded infrastructure.

In her opening submissions, Ms Patterson stated that there is an 'existing floodplain' for a tributary of the Merri Creek which shows a clear flow path for drainage across multiple properties (See Figure 5 – Extract from page 39 of MPA Part B submission).

Figure 5: 'Existing Floodplain' for a tributary of Merri Creek



Ms Patterson submitted that:

This flow path shows a clear alignment within the Monteleone property in the middle sections. As a result, the Lockerbie East DSS has been designed so that the future constructed waterway CH1 is primarily within the Monteleone property to convey developed flows. To maximise the development potential for the Monteleones, CH1 has been aligned along their southern property boundary, and hooks around the future PSP local sports reserve. To support the location of this constructed waterway within

the Monteleone property, the Digital Elevation Model below clearly shows a channel that traverses through the Monteleone property towards the railway culverts.

She added that channel CH2 constructed waterway along Cameron Street will be required for drainage and river health functions and as with CH1, “...Melbourne Water will not support piping of this waterway as the long term benefits of an open waterway would be sacrificed at the expense of maximising developable land for one landowner.”

In closing, Ms Patterson submitted that:

The Panel heard in oral evidence from Mr Mclean, the significant benefits in environmental and community terms, of constructed waterways in new developments.

....

Melbourne Water support the location of the proposed retarding basin in the revised Engeny evidence, but do not support the piping of the 1.2km of a waterway/floodplain of the Merri Creek.

The piping of this existing floodplain would not be consistent with Melbourne Water objectives to retain significant waterways in urban areas as open system.

On the matter of compensation, Ms Patterson stated that the western section of the constructed waterway CH1 will divert flood flows onto the Monteleone land where naturally they would have traversed the property to the south. Melbourne Water has therefore indicated that it will negotiate with the Monteleone Family to purchase the waterway and the waterway corridor over that western section.

(iii) Discussion

Channel between RBWL4 and RBWL2

The DSS in this area in the Mirvac property has been substantially revised. Almost all the constructed open channel proposed in the original scheme has been replaced with a pipe network. A small section of open channel remains just upstream of RBWL2.

The Panel heard expert evidence that the pipe network proposed in the revised DSS could be rationalised further, primarily to reduce costs. Mr Wright stated that as with the other proposed open channels, from an ecological standpoint there was no evidence of an existing channel functioning in this area. Mr Wren cited the evidence of Mr Wright in suggesting that this section of open channel could be replaced with piping.

This issue was not explicitly addressed by Ms Patterson but presumably Melbourne Water would argue for its retention as it has for other open channels based on the long term benefits of open waterways in urban areas.

The Panel is somewhat ambivalent on this matter. It heard no strong evidence either for retention or replacement by pipe of this particular section of open channel. As discussed above in section 9.1, there is general agreement that this part of the DSS could be reviewed to rationalise the network of pipes. Part of such a review could include examining the merits of retaining this small section of open channel versus its replacement with a pipe. That seems to the Panel to be the sensible way to resolve this matter.

Channel CH1

In his alternative scheme, Mr Prout proposed that a pipe from RBWL2 could run into the Conservation Area CA34 as, in his opinion, the water quality would be high enough to meet GGF standards and associated works in CA34 could provide additional GGF wetlands and protect frog habitat from high flow events. Mr Mclean disagreed with that assessment with respect to water quality and DELWP indicated that it would not agree to the works in CA34, as proposed by Mr Prout.

Evidence and submissions regarding this matter follow in Section 9.3 below. For the reasons set out in discussion below, the Panel concludes that a pipe running into CA34 is not a desirable outcome.

This brings us to the substantive issue. Should the proposed constructed open channel CH1 running from RBWL2 to WL6/RBWL1 be replaced by a pipe?

Mr Wren in essence argued that as no natural water channel currently exists through this area, there was no basis for Melbourne Water to require a constructed open channel. Mr Wright, Mr Bishop and Mr Prout all stated that the area lacked the presence of a waterway or any environmental values. Mr Prout suggested therefore that the normal reasons used under Melbourne Water guidelines to justify a constructed open channel did not exist in this case. He put forward the alternative proposal of a pipe which he argued would substantially reduce the cost of the DSS.

Mr Tweedie and Ms Patterson argued that a natural waterway through the Monteleone land did exist albeit not as a clearly defined channel. Ms Patterson submitted a *Digital Elevation Model* which she argued clearly shows a natural channel traversing the Monteleone land. From its own observations, the Panel agrees that there is no clearly defined natural channel but in its opinion the absence of a clearly defined channel is somewhat irrelevant. It is very obvious that floodwaters do flow across the Monteleone land and adjoining properties to the areas of the two culverts under the railway line.

Mr Montebello called into question the cost savings of a pipe over a constructed open channel. He argued that a substantial open space reservation would be needed to accommodate both an underground pipe and a shared path which the DWSP includes as part of the shared path network.

The option presented by Mr Prout of a piped waterway is no doubt technically feasible. The experts all agreed on that point. It would also increase the area of developable land although not to the extent that may have been anticipated by the Monteleones. As pointed out by Mr Montebello, an underground pipe would still require an open space easement.

The Panel considers that a constructed open channel would provide significant environmental and community benefits and improve the amenity of the future urban environment in this part of the DWSP. The Panel notes the evidence of Mr Organ that an open channel has the potential to add to GGF habitat for foraging and refuge although that benefit was questioned by other experts.

The Panel also notes that the alignment of the proposed constructed channel does not follow over its full length the natural channel which Ms Patterson suggested does exist. Its

alignment deviates so as to increase the net developable land available to the Monteleones and other land owners.

Melbourne Water has modified the DSS to improve outcomes for landowners. The case for replacing the constructed open channel with a pipe has some merit primarily to do with cost savings although there are some doubts over the level of savings that would be realised. On balance, the Panel considers that there are significant environmental and community benefits of a constructed open channel which in its view outweigh the potential cost savings that by replacing the open channel with an underground pipe.

Channel CH2

There was not extensive debate and evidence presented as to the merits of replacing channel CH2, adjacent to Cameron Road, with an underground pipe.

Mr Prout did include a pipe in his proposed scheme presumably to reduce costs.

Ms Patterson submitted that this section of waterway along Cameron Street will be required for drainage and river health functions and as with channel CH1, Melbourne Water would not support piping of this waterway. She argued that the long term benefits of an open waterway should not be sacrificed at the expense of maximising developable land for one landowner.

Channel CH2 is a shorter section of waterway and arguably not as significant as channel CH1 in terms of environmental and community benefits. Although no specific mention was made of the possible use of channel CH2 by the Growling Grass Frog, it is further from CA34 and GFF habitat and may not be as attractive to the frog as would be the case with channel CH1. Equally, because it is a shorter section, the cost savings from replacing it with a pipe would not be as significant.

The Panels notes that channel CH2 runs along Cameron Road on the edge of the Monteleone land. Again it is a question of balance between environmental and community benefits and benefits to the landowner.

Funding for constructed open waterways

Mr Wren sought, on behalf of the Monteleone Family, that irrespective of other findings the Panel may make, should Melbourne Water insist on an open constructed channel then the channel should be paid for by Melbourne Water and the Monteleones should be compensated for their land acquired for that channel. Mr Wren argued that compensation is payable because there is no existing waterway.

The Panel heard from Ms Patterson that Melbourne Water would be prepared to negotiate with the Monteleone Family to purchase the land required for the waterway but only for that section which will divert flood flows onto the Monteleone land where naturally they would have traversed the property to the south. This is the western section of channel CH1.

Mr McLean concurred that under DDS guidelines only the western section of the waterway corridor would be subject to compensation/acquisition.

As noted above, the Panel considers that although there is no clearly defined natural channel, there is clear evidence of water flow across the Monteleone land. The rationale put

by Mr Wren for the Monteleone family to be compensated for the entire length of constructed channel therefore is unsustainable. There is a case, however, as agreed by Ms Patterson and confirmed by Mr McLean, that Melbourne Water should compensate the Monteleone family for the western section of channel CH1 where the channel deviates from the natural flood way.

(iv) Conclusions

The Panel concludes that:

- the need for the short section of open constructed channel just upstream of RBWL2 should be considered as part of a further review to rationalise the pipe network as currently proposed in this part of the DSS (see section 9.1 above).
- the constructed open channel CH1 should not be replaced with an underground pipe.
- the constructed open channel CH2 should not be replaced with an underground pipe.

(v) Recommendation

The Panel recommends:

In relation to the funding of the Lockerbie East Development Services Scheme:

- **The cost of constructing the western section of channel CH1 where it deviates from the natural floodway should be met by Melbourne Water;**
- **The Monteleone Family should be compensated for the land necessary to be acquired for the construction of the western section of channel CH1 where it deviates from the natural floodway.**

9.3 Bypass channel through dam within CA34

(i) The issue

The issue is whether, as a consequence of piping drainage waters directly into Conservation Area CA34, the construction of a high flow bypass channel through the existing dam in Conservation Area CA34 would be acceptable in terms of impacts on the Growling Grass Frog habitat.

(ii) Evidence and submissions

In his expert witness statement, Mr Prout (Energy Water Management) proposed an alternative drainage scheme in and around the Monteleone property. One aspect of this alternate scheme (see Figure 4 and Section 9.2 above) was a drainage pipeline flowing into a wetland within Conservation Area 34. Mr Prout stated that this area was the natural low point in the landscape and would be subject to flooding as shown by flood modelling. He suggested that the area could be managed to accommodate some stormwater treatment and serve as a retarding basin.

At the Hearing Mr Prout provided more details on his alternate scheme (Hearing Document 48) showing the works proposed for Conservation Area CA34. These included a stormwater treatment wetland, a network of shallow and deep ponds for GGF habitat and a high flow drainage bypass channel which would take flood waters through the Conservation Area CA34 area to discharge under the railway line via the existing culvert. He submitted that this

type of design was common practice and similar to one that he had prepared for Melbourne Water and DELWP for a stormwater treatment and GFF habitat system in the Kororoit Creek corridor.

Mr Prout stated that the high flow bypass would most likely be a wide grassed area highly compatible with GGF habitat requirements. In addition, while the existing culvert under the railway line had the capacity to carry 5 to 10 year ARI events without upstream ponding, he posited that a larger culvert to carry higher flows from 100 year ARI events would, on the evidence of Mr Wright, provide GGF habitat connectivity across the railway line and would mean that most of the GGF ponds could be designed to be flood free even in higher ARI events.

Mr Wright submitted that it was unlikely that Growling Grass Frogs would pass voluntarily through the existing 900mm culvert potentially cutting off individuals or populations east of the railway line from the core population to the west.

He concluded that:

Only one informal record of Growling Grass Frog exists at this section of Conservation Area 34 ... It is considered that the only habitat for the Growling Grass Frog likely to occur at this location in the future is 'constructed habitat', including habitat ponds.

The Engeny proposal to use high quality treated stormwater for constructed Growling Grass Frog ponds in Conservation Area 34 was found to meet or exceed DELWP's draft standards for constructed habitat.

In contrast, the evidence of Mr Organ (Ecology and Heritage Partners) at the Hearing was that Growling Grass Frogs were very mobile and they would readily cross the railway line between habitat areas. The railway line would not present a barrier and constructing a larger culvert was not necessary as a safe crossing point for frogs.

Ms Patterson stated that, following consultation with DELWP, minimal drainage works have been located within Conservation Area CA34 which is part of the Biodiversity Strategy to protect Growling Grass Frog habitat within the Merri Creek catchment. Conservation Area CA34 would be used to create and enhance frog habitat and terrestrial foraging habitat. She submitted that the use of this area for a retarding basin and stormwater wetland would result in excavation of a large portion of Conservation Area CA34 impacting on any future frog habitat creation.

She stated in her closing submission that:

DELWP would not support the proposal to construct a bypass channel through the existing large dam within the conservation area 34. GGF has been recorded at this waterbody in the recent past and existing large dams (even if currently dry) will be a priority for GFF habitat enhancement.

Mr Tweedie contended that the Prout proposal to divert water by pipe into the GFF Conservation Area 34 was significantly flawed because:

The evidence of Mr McLean is that the proposed system will not deliver water of sufficient quality for use in a wetland that forms part of a GGF conservation habitat; and

The proposed system needs to be approved by DELWP, and DELWP have indicated they will not approve it.

Mr Tweedie also noted that Mr Wright's support for the Prout proposal appeared to be influenced by two important misconceptions. These were that the area is not currently suitable GGF habitat and secondly that without the construction of "frog friendly" culverts under the railway line, the frog population Conservation Area CA34 would be cut off from the larger GFF habitat to the west of the rail line. Mr Tweedie submitted that the evidence of Mr Organ that GGF had been observed in CA34 and that GGF can and most likely do cross the railway line without using culverts was "wholly reliable". Mr Tweedie added that Melbourne Water had already indicated that the culverts would not be reconstructed as this would be costly and disruptive to rail services.

(iii) Discussion

The need for a high flow bypass channel through Conservation Area CA34 and the existing dam in that area only arises if the proposal by Mr Prout to run as part of his alternative scheme, a pipe into CA34 in place of the constructed water channel into wetlands to the north of that area is acceptable.

The Panel was presented with conflicting evidence as to the impact of running a pipe into CA34. The experts disagreed as to the likelihood of GGF inhabiting that area now and whether the railway line presented a barrier for frog movement between habitats east and west of the line. The quality of the water that would flow via a pipe into the CA34 GGF habitat area was also called into question by Mr McLean.

Mr Organ and Mr McLean are both acknowledged experts with respect to GGF habitat. Mr Organ was adamant, based on his experience, that the GGF is present in the area. He also questioned the need for a wider culvert as proposed by Mr Wright as part of the wetlands works in the CA34 area because in his view, frogs would cross the railway line without using culverts. Indeed, he suggested that in his experience, "frog friendly" culverts were ineffective because GGF did not like the confined, dark space of culverts. In any event, Melbourne Water has indicated that the existing culverts would not be reconstructed.

The Panel has strong reservations about Mr Prout's option of a pipeline into CA34 and the associated works in that area. It is concerned about the potential impact on existing and enhanced GGF habitat in CA34. The Panel is also mindful of the advice provided by Ms Patterson that DELWP would not agree to the Prout proposal because it would involve the destruction of the existing dam. DELWP has indicated its intention to use this dam as part of works to enhance the GGF habitat.

There is an alternative option of running a pipe into the proposed wetlands to the north on an alignment similar to that of the proposed constructed open channel. This option would negate the need for works in CA34 and would not have an impact on the dam in that area. Mr Prout conceded at the Hearing that this option – his option 3 – was a viable alternative, albeit marginally more costly than a pipe into CA34.

The Panel considers that a pipeline into the wetlands north of Conservation Area CA34 is preferable to that of a pipe into CA34. However, as discussed above in section 9.2, the Panel considers that there are significant environmental and community benefits of a constructed

open channel and that therefore notwithstanding the potential cost savings, the constructed open channel CH1 should not be replaced by an underground pipe.

(iv) Conclusions

The Panel concludes that the construction of a high flow bypass channel through the existing dam in CA34 would in all likelihood have an impact on the Growling Grass Frog habitat and diminish the prospect of enhancing the GGF habitat and is therefore unacceptable.

9.4 Location of wetland/retarding Basin RBWL2 in Lockerbie East DSS

(i) The issue

The issue is whether the wetland/retarding basin RBWL2 in the revised Lockerbie East DSS can and should be relocated to the east to be entirely within the Mirvac land.

(ii) Evidence and submissions

The Monteleone family submitted that RBWL2 should not be located as shown on DWPSP Plan 14 but relocated onto the adjacent landholder's land (the Mirvac land) "*where the surface water is generated*".

Ms Patterson informed the Panel that the wetland/retarding basin RBWL2 was located entirely within the Monteleone property in the original Lockerbie East DSS. This was because there is an existing depression and drainage line within this property. Following consultation with the Monteleone family and discussions with Mirvac, Melbourne Water re-designed the DSS so that RBWL2 straddled both the Monteleone and Mirvac land. This design formed part of the Donnybrook PSP Public Exhibition in November 2015.

Mirvac undertook an engineering feasibility on the RBWL2 across the two properties. This feasibility study found that because the land rises on the Mirvac property, this design would require further excavation resulting in substantial additional construction costs that would be added to the DSS contribution rates. Locating RWBL2 across two properties was therefore not considered appropriate and would only benefit the Monteleone Family at the expense of the other landowners in the DSS who would be charged a higher DSS contribution rate.

Ms Patterson went on to inform the Panel that an alternative design option was prepared by Melbourne Water that included an additional wetland/retarding basin (RBWL4) on the Boral land just south of the proposed Gunns Gully Road. With the addition of RBWL4, the wetland on the Monteleone land (RBWL2) has been reduced in area from 7.2 hectares to 2.9 hectares. This design has been adopted by Melbourne Water and agreed with Mirvac (who have an agreement with Boral over property 10).

Mr Prout proposed a change to the location and design of works in the revised DSS at the eastern end of the Monteleone land, in particular to the wetland/retarding basin RWBL2 (which he referred to as WL1/RB1). He proposed to move the wetland/retarding basin onto the Mirvac land and simplify the design, construction and staging of the DSS. Mr Prout argued that there were many advantages to relocating the wetlands/retarding basin and prepared a cost comparison between the MW DSS and his proposal which he claimed

showed only a minimal \$92,000 increase in the overall cost of the scheme. His evidence was that the significant cost increase incurred in relocating RBWL2 which he estimated to be \$2,716,000 would be offset against savings from his other proposed changes to the DSS.

Mr McLean agreed with Mr Prout's estimate of the additional cost of constructing RBWL2 on the Mirvac land. He advised, however, that there would be further additional costs of some \$355,000 for land acquisition compared with the \$25,000 allowance made by Mr Prout. Mr McLean did not agree with all of Mr Prout's cost savings because, in his view, the savings through the rationalisation of pipes and waterways upstream of RBWL2 could be realised without the relocation of RBWL2. Mr McLean estimated that the overall additional cost of the change proposed by Mr Prout would be \$2,187,000.

In his written evidence, Mr McLean stated that he had reviewed three potential scenarios for the location of RBWL2 as follows:

1. RBWL2 on property 17 (Monteleone land)
2. RBWL2 split over Patterson Drive between properties 17 and 20 (Mirvac land)
3. RBWL2 on property 17 and an additional wetland/retarding basin on property 10 (Boral land).

Mr McLean submitted that scenario 1 with RBWL2 within the "broad, flat depression" on property 17 is the most efficient in terms of land take, cost and asset management. In his opinion however, scenario 3 was the best alternative strategy and now aligns with the revised DSS. He noted that the exhibited DWPSP reflects a drainage strategy similar to scenario 2 which in his view is not feasible on topographic and economic grounds. Mr McLean recommended that the DWPSP should be updated to reflect the revised Lockerbie East DSS.

Mr Tweedie submitted that:

There can be no dispute that the most logical positioning of this asset (RBWL2) is the Monteleone land. As originally proposed in the PSP, the asset would be located in a broad, flat depression where it can deliver the most efficient system in terms of construction cost and land footprint.

In contrast, the location on the Mirvac land that is being proposed by the Monteleone's is effectively on the side of the hill. Topographically, it simply makes no sense to locate the asset on the Mirvac land.

The cost of doing so is significant, and wholly unnecessary.

He further argued that the cost comparison prepared by Mr Prout is not a fair comparison because it includes cost savings that could be achieved regardless of the location of RBWL2.

Mr Tweedie added that Mirvac does not agree with Mr Prout that the significant extra costs of locating RBWL2 on the Mirvac land are mitigated in any way by the alleged benefits to "development staging" asserted by Mr Prout. He stated that Mirvac is ... *entirely untroubled by these alleged "staging problems"*. Mirvac was confident that it could achieve an interim drainage solution without having to rely on the Monteleone land.

(iii) Discussion

The Panel notes that there has been a significant revision to the original DSS that was the basis of the exhibited PSP with respect to drainage and water management. Ms Patterson outlined these revisions in her evidence. In short, the revised DSS reduces the area of RBWL2 and proposes an additional wetland/retarding basin (RBWL4) located upstream on the Boral land. These changes substantially reduce the area of Monteleone land required for RBWL2 and provide them with an extra 2.4 hectares of developable land compared to the exhibited PSP and an extra 7.2 hectares compared to the DSS May 2014 draft.

The alternative put forward by Mr Prout to relocate RBWL2 east onto the Mirvac land is technically feasible but on the evidence before the Panel not optimal and substantially more costly. It would benefit the Monteleone Family who would have more developable land but would result in higher contribution rates for other landholders who would be part of the DSS.

The Panel observed the area of land in question during its site visit. It notes the evidence of Mr McLean that locating RBWL2 on the “broad, flat depression” on the Monteleone land is the most efficient design solution.

The Panel is mindful, however, of the submissions made regarding the revised DSS now supported by Melbourne Water which reduces the area of RBWL2 and adds RBWL4 and of the recommendation of Mr McLean that the DWPSP should be amended to reflect the revised DSS.

The Monteleone’s may not be entirely satisfied with this outcome but in the Panel’s view the current, revised DSS with respect to this issue is fair and reasonable. It provides some benefit to the Monteleone Family without imposing any significant additional cost to other landowners through the DSS contribution rate, which would be the case if the relocation of RBWL2 entirely onto the Mirvac land was adopted.

(iv) Conclusion

The Panel concludes that Melbourne Water’s revised DSS as shown in Figure 3 of this report is an appropriate outcome in terms of the size and location of RBWL2 and RBWL4.

(v) Recommendation

The Panel recommends:

Amend the Donnybrook/Woodstock Precinct Structure Plan to reflect the size and location of the Retarding Basin and Wetlands RBWL2 and RBWL4 as shown on the revised Development Services Scheme (Hearing Document 10).

10 Traffic

10.1 Classification of 'Monteleone Way'

(i) The issue

The issue is whether the north-south street through the Monteleone Property ('Monteleone Way') will function as arterial road and should therefore be classified as such and funded from the Infrastructure Contributions Plan.

(ii) Evidence and submissions

In his opening statement, Mr Wren indicated that a significant issue for the Monteleone Family was the absence of funding for the north-south road through its land. Mr Wren argued that this north-south road (often referred to as Monteleone Way) served a function above that of a connector road but is not a funded road. He submitted that it ought be a funded road, whether as a connector or connector boulevard.

Mr Wren cited a number of examples of connector streets being funded through DCPs. He argued that in any event, Monteleone Way will function as an arterial road because the Whittlesea and Mitchell Planning Schemes trigger arterial road status at 7,000 vehicles per day and the GTA modelling shows that Monteleone Way will '*... carry Arterial levels of traffic.*'

Mr Wren stated, however, that the Monteleone Family was not seeking to construct the road to the full Arterial Road cross-section but rather to the Connector Road cross-section with it funded in the same way as other roads in the Precinct that function as an arterial.

Mr Wren's submission was supported by the evidence of Mr Hardingham. In the opinion of Mr Hardingham:

- the key determining factor for the definition of a road is its function
- a road whose function is to carry through traffic is an arterial road
- function is not solely determined by volume but by the type of traffic using it
- it follows that a road carrying up to 9,100 vehicles per day (as shown in the GTA modelling for the northern end of Monteleone Way) is carrying a large proportion of through traffic; and
- function is not solely determined by spacing of roads on the network.

In short, Mr Hardingham considered that Monteleone Way would function as an Arterial Road because it would carry some traffic both from outside the Precinct and within the Precinct to the two railway stations. Its location would substitute for a north-south arterial that would logically be located close to the railway and traffic modelling showed that sections of the road would carry more than 7,000 vehicles per day. He concluded that "*... It would be more equitable to include the total cost of the north-south road in the Infrastructure Contributions Plan.*" He did not, however, consider that Monteleone Way needed to be constructed to an arterial road cross section. In his opinion, construction to the connector road cross section would cater for predicted levels of traffic.

The Panel also heard traffic evidence from Mr Hunt. He noted that from the modelling, traffic volumes on the north-south street typically fall within or slightly above the range for a connector street (3,000 -7,000 vehicles per day) but where exceeded, this was limited to the northern end of the street. He also noted that “... *the street does not fulfil any arterial function from a strategic perspective.*” He concluded that the classification of Monteleone Way as a Connector Street is appropriate and that the proposed cross section set out in the DWSP would accommodate the anticipated traffic volumes. He suggested at the Hearing that at most, the street could be classified as a boulevard connector road.

Ms Patterson submitted that the Panel should prefer Mr Hunt’s evidence to that of Mr Hardingham. In summary, she argued that there are four flaws in Mr Hardingham’s conclusion:

1. His evidence on the function of the road was not supported by any modelling and he did not know how much traffic would use the road as an arterial road. Mr Hardingham conceded that the proposed road would not carry enough through traffic to be classified as a primary or secondary arterial road under relevant VicRoads and MPA policy documents. This concession was significant in that Mr Hardingham spurned a classification on the basis solely of traffic volumes but on the other hand, he insisted on a classification as an arterial road that was expressly at odds with the two policy documents that include a functional requirement into the definition of arterial road. Ms Patterson stated that:

The implication of Mr Hardingham’s evidence is that this panel should accept that there is a third kind of arterial road – neither a primary nor secondary arterial road- that is not recognised in clause 56.06 of the VPPs, the VicRoads working document, or the PSP Notes, and that would have a weaker through traffic role than a secondary arterial road. In our submission, this would be a novel and unjustifiable departure from the existing policy framework.

2. Mr Hardingham’s reliance on traffic volumes was at odds with his preference that the road classification be determined by its likely function. If volume were to be the determinant for classification, then only limited parts of the road, and in limited directions, would satisfy the volume test.
3. He accepted that the design of the road ought to be that of a connector road, not of an arterial. Whatever volume of through traffic using the road, it could be accommodated on a connector road. Once this is accepted, it removes any justification for classifying the north-south road as an arterial road. If as submitted by the Monteleone Family that VPPS clause 56.06 is a critical factor in classifying the road, then the road should be built as an arterial road. This not what was suggested by Mr Hardingham nor requested by the Monteleone Family.
4. If accepted, Mr Hardingham’s opinion would result in unfairness to other landowners. His analysis only supports the classification of the north-south road as an arterial road and not other connector roads in the Precinct, for

example Hayes Hill Boulevard. Both roads are expected to perform a local function and carry traffic volumes that do not justify their classification as arterial roads. The DWSP land use layout is predicated in part on both roads being built and functioning as connector roads.

Ms Patterson concluded as follows:

Equity is then served by policy treating the funding of all such connector roads the same.

The policy in the PSP is clear, as stated in Requirement 98 all connector roads are not to be included in the ICP. This position is fair. It reflects the local function of the proposed roads. We submit that the Panel should not accept Mr Hardingham's evidence and should not recommend any change to the classification or proposed funding of Monteleone Way.

Mr Montebello stated that the Council had requested that the MPA review the classification of Monteleone Way to determine its appropriateness as an arterial road. The Council was satisfied with the outcome of this review by the MPA that the road remains classified as a Connector Road.

Mr Tweedie, for Mirvac, noted the evidence of Mr Hunt that there was no traffic evidence to suggest an arterial road designation for Monteleone Way was appropriate. At best, the road classification should be a connector boulevard.

(iii) Discussion

The Monteleone family is seeking funding for Monteleone Way. They are not, however, requesting that the road be re-classified to an Arterial Road but rather that while Monteleone Way retains its Connector Road classification, it should be included in the ICP and funded accordingly.

Mr Hardingham put the view that Monteleone Way would carry a proportion of through traffic and therefore would function, at least in part, as an arterial road. He argued, however, that it should not be classified as an Arterial Road and need only be constructed to a Connector Road standard which would be sufficient to carry expected traffic volumes.

If this approach was adopted, the Panel believes the same could be said for other Connector Roads in the DWSP, notably Hays Hill Road. Indeed, a number of the roads in the street network carry some through traffic, that is traffic not coming from or going to locations abutting the road.

Mr Hunt noted that projected traffic volumes for Monteleone Way fell generally within or only slightly above, for limited sections, the volume range for a Connector Road. In his view, there was no strategic justification for Monteleone Way to be considered as functioning as an arterial road. Its classification as a Connector Road was appropriate although he thought it could be considered as a Boulevard Connector Road.

The logic in the argument put by Mr Hardingham is rather "novel", as submitted by Ms Patterson, and is, in the Panel's view, a somewhat artificial one constructed to support the outcome sought by the Monteleone family. On the one hand, Mr Hardingham argued that

Monteleone Way will function as an arterial because it will carry, over part of its length, volumes that include some through traffic. On the other hand, he argued it need not be reclassified as an arterial road because the expected volume of traffic could be accommodated on a road built to the connector standard. Mr Hardingham cannot have it both ways – either the road will function as an arterial and should be so classified and constructed or it should retain its connector classification and be constructed to that standard.

The Panel wonders whether the Monteleone Family is not seeking the reclassification of the road because of the implications that would have on the land take from their property for a wider cross section and for the land use layout of the PSP including uses and access restrictions that would apply to land abutting an Arterial Road.

The Panel finds the submission put by Ms Patterson the more compelling one. She rebuts very strongly the line of argument made by Mr Hardingham.

Setting aside the classification of Monteleone Way as a Connector Road – a classification which even Mr Hardingham does not dispute – brings us to the real crux of the issue raised by the Monteleone Family: how should the construction of the road be funded?

Mr Wren argued that Connector Roads in other PSPs have been funded from funds collected for the DCP. He cited examples where this was the case and quoted the *Development Contributions Guidelines 2007*, noting that construction of roads is included but there is no reference to the type of road. He argued that there is nothing in relevant legislation or guidelines that limits DCP (or ICP) funding to Arterial Roads.

Ms Patterson submitted that the PSP policy as stated in DWSPSP Requirement 98 is very clear: Connector Roads are not to be included in the ICP. She also argued that there was a question of fairness and based on equity: either all Connector Roads are excluded from the ICP or all are included.

The Panel accepts the view put by Mr Wren that there is, as he put it, no ‘LAW’ that precludes ICP funding for Arterial Roads rather it is a matter of ‘LORE’. There is, however, clearly a need to ensure that the arrangements are equitable. A further consideration for the Panel is the requirement set out in the DWSPSP (Requirement 98) which makes very clear that “*Subdivision within the Precinct must provide and meet the total cost of delivering ... Connector roads and local streets” (Panel emphasis).*

The Panel is not inclined to make an exception for Monteleone Way. It was not persuaded by the arguments of Mr Hardingham that this road was somehow a special case to the exclusion of other Connector Roads. If Monteleone Way were to be funded by the ICP, then PSP Requirement 98 would need to be amended to allow for all Connector Roads to be included in the ICP. It should be noted that no parties submitted that other Connector Roads in the DWSPSP should be included in the ICP.

The Panel does not consider that all Connector Roads should be funded through the ICP. It therefore follows that Monteleone Way should not be included unless of course, it was reclassified to an Arterial Road. As discussed above, its reclassification was not sought by the Monteleone Family and indeed argued against by Mr Hardingham.

(iv) Conclusion

The Panel concludes that there is no justification for the reclassification of the north-south road (Monteleone Way) nor for it to be funded as a Connector Road by the ICP.

10.2 Intersection treatments**(i) The issue**

The issue is to what standard should interim major intersections on the street network be designed and constructed, that is, should they be delivered as 'interim-on-ultimate' or as 'traditional' intersections?

(ii) Evidence and submissions

Ms Patterson submitted that the Panel must consider what is before it and that in relation to intersections, what is before the Panel is a list of infrastructure items and a plan showing the locations of those items. She added that there is no exhibited DCP or intersection designs and no estimated costings. In short, intersection treatments were not a matter for this Panel, a point she submitted was acknowledged by Mr Hunt in cross examination during the Hearing.

She tabled a letter from VicRoads (Document 43) which stated, in part, that:

VicRoads supports the new ICP system that will see ICP funded intersections designed on standard templates Under the new system VicRoads position is for a preference that all intersection involving arterial roads are delivered as an "interim on ultimate" intersection.

VicRoads accepts that there will be some circumstances where land is not available for the development of the interim intersection on the ultimate alignment. In these circumstances.....VicRoads is committed to working with the developer of the intersection and the delivery agent to ensure that the intersection can be delivered as a practical, cost effective layout and in a timely manner.

We note that agreement on the method of intersection delivery such as a staged or traditional interim solution will depend on the circumstances of the particular intersection and will be considered on a case by case basis.

In its correspondence of 8 March 2011, the City of Whittlesea raised the issue of the design of intersections based on the provision of the interim intersection on the ultimate alignment of the intersection, the so called 'interim-on-ultimate' approach. The Council resolution of 1 March 2016 included:

20. *That Council request that where intersections are nominated on a VicRoads declared road or cross property boundaries that "traditional" interim intersections are provided.*
21. *That Council request that intersections along the future Patterson Drive not be designed and delivered as 'interim-on-ultimate'.*
- 24 *That Council support the provision of Koukoura Drive on its ultimate alignment in the interim.*

Mr Montebello indicated to the Panel that the ‘interim-on-ultimate’ intersection design is appropriate where the interim road has been designed with a split carriageway and will be delivered in the interim period. For example, Koukoura Drive is to be delivered in the interim as a boulevard road with central median. He stated, however, that:

Council is concerned that in circumstances where an interim intersection is provided on the ultimate alignment for a road that is declared by VicRoads, or where the arterial road in the ultimate is currently split over property boundaries (eg. Donnybrook Road and Patterson Drive), there will be practical difficulties in securing the land in the interim, making the early delivery of the “interim” intersection on the ultimate alignment difficult. Therefore, it is considered appropriate that intersections along the future Patterson Drive not be designed and delivered as ‘interim-on-ultimate’ but rather be delivered as “traditional” intersections.

Mr Montebello noted that the MPA has advised that the resolution of the ‘interim-on-ultimate’ issue is best addressed at the planning permit stage but he submitted that ‘...there is an opportunity now to nominate the appropriate intersections for the ‘interim-on-ultimate’ designs and those which should be delivered based on the more traditional basis.’ He added that leaving these issues to the planning permit stage was simply delaying an inevitable dispute. Planning at the PSP stage should, in his view, be endeavouring to minimise disputes not delay them.

He proposed that DWSP Plan 12 – Street Network should be updated (as per Hearing Document 15) to specifically show the intersections that are suitable for traditional intersection treatments.

Mr Tobin stated that the Mitchell Shire Council appreciated the position of VicRoads to cost and build all interim intersections on the ultimate alignment to facilitate longer term cost benefits for that authority. He noted, however, that as with many planning matters it was an issue of balance with the interim intersections being delivered in the life of the PSP but the ultimate intersections possibly delivered at some later time. The proposed arrangements could create implementation and costing difficulties in the short term which outweigh the longer term benefits to VicRoads.

He suggested that specifically the risks included:

- The additional cost for these larger intersections would take additional money from the capped ICP funds and divert money away from other infrastructure items.
- These intersections are likely to be predominantly Council assets for some time (unless in VicRoads road reserves) noting that the declaration process is an uncertain one. Mitchell will have increased maintenance responsibilities from larger intersections which would be hard to justify over this extended period.
- These intersections would not operate at a level of performance which is considered ideal given the larger sizes. For example, the pedestrian crossing would be longer and potentially staged on some legs.

- There exist complexities for the land acquisition of the land required for the ultimate configuration.

Mr Tobin stated that “... Council was not satisfied that the extra upfront costs, likely higher maintenance costs and perhaps poorer pedestrian outcomes are justified over the 15 – 20 year period prior to ultimate upgrading.” He submitted that the considerable work required to justify an ‘interim-on-ultimate’ position had not been done.

Mr Tweedie noted that the ‘interim-on-ultimate’ approach is intended to reduce the level of works lost in the construction of the ultimate intersection making the construction of the ultimate intersections less costly. He suggested that this approach was effectively subsidising the cost of the ultimate construction and unfairly shifted the cost burden onto developers. He submitted that as it was unlikely that additional funding from other sources would be provided, the DWPSP should simply require the interim intersections to be constructed to ‘traditional’, interim standards. That, in his view, was a fair planning outcome.

Mr Tweedie indicated that the change to DWPSP Plan 12 proposed by the City of Whittlesea is acceptable to Mirvac except that the Patterson Drive/Gunns Gully Road intersection should be shown as ‘traditional’ rather than ‘interim-on-ultimate’.

Mr Tweedie also referred to the evidence of Mr Hunt who concurred that as it was unlikely to be achievable that a proportion of the intersection costs would be met from other sources, “... reduced standards of intersections should be accepted and costed in the ICP, whereby interim intersections only need to meet the requirements for mitigation of development traffic without the additional costs of matching projected ultimate layouts.”

Mr Hunt also noted that it was highly unlikely that land south of Donnybrook Road would be available in time to facilitate the ICP interim treatments. In his view, ‘pre-interim’ intersection treatments that did not rely on land south of Donnybrook Road should be included in the DWPSP and future ICP.

(iii) Discussion

As noted by Ms Patterson, the DWPSP before the Panel does not include intersection designs or costings and an ICP is yet to be prepared. Included in the DWPSP is, however, a list (Table 10) of infrastructure items that includes intersection projects and a Street Network Plan (Plan 12) which shows the location of major, signalised intersections.

The Panel was informed by Mr Montebello that VicRoads had advised Whittlesea Council that the intended approach was that the interim intersections would be delivered to the so called ‘interim-on-ultimate’ design. This means that at intersections where the ultimate roadways could involve additional lanes and/or divided carriageways, the interim intersections would be designed and constructed to the ultimate standards. It could be said that this is an appropriate approach as it would minimise the extent of redundant works and provide an appropriate footprint for the ultimate intersection. Mr Tweedie, for Mirvac, and the Councils put a contrary view in that the ‘interim-on-ultimate’ approach shifted costs from VicRoads to developers and the two Councils and unless alternative funding sources were made available to partly fund the interim intersections, this was an unreasonable impost on developers. Potential difficulties in acquiring the land in the short term to provide for the ultimate intersection configurations were raised in submissions. This was the case in

particular for the intersections along Donnybrook Road where land south of the road may not be available for some time.

It can be argued that the acquisition of land and expenditure of funds whether that be by developers, councils or State agencies, on infrastructure that will not be justified for years is not a sound approach in economic terms as it brings forward unnecessarily the timing of expenditure. As put by Mr Tobin, the additional cost for larger intersections would take money from the capped ICP funds and divert money away from other needed infrastructure. The road network and the intersections will be built during the life of the Donnybrook/Woodstock PSP but the ultimate roads and intersections will not in all likelihood be required and delivered for many years. Indeed, the DWSPSP (at Table 10) shows the timing of the ultimate intersection as long term.

The Panel notes the advice of VicRoads that its preference for 'interim-on-ultimate' design and delivery of intersections relates to intersections involving arterial roads and agreement on delivery as a staged or traditional interim solution will depend on circumstances and considered on a case by case basis.

Mr Montebello tabled a revised DWSPSP Plan 12 (Hearing Document 15) which identified those intersections which should be built in the short term to 'traditional' designs and those built to 'interim-on-ultimate' designs. The Panel sees merit in the proposal made by Mr Montebello as it provides some clarity for developers and the Councils, does not shift costs and, as submitted by Mr Montebello, uses planning to minimise issues at the PSP stage rather than delaying disputes that would otherwise inevitably arise.

However, as noted by Ms Patterson, the Panel did not have before it detailed intersection designs and costings and it is therefore not in a position to determine which is the appropriate interim design standard of the major intersections. The Panel considers that, in principle, interim intersection standard should be based on a 'traditional' design unless the 'interim-on-ultimate' can be justified by VicRoads. The revised DWSPSP Plan 12 (Hearing Document 15) provides a good starting point but VicRoads, the Councils and the MPA should do further work to reach agreement on the interim treatment for each intersection which could then be reflected in DWSPSP Plan 12.

(iv) Conclusion

The Panel concludes that the interim construction of the major intersections on the DWSPSP street network should be to 'traditional' design standards unless 'interim-on-ultimate' designs can be clearly justified. The revised DWSPSP Plan 12 submitted by the City of Whittlesea provides the basis for further work by VicRoads and the Councils to agree on interim intersection design standards.

(v) Recommendation

The Panel Recommends:

Subject to agreement between VicRoads and Whittlesea City Council and the Shire of Mitchell, amend the Donnybrook/Woodstock Precinct Structure Plan by replacing Plan 12 with a revised Plan 12 which shows the agreed interim intersection design standards.

10.3 Construction standard of Gunns Gully Road to Merriang Road

(i) The issue

The issue is the standard to which the temporary road extending Gunns Gully Road east of Koukoura Drive to Merriang Road should be constructed and the source of funding for this temporary road.

(ii) Evidence and submissions

In their original submission, the Mason Family stated that it was not clear how the interim treatment for the eastern end of Gunns Gully Road and its intersection with Merriang Road would be funded. They noted that the eastern section of Gunns Gully Road as a six lane arterial road is to be funded as part of the Outer Metropolitan Ring Road (OMR) project but the timing of that project was unknown and could be 30 years away.

The Mason family was concerned that if the interim road was not funded as part of the ICP, it would fall to them to provide the land and fund the cost of this section of road as a major east-west connection for the wider region.

At the Hearing, Mr Cicero informed the Panel that the Mason family was no longer pursuing its submission with respect to the funding for the interim treatment for the eastern section of Gunns Gully Road. He stated, however, that this withdrawal was on the basis that if an interim treatment east to Merriang Road is required, it should be specified in the DWPSP as a “low order rural road”.

Ms Patterson noted that there was no cross section for a “low order rural road” in the DWPSP. She added that as part of any subdivision of property 25 (the Mason property), the road would have to be constructed to the satisfaction of the responsible authority and that the temporary nature of the road should be taken into consideration in requirements for its construction.

The responsible authority, the City of Whittlesea, made no submission to the Panel on this particular issue.

(iii) Discussion

The extension of Gunns Gully Road to Merriang Road will be needed to provide an important east-west link. A temporary section of road west of Koukoura Drive to Merriang Road could be required before construction in the long term of the OMR and the intersection with Gunns Gully Road. The MPA did suggest in its Part B Submission that it did not anticipate that the eastern, temporary section of Gunns Gully Road would be required in the short term.

The DWPSP (at Table 10: Precinct Infrastructure Plan, item RD-02) describes the interim treatment of Gunns Gully Road (Melbourne-Sydney railway line to E6/OMR reservation) as a 41 metres wide road reservation with a two lane carriageway. The ultimate treatment is a six lane, divided carriageway. In his report, Mr Hunt considered the GTA Scenario 1B with no rail crossing on Gunns Gully Road to be the most likely outcome to 2026. Under this Scenario 1B, GTA modelling shows relatively low volumes of around 2700 vehicles per day

on Gunns Gully Road west of the OMR reservation (see Hunt evidence, table 4-1, page 11). This suggests that volumes on the temporary extension of Gunns Gully Road between the OMR reservation and Merriang Road will also be relatively low.

With the expected low traffic volumes on the interim extension of Gunns Gully Road and its temporary nature, only a low standard of road is warranted. The 41 metres wide road reservation to provide for the ultimate treatment of Gunns Gully Road is certainly not justified for the temporary section because the ultimate Gunns Gully Road will be on a different alignment when its intersection with the OMR and the link further east to the Merriang Road/ Grant Road are built.

Mr Cicero indicated that the Mason Family is now not concerned over the funding of the temporary section of Gunns Gully Road provided that only a relatively low standard is required to be constructed. He suggested that the temporary section of road should be specified in the DWPSP as a 'low order rural road'.

Ms Patterson submitted that there is no road cross section in the DWPSP called "low order rural road". However, there is a cross section titled "Local Access Street Level 1 Rural Style" (DWPSP, page 80) which is described as "... a rural style local road option for low volume streets with larger allotments". This would seem to match what Mr Cicero had in mind.

In the Panel's view, it would be a reasonable outcome to specify in the DWPSP that the temporary section of Gunns Gully Road be designated as a 'Local Access Street Level 1 Rural Style'. This should satisfy the requirements of the Mason Family and provide guidance to the responsible authority in determining the appropriate construction standard for the temporary section of Gunns Gully Road.

(iv) Conclusions

The Panel concludes that the designation of the temporary eastern section of Gunns Gully Road between Koukoura Drive and Merriang Road as a 'Local Access Street Level 1 Rural Style' would be appropriate to provide some certainty for the Mason family and provide guidance to the responsible authority on the construction standard for that section of road.

(v) Recommendation

The Panel recommends that:

Amend the Donnybrook/Woodstock Precinct Structure Plan by modifying Plan 12 – Street Network by designating the temporary eastern section of Gunns Gully Road between Koukoura Drive and Merriang Road as a 'Local Access Street Level 1 Rural Style'.

11 Other issues

11.1 Provision of utilities infrastructure on the Monteleone family property

(i) The issue

The issue is the proposed provision of utilities infrastructure within the north-south road reservation running through the Monteleone Family property.

(ii) Evidence and submissions

Mr Wren in his opening submission raised the issue of utilities infrastructure proposed in the DWPSP to be located in the north-south road reserve. He suggested that the DWPSP imposed an unfair burden of infrastructure in this road reserve and consequently the Monteleones as the landowner, with a disproportionate cost not shared by other developers.

In his written statement, Mr Ravida stated that on reviewing the DWPSP Plan 15 – Utilities it was apparent that there was a concentration of major DWPSP utilities/trunk services either within or immediately abutting the Monteleone property. He added that these utilities would require specifically planned alignments and clearances either within the proposed north-south road reserve or in a dedicated service reserve or easement. Mr Ravida noted that it would not be possible to accommodate all the proposed utilities indicated on DWPSP Plan 15 within the proposed Connector Street cross section, if the underground 66kV electricity supply was to be located within the road reserve. He suggested that the MPA should review the location of the 66kV line, the cost implications associated with the provision of an underground 66kV power supply which must be borne by the ICP, and the cost associated with acquiring land to widen the north-south road for a specific electricity reserve or easement within the Monteleone land.

A revised Plan 3 – Future Urban Structure was tabled (Hearing Document 60) by the MPA at the Hearing. It became apparent that this plan was incorrectly headed Plan 3 and was actually a revised Plan 15 – Utilities. Replacement of exhibited DWPSP Plan 15 with the tabled revised Utilities Plan (Hearing Document 60) is listed in the table of agreed changes to the DWPSP (Hearing Document 72).

The revised Utilities Plan removes the 66kV and 22kV lines along with other services from the north-south road reserve leaving only the proposed potable and recycled water distribution mains in this reserve.

At the Hearing, Mr Ravida noted that the revised Utilities Plan showed standard utilities mains in the north-south road corridor. He agreed that the standard Connector Road cross section had the capacity to accommodate these standard utilities provided that Yarra Valley Water agreed that services could be located partly under the footpath. Otherwise, the road cross section would have to be widened.

Mr Rivida also noted that the 66kV electricity network was no longer shown on the Utilities Plan. He did not know where the service provider now proposed to locate the 66kV lines but noted that they would be needed for the DWPSP as a whole.

In his closing submission, Mr Wren stated that he “... understood that the MPA have confirmed with all service authorities that the revised plan illustrates the full extent of services infrastructure that is to be provided on the Monteleone land. On that basis, the revised infrastructure plan is acceptable to the Monteleones.”

(iii) Discussion

The concerns of the Monteleone family regarding utilities have apparently been addressed by the MPA and relevant authorities. The revised Utilities Plan which shows only standard water distribution mains being located in the north-south road corridor has been accepted by the Monteleone Family.

In his written evidence, Mr Ravida noted that the location of the 66kV line should be reviewed as it would not be possible to accommodate all the proposed utilities indicated on PSP Plan 15 within the proposed Connector Street cross section if underground 66kV electricity supply was to be located within the road reserve. The 66kV electricity line previously shown as running through the Monteleone property is not shown on the agreed revised Utilities Plan. Indeed, the entire 66kV network has been removed. As noted by Mr Ravida, a 66kV network will be required to service the entire PSP area.

The removal of the entire 66kV network from the Utilities Plan may well have satisfied the concerns of the Monteleone Family. However, simply removing the network leaves open the question of where will this network be located and how will the additional costs of putting the network underground be met. As pointed out by Mr Ravida, the service authority (Ausnet) has previously indicated that it would not meet the costs of undergrounding its 66kV lines. This means that the additional costs of undergrounding will need to be included in the ICP.

(iv) Conclusion

The Panel concludes that:

- the revised Plan 15 – Utilities (Hearing Document 60) provides an appropriate resolution of this issue with respect to standard utilities
- the location and costings for the 66kV electricity network remains an issue and should be addressed by the MPA and the relevant services authority as a matter of urgency so that funding for the network can be included in the ICP.

(v) Recommendations

The Panel recommends that:

**Amend the Donnybrook/Woodstock Precinct Structure Plan by replacing Plan 15 - Utilities with the revised Plan 15 contained in Hearing Document 60.
Metropolitan Planning Authority and the relevant services authority determine the appropriate location and costings for the 66kV electricity network for inclusion in the Infrastructure Contributions Plan and reflection on the revised Plan 15 – Utilities.**

11.2 Scattered trees

(i) The issue

Some landowners raised concerns in relation to the location of scattered trees shown on Plan 8 of the DWSP – Native Vegetation Retention & Removal.

(ii) Submissions

A submission was received from Mr Halliday seeking clarification in relation to the scattered trees on his property as shown on Plan 2 – Precinct Features and Plan 8 – Native Vegetation Retention & Removal. He advised he could not find reference to these trees in either the Bosis Scattered Tree Assessment or the Treetec Arboricultural Report. He requested advice as to whether these trees were to be retained or whether there had been a mapping error. If they are to be retained, he requested GPS co-ordinates to ensure correct identification of the trees.

It was Mr Montebello's submission for Whittlesea Council that it believed the data shown on Plan 8 is imprecise and therefore, of itself, was insufficient to ensure tree protection measures are implemented. He requested this Plan be amended to only reference DELWP's Time Stamped Data and that it be labelled either to be 'retained' or 'offset'. The Council supported the inclusion of the following note proposed by the Wollert PSP:

The Whittlesea Scattered Tree Retention Standard dated 8 October 2014 has been endorsed by DELWP as meeting the criteria for retaining scattered trees specified in the 'Guidance Note for implementing the Biodiversity Conservation Strategy for Melbourne's Growth Corridors'. Scattered Trees shown outside of BCS conservation areas in Plan 8 are exempt from habitat compensation obligations under the Biodiversity Conservation Strategy where they meet the criteria of the 'Whittlesea Scattered Tree Retention Standard' dated 8 October 2014 to the satisfaction of the responsible authority.

In response to the written submissions on scattered trees the MPA acknowledged there were gaps in the data and neither Bosis nor Treetec had assessed all trees across the Precinct. It stated the purpose of Plan 8 was to identify the trees marked for retention or to be offset by DELWP. Furthermore, any application to remove trees would have to comply with UGZ6 and the City of Whittlesea requirements.

At the Hearing the MPA advised that, in response to the Whittlesea Council submission, it intended updating Appendix 4.6 – Scattered Trees, in line with the Wollert Panel report.

In its response to the revised MPA Table (Hearing Document 72) the Monteleone family stated it was unaware of what changes were to be adopted from the Wollert Panel and it requested it be provided with the relevant provisions of this report.

The MPA attached a copy of the relevant part of the Wollert Panel report in its response to the Monteleone family comments on this matter.

(iii) Discussion and conclusion

The Panel understands Mr Halliday's written submission sought clarification and did not necessarily oppose the retention of mature river red gums on his property.

The Panel supports the agreed 'Proposed Change' listed as reference number 155 in Hearing Document 72, to add an additional note to Plan 8. In addition, the Panel supports the proposed changes to Appendix 4.6 (provided by the MPA as recommended by the Wollert PSP Panel) to provide consistency with the Wollert PSP. As noted in the Wollert PSP Panel report, the revised protection zone differs from the Australian Standard but better reflects the issues with red gums in a suburban environment. Consistency needs to be achieved however in the new text and the provisions within the Urban Growth Zone Schedule of the Whittlesea Planning Scheme.

(iv) Recommendations

The Panel recommends:

Replace Appendix 4.6 of the Donnybrook/Woodstock Precinct Structure Plan with the text shown in Appendix G of this report.

Review Schedule 6 to Urban Growth Zone of the Whittlesea Planning Scheme to achieve consistency with new proposed text at Section 4.6 of the Donnybrook/Woodstock Precinct Structure Plan to guide Scattered Tree Retention in the City of Whittlesea.

11.3 Local park 25 (LP25)

(i) The issue

The issue is whether the proposed site of a local park (LP25) is appropriate given its location at the corner of a busy intersection.

(ii) Submissions

A written submission lodged for the owner of land at the corner of Donnybrook Road and Merriang Road opposed local park LP25, shown at the rear of his property where scattered trees have been identified. The submitter believed the location of his land, at the intersection of two main roads, was not suited to accommodating a park and the more appropriate land use would be residential. The Melbourne Water proposal to locate a retarding basin on this site was also opposed.

The MPA advised LP25 provides the opportunity to retain trees identified as having arboriculture and landscape values in situ, in an area of public open space. It believed this would reduce the financial burden on the owner as the land would ultimately be purchased either under the terms of the Infrastructure Contributions Plan (ICP) or the provisions of Clause 52.01 of the Whittlesea Planning Scheme. Compensation would be paid using the *Public Land Equalisation Methodology* (PLEM) which provides a site-specific valuation for all land. This means that because the land would be providing more than the per site average across the DWSP, a higher value than the average is placed on the land.

The MPA also noted the Whittlesea Council's policy which required that 80 percent of native trees on a site be retained. If this local park was removed from this property, the owner would have to demonstrate how any development proposal would satisfy this policy.

Whittlesea Council supports the retention of scattered mature river red gums, as proposed by the DWPSP.

(iii) Discussion

The Panel understands local park LP25 has been proposed primarily to protect the scattered mature river red gums located in this area, rather than it necessarily being required to satisfy the passive open space provisions for the Precinct. The inclusion of the land as a local park will mean the owner will be compensated for it when it is required. This would not necessarily be the case if the land was available for development with at least 80 percent of the trees retained to comply with Council policy.

In relation to the retarding basin, the Panel was advised that Melbourne Water now intends to locate it on land on the south side of Donnybrook Road.

(iv) Conclusion

The Panel concludes it is appropriate to retain local park LP25 to protect the existing red gums on that part of the land, noting the owner will be compensated as the time the land is acquired.

11.4 Configuration of local park 26 (LP26)

(i) The issue

The owner of land near the south end of Merriang Road was concerned that Local Park LP26 applies to more than 50 percent of his property and includes the existing family home within its boundaries.

(ii) Submissions

Mr Galileos opposes the PSP as it applies over his family's land, specifically the identification of around 50 percent of it as a local park. He stated advice he had obtained was that this proposal would result in the land value being diminished in the event it is sold to a developer. He also opposes the inclusion of the family home in the area set aside for this local park. The original written submission lodged on behalf of Mr Galileos included a plan of a possible subdivision of the land which would reduce the area of open space to a 35 metre strip adjacent to the site's rear boundary. This proposal would only require the removal of two mature trees or their incorporation into a lot in this proposed subdivision.

The MPA stated that the open space allocated on this land was to protect existing mature trees. Compensation paid for the land will adopt the PLEM method, the agreed methodology between developers, Councils and the MPA, which will see a higher than the average value placed on the land because more than the average per site required under the DWPSP will be provided on this land.

Mr Montebello stated Council would support the reconfiguration of the park to excise the land occupied by the existing dwelling. It also maintained that as long as the mature trees are retained and there is a contiguous link to the extended park, the boundaries could be modified to provide for better developable areas.

(iii) Discussion

The Panel believes the removal of that part of the land occupied by the existing dwelling is appropriate as there are no mature trees in this area. It also believes, as suggested by Council, that boundaries can be refined when more detailed planning is undertaken for the area.

(iv) Conclusion

The Panel concludes that more detailed work will determine the final boundaries of this proposed local park LP26 in protecting the identified scattered trees. This will include the removal from LP26 the land occupied by the existing dwelling.

(v) Recommendation

The Panel recommends:

Amend Donnybrook/Woodstock Precinct Structure Plan Plan 7 – Open Space to remove the land occupied by the existing dwelling from Local Park 26.

11.5 Local parks 06, 07, 30, 31 and 32

(i) The issue

The issue is whether local parks on the Monteleone land should be removed from the DWPSP and the location of local parks dealt with when the land is subdivided. A related issue is whether local parks should be designated ‘local conservation parks’. A further issue raised by the City of Whittlesea and the DFC related to whether Guideline G23 of the DWPSP should be retained or deleted.

(ii) Evidence and submissions

The Monteleone family submitted that all but one of the local parks on its land should be removed. They considered that the appropriate time to deal with this matter was when the land was subdivided.

Mr Wren, for the Monteleone family, referred to Local Park LP07 which in Table 6 - Local Passive Open Space states “*protects tree group adjacent to heritage site*”. Mr Wren advised that the trees in question are post-senescent cypress trees and there is no heritage site in the near vicinity or anywhere else on the Monteleone land.

Mr Wren also argued that Local Parks (LP) 06, 30, 31 and 32 should be removed from Plan 7 – Open Space as local space contributions will be dealt with at the subdivision stage. It was his view that locating these areas on the DWPSP would suppress flexibility in designing any subdivision.

In response to the MPA Table of Changes (Hearing Document 72) on the final Hearing day, the Monteleone family (see Hearing Document 89) referred to the above items. It also requested the reduction in the size of LP06 and the 'squaring up' of Sporting Reserve SR01 so that it is entirely on the Dibella land.

The MPA advised that, in distributing the network of local parks through the DWSP, the aim was for residents to be within a 400 metres catchment of open space. Also, where possible the parks have been located to retain mature red gums and other notable Precinct features. It opposes the changes put forward by and on behalf of the Monteleone family.

In his evidence for the MPA, Mr Hooper stated he had analysed each of the open space parcels on the Monteleone land and with the exception of LP03, he believed each 'is reasonable'. In supporting the removal of LP03, he stated it did not contain any indigenous vegetation and he saw no need for it from the distribution perspective. In the case of LP05, LP30, LP31 and LP32 all contain mature river red gums and therefore, in his opinion, are worthy of retention.

In response to the request by the Monteleone family to remove reference to all trees on its land, with the exception of those on LP05, the MPA has advised that these were identified as part of the Melbourne Strategic Assessment Time Stamped Data. In acknowledging this data may be incorrect, the MPA advised it must be demonstrated to DELWP that the trees in these locations are non-native. If DELWP is satisfied that the Monteleone family is correct, the MPA will be able to remove the trees from the plans.

The Monteleone family supported the removal of Requirement R36, as proposed by the MPA. It states that this should be left to the permit process. Mirvac also supported this approach.

The Merri Creek Management Committee (MCMC) recommended that local parks be designated 'local conservation parks' where the primary purpose is the protection of conservation values.

The MPA does not support the MCMC recommendation based on the primary purpose of these local parks which is to provide localised passive recreation and amenity. The retention of trees in these parks is for their landscape value, not their conservation value.

The MPA has made corrections to DWSP Table 6 to insert those local parks that were not identified in the exhibited PSP.

The City of Whittlesea and the DFC believe that Guideline G23 should be retained. This guideline requires that where a master plan is prepared for a local park, that traverses multiple ownerships, there should be consultation with affected owners to ensure an integrated design outcome is achieved.

(iii) Discussion

The suggestion that local parks on the Monteleone land should be removed from the DWSP suggests to the Panel that the same consideration would have to be given to all local parks throughout the DWSP. The Panel does not support this approach. In the case of local parks LP05, LP30, LP31 and LP32 and Mr Hooper's evidence that they contain remnant River Red Gums, the Panel believes they should not be removed from the PSP. Furthermore, it

believes that rather than being an impediment they may well present an opportunity in the design of subdivisions.

The Panel notes that DWPSP Table 6: Open Space Delivery Guide (see Hearing Document 72) has been amended as it applies to Local Park LP07.

The Panel has noted the MPA response to the Monteleone claim that, with the exception of LP05, the trees on its land should not be identified. As suggested by the MPA, the Panel agrees that the Monteleone's should contact the DELWP to resolve this matter.

The Panel notes there is common ground that Requirement R36 be removed from the DWPSP.

The Panel supports retaining the local park classification, as proposed, as these have been located to provide residents with convenient access to the passive recreational areas. The identification of these areas in the DWPSP will not prevent the refinement of their design when more detailed planning is undertaken.

The Panel does not support the Monteleone family's request to amend the boundary of Sporting Reserve SR01 to remove it from its land. This recreation reserve abuts a local park (LP05) on the Monteleone land and the Panel believes it is logical that the two areas adjoin each other.

The Panel accepts the MPA submission that trees in the local parks have not been identified for their conservation value.

The Panel agrees with the City of Whittlesea and the DFC that it would be appropriate for property owners to be consulted where a master plan is being prepared for a local park on land in multiple ownership. It follows that Guidelines G23 should be retained in the DWPSP.

(iv) Conclusions

The Panel concludes that, with the exception of Local Park LPO3, it is appropriate to retain the local parks at 895 and 915 Donnybrook Road. It also supports the retention of Guideline G23 in the DWPSP.

(v) Recommendations

The Panel recommends:

Amend Donnybrook/Woodstock Precinct Structure Plan Plan 7 – Open Space and Table 6 by deleting Local Park LP03.

Retain Guideline G23 in the Donnybrook/Woodstock Precinct Structure Plan.

11.6 Stony rises and view lines

(i) The issue

The issue is whether the stony rises and view lines should be identified on the Precinct Features Plan of the DWPSP.

(ii) Submissions

In its written submission, the Merri Creek Management Committee (MCMC) requested that the stony rises and view lines, as identified in the Council's Visual Assessment report, be included on Plan 2 – Precinct Features of the DWPSP.

Whittlesea Council supported this being done as it would add support to Requirement R35 which refers to subdivision design responding to this feature.

In its written response to this submission the MPA agreed to include those stony rises considered to have 'high sensitivity' on 'Plan 2 – Precinct Features'. It also referred to the provisions of the DWPSP requiring subdivisions to be responsive to landscape features like the stony rises. In particular Objective 29 referred to the planning of sensitive interfaces to historic and natural assets including those of Aboriginal cultural heritage and stony rises.

(iii) Discussion and conclusion

The Panel supports the MCMC's submission and notes the MPA's agreement to identify stony rises of high sensitivity and their associated view lines as a feature on DWPSP Plan 2 – Precinct Features.

(iv) Recommendation

The Panel recommends:

Amend Donnybrook/Woodstock Precinct Structure Plan by modifying Plan 2 – Precinct Features to identify the 'highly sensitive' stony rises and associated view lines.

11.7 Merri Creek Corridor

(i) The issue

The issue is whether the DWPSP deals appropriately with the environmental values of the Merri Creek environment, its future ownership and its role in the wider regional open space corridor.

(ii) Submissions

The Merri Creek Management Committee (MCMC) recommended the redrafting of DWPSP ESO6 to encompass a range of environmental values associated with the Merri Creek corridor and the acknowledgement of its role in the wider Merri Creek Corridor.

The Friends of the Merri Creek (FOMC) submitted that the conservation areas along this Creek should be acquired by the State Government and managed as part of the Greater Wallan-Merri State Park. The FOMC also referred to the substantial area of high quality endangered native vegetation north of the conservation area that has not been protected.

The MPA stated the primary objective of ESO6 is to protect the BCS. It referred to Clause 12.04 of the SPPF which is not affected by this Amendment and will continue to be applicable. While the DWPSP, through its objectives and guidelines, acknowledges the broader recreational role of the Merri Creek, the MPA believes reference to its recreational

role in ESO6 would contradict the purpose of the Conservation Area and the BCS. Furthermore, the enhancement of the amenity of the Merri Creek is implied through the protection of its biodiversity facilitated through the BCS.

In response to the FOMC submission regarding acquisition for conservation purposes the MPA stated this is a matter for the State and Commonwealth Governments under the BCS. It did say that the decisions taken under the *Environment Protection and Biodiversity Conservation Act 1999* have bipartisan support and they are designed to provide for long-term conservation through a range of measures, including the protection of land and creation of habitat.

The MPA also advised that the boundaries of the BCS Open Space Conservation Area 22 were currently being reviewed by DELWP through survey work. This conservation area has the remit to only protect areas of national or state significance to achieve outcomes for the GGF habitat, grassy eucalypt woodland and curly sedge grass populations.

Landscape and cultural values are not protected through the BCS but through other means under the planning process.

(iii) Discussion

The Panel believes the SPPF, ESO6 and the provisions of the DWSP acknowledge the environmental values of the Merri Creek. It agrees that the purpose of ESO6 is to protect conservation areas identified in the BCS and therefore it would be inappropriate to refer to the recreational attributes of the wider Merri Creek Corridor.

The Panel is not in a position to recommend that land along the Merri Creek be acquired by the State or Commonwealth Government. It is also not able to make recommendations in relation to boundaries under the BCS. This is a matter for DELWP and the relevant Minister.

As stated by the MPA, DELWP is in the process of reviewing the boundaries of Conservation Area 22.

(iv) Conclusion

The Panel concludes that the existing SPPF and the provisions under the Amendment will protect the conservation values of the Merri Creek.

11.8 Donnybrook Railway Station and environs

(i) The issue

The issue is whether proposed development and works in the area near the Donnybrook Railway Station have been fully investigated.

(ii) Submissions

The Friends of the Donnybrook Train Station (FDTS) submitted the proposed development and works in the area adjacent to the station have not been fully investigated. Their concerns related to the failure to integrate community services into this area as well as traffic and parking issues which may arise as a result of higher density development in this area. They expressed concern that there had been no Community Benefit Analysis for the

precinct, nor was there traffic modelling to demonstrate how the precinct would connect with the Sydney – Melbourne Railway Overpass and its grade separation.

The FDTS supports medium and high density residential around the Station provided it is integrated with and supported by community infrastructure.

The FDTS also rejects any plan to relocate the station building from its existing location.

A number of recommendations were set out in the FDTS submission concerning these items.

In response to this submission, the MPA advised that based on a study to assess the future needs of the community, both it and the City of Whittlesea were satisfied the appropriate level of community infrastructure would be provided in this area. The MPA believes the traffic modelling has used the appropriate methodology. In relation to the rail overpass the MPA stated this was not part of the DWPSP and VicRoads is the responsible authority in relation to future duplication and upgrade of Donnybrook Road. The car parking for the station will be delivered in stages to minimise the uptake of land.

The MPA did not respond to the FDTS opposition to any plan to relocate the existing station.

(iii) Discussion

The Panel believes that the more detailed planning at the development stage of the Station Precinct will deal with many of the items raised by the FDTS, including those relating to traffic and parking, and higher density development. Turning to the Donnybrook Station building, a report prepared by Opus International Consultants (Australia) Pty Ltd for Public Transport Victoria (PTV) was included in the exhibition documents. The stated purpose of this report was to provide a concept plan for the Donnybrook Station and the associated model interchange facilities. It went on to say that there was a degree of uncertainty concerning a number of aspects which would not be resolved until detailed planning was undertaken.

There was discussion in this report in relation to the provision of new platforms and where the station building could be located. It indicated however that by the time Donnybrook becomes a premium station required standards may have changed.

Although the location of the Donnybrook Railway Station was noted on Plan 5 of the DWPSP, based on submissions made to it, works associated with electrification of the line and provision of associated infrastructure are likely to be long term projects.

The Panel has noted the citation prepared by Context as part of the Whittlesea Heritage Study, and included as a Reference document in the Scheme, recommended the Heritage Overlay be applied over the Donnybrook Station. If this were to occur, the heritage significance attributed to it would be a factor in considering any future proposal for the station.

(iv) Conclusions

The Panel is satisfied the required assessments have been carried out in relation to the development that is planned to occur in the area proximate to the existing Donnybrook Rail Station.

In relation to the upgrade of the existing Donnybrook Station, this will be a future project which the Panel does not believe it is able to comment on as part of this PSP process.

11.9 Dwelling and population estimates

(i) The issue

The issue relates to the omission of identifying a residential yield in the DWPSP.

(ii) Evidence and submissions

In his submission for Mirvac, Mr Tweedie referred to the fact that the DWPSP does not identify the residential development yield average or the approximate population estimates to be achieved across the DWPSP. Mr Tweedie believed they should be included in the DWPSP.

(iii) Discussion

Under Guideline G8 'Housing' the overall average density being proposed for the PSP is to be greater than 15 dwellings per net developable hectare.

The Panel noted there was variation in the population estimates contained in the economics evidence. While it may be of interest to include the estimated population in the DWPSP, the Panel does not believe this is essential.

(iv) Conclusions

The Panel concludes that the provisions contained in the DWPSP are adequate in ascertaining the likely future population of the Precinct.

Appendix A Submitters to the Amendment

No.	Submitter
1	Mr Olivetto
2	M & J Harte
3	Mr L Dibella
4	Mr Halliday
5	Department of Education & Training
6	Mr S & Mrs A Galileos
7	Dennis Family Corporation (Donnybrook) Pty Ltd and Dennis Family Corporation (Woodstock) Pty Ltd
8	Mitchell Shire Council
9	Lavsor Enterprises Pty Ltd
10	Catholic Education Office Melbourne
11	Sports and Recreation Victoria
12	Boral Property Group Pty Ltd
13	Stockland
14	Mason Family
15	Trash Media Pty Ltd
16	EPA Victoria
17	Hume City Council
18	Friends of Donnybrook Train Station
19	Melbourne Water
20	Bus Association of Victoria
21	VicRoads
22	Mirvac
23	Merri Creek Management Committee
24	Somerton Road Garden Supplies Superannuation Fund Pty Ltd
25	Mr G Heffernan
26	Mr A Monteleone
27	Donnybrook Springs Developments (Mr B & Mrs C Monteleone and Family)
28	Department of Environment, Land, Water & Planning
29	Public Transport Victoria

30	City of Whittlesea (Informal Officer Submission)
31	APA Group
32	Merristock Pty Ltd
33	City of Whittlesea
34	Friends of Merri Creek Inc

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Metropolitan Planning Authority	Adele Patterson of Counsel and Ian Munt of Counsel, instructed by Stephen Davis, Sam Sawaya and Steve Barclay of the MPA, who called the following evidence: <ul style="list-style-type: none"> • Nick Hooper (Taylors) Planning • Nick Brisbane (Essential Economics) - Economics
City of Whittlesea	Terry Montebello and Briana Eastaugh of Maddocks Lawyers, instructed by Kara Mahoney, Team Leader Growth Area Projects, City of Whittlesea
Mitchell Shire Council	Greg Tobin, Harwood Andrew Lawyers, instructed by Liam Wilkinson, Strategic Planner, Mitchell Shire Council
Merri Creek Management Committee	Luisa Macmillan
Catholic Education Office Melbourne	Chris Wren QC
Mirvac Pty Ltd	Nick Tweedie SC and Jennifer Trehwella of Counsel, instructed by Sally Macindoe of Norton Rose Fulbright, who called the following evidence: <ul style="list-style-type: none"> • Rhys Quick (Urbis) – Economics • Mark Woodland (Echelon Town Planning) – Planning • Steve Hunt (Cardno) – Traffic • Jonathon McLean (Alluvium) - Drainage
Boral Property Group	Paul Conner of Counsel, instructed by Sally Macindoe of Norton Rose Fulbright, who called the following evidence: <ul style="list-style-type: none"> • Matthew Lee (Deep End Services) – Economics • Aaron Organ (Ecology and Heritage Partners) - Ecology
Somerton Road Garden Supplies Superannuation Fund Pty Ltd	Jason Taylor of Urban Terrain Pty Ltd
Trash Media Pty Ltd	Jason Kane of Counsel who called the following evidence: <ul style="list-style-type: none"> • Jason Black (Insight Planning Consultants) Planning
Donnybrook Springs Developments (Mr B & Mrs C Monteleone and family)	Chris Wren QC and Peter O'Farrell of Counsel, instructed by Rhodie Anderson of Rigby Cooke

	<p>Lawyers, who called evidence from:</p> <ul style="list-style-type: none"> • Malcolm Wright (Brett Lane & Associates) – Ecology: Growling Grass Frog Habitat and Water Management • Sam Ravida (Reeds Consulting) - Utility & Trunk Services • Terry Hardingham (O’Brien Traffic) Traffic Engineering • Andrew Prout (Engeny) Drainage • Michael Chappell (Pracsys Economics) Economics
Dennis Family Corporation (Donnybrook) Pty Ltd and Dennis Family Corporation (Woodstock) Pty Ltd	<p>Stuart Morris QC, instructed by Mark Bartley and James Lofting of HWL Ebsworth Lawyers, who called evidence from:</p> <ul style="list-style-type: none"> • Michael Barlow (Urbis) – Planning • Warwick Bishop (Water Technology) – Drainage <p>Expert evidence reports were filed from the following witnesses, however the witnesses were not called to appear:</p> <ul style="list-style-type: none"> • Matthew Lee (Deep End Services) - Economics • Niki Appleton (Actuarial Edge) – Acturay • John Federico (Blue Frog Design) - Engineering
Lavsor Enterprises Pty Ltd	<p>Louise Hicks of Counsel, instructed by Catriona Mahony of Soho Lawyers who called evidence from:</p> <ul style="list-style-type: none"> • Jason Black (Insight Planning Consultants) - Planning
Mr G Heffernan	Greg Heffernan
Mr L Dibella	Rebecca Scullion of Calibre Consulting
Mr A Monteleone	Anthony Monteleone
S. & A. Galileos	Sam (Charles) Galileos
Mason Family	<p>John Cicero of Best Hooper Lawyers.</p> <p>An expert evidence report was filed from the following witness, however the witness was not called to appear:</p> <ul style="list-style-type: none"> • Robert Galbraith (Galbraith & Associates)

Appendix C Document list

No.	Date	Description	Presented by
1	16/5/16	Letter from NRF Solicitors for Mirvac/Boral	MPA
2	16/5	Power point presentation	MPA
3	16/5	Submission	MPA
4	16/5	Appendices to Submission	MPA
5	16/5	I C Projects	P O'Farrell
6	16/5	Revised future Urban Structure Plan	P O'Farrell
7	16/5	Photographs (trees)	P O'Farrell
8	17/5	Extract Growth Corridor Plans (EE)	C Wren
9	17/5	Extract Future Urban Structure	C Wren
10	17/5	Melbourne Water DSS	MPA
11	19/5	GGF Northern Growth Corridor	MPA
12	19/5	Fig 49B	MPA
13	19/5	Email Education Department	MPA
14	19/5	Submission	T Montebello (Whittlesea Council)
15	19/5	Plan 12 – Street Network	T Montebello
16	19/5	MPA response to MCMC	MPA
17	19/5	Submission and attachments	G Tobin for Mitchell Shire
18 a&b	19/5	UDF Revision Plans and Text for the LTC's and LCCs	MPA
19	19/5	Revised Cross sections (A & B)	MPA
20	23/5	Opening submission	N Tweedie for Mirvac
21	23/5	URBIS review of Pracsys statistics	Quick
22	23/5	Power point presentation	S Hunt
23	23/5	Copy of Northern Growth Plan	P O'Farrell
24	23/5	Copy Table 1 Design Elements	P O'Farrell
25	23/5	Clause 56.06 WPS	P O'Farrell
26	23/5	Copy of page 4 - One mile grid report	P O'Farrell
27	23/5	Extract Growth Corridor Plan	P O'Farrell
28	24/5	Memo J McLean Review Prout evidence	J McLean

No.	Date	Description	Presented by
29	24/5	Submission	N Tweedie
30	24/5	Copy Mirvac Final submission to PSP	N Tweedie
31	24/5	MPA Safety Management Study Report	N Tweedie
32	24/5	Definition of Waterway	N Tweedie
33	24/5	Senversa Plan for Mirvac	N Tweedie
34 a & b	25/5	Email and Plan of Conservation Area 34	MPA
35	25/5	Copy of Biosis Working Doc for GGF habitat	N Tweedie
36	25/5	Submission outline	P Connor
37	25/5	Copy of DELWP letter re BCS Area 31	P Connor
38	25/5	Extracts of maps of catchments (EE; Urbis & Deepend)	C Wren
39	25/5	Extract of Context report – Post heritage	P Connor
40	25/5	Extract AHMS Report	P Connor
41	25/5	Table 3 (updated) LTC Hierarchy	MPA
42	25/5	MW Drainage Report /Water Supply (3.5.16)	MPA
43	27/5	Letter from VicRoads	MPA
44	27/5	Submission	J Taylor - Urban Terrain
45	27/5	Submission	J Kane
46	27/5	Train timetables	J Black
47	1/6	Email re CEOM site selection	C Wren
48	1/6	Memo Emergency Supplementary Evidence Prout	C Wren
49	1/6	Opening submission	C Wren
50	1/6	Email feedback re Monteleone submission (Hunter)	C Wren
51	1/6	Melbourne Water May 2016 report	MPA
52	1/6	Melbourne Water Waterway Corridors Report	C Wren
53	1/6	Network Devt Plan – Metro Rail Dec 2012	C Wren
54	1/6	OPUS – Donnybrook Stat Devt Concepts	C Wren
55	1/6	LCCI Framework Plan (Monteleone current plan)	C Wren
56	1/6	Dominion Property Group Letter to MPA	C Wren
57	1/6	Plan North-south arterials	Hardingham
58	1/6	VicRoads Working Document (Guidance for planning Networks in Growth Areas)	MPA
59	1/6	Our Roads: Connecting People (PSP Notes)	MPA

No.	Date	Description	Presented by
60	1/6	MPA Revised Plan 3 – Future Urban Structure	MPA
61	1/6	Reeds consulting Group Elevation Map – 915 Donnybrook Rd	C Wren
62	1/6	Plan (Reeds) Prepared subdivision for Monteleone land	N Tweedie
63	1/6	Memo to MPA from DELWP	MPA
64	2/6	Plan/cross sections (Reed Consultants)	S Ravida
65	2/6	Updated evidence	M Chappell
66	3/6	Melb Water Principles & Provisions for Waterways	MPA
67	3/6	Email to S Davis at MPA re GGF	MPA
68	3/6	Aerial photo of dam at GGF conservation area	MPA
69	3/6	Letter to G Daff from Afflux Consultants	N Tweedie
70	3/6	Plan by Engeny - Option 2 with amendment by DFC	M Bartley
71	3/6	Submission for Monteleone family	C Wren
72	10/6	Updated version of PSP 4A	MPA
73	10/6	Submission for DFC	S Morris
74	10/6	Plan of sites investigated by Cardno	S Morris
75	15/6	Submission	L Hicks
76	15/6	Govt. Pamphlet 'Connecting regional Victoria'	J Black
77	15/6	Submission	Ms Scullion
78	15/6	Meinhardt report for MPA	Ms Scullion
79	15/6	PPN	Ms Scullion
80	15/6	Cardno Assessment - Contamination	Ms Scullion
81	15/6	Schedule 5 UGZ - Wollert PSP	Ms Scullion
82	15/6	Submission	A Monteleone
83	15/6	Submission	G Heffernan
84	20/6	Submission	Mr Galileos
85	20/6	Submission	J Cicero
86	20/6	Fig 2A Ecology/Heritage	P Connor
87	20/6	Closing submission	T Montebello for City of Whittlesea
88a & b	20/6	Closing submission and Correction to C145 Melton PS	G Tobin for Mitchell Shire
89	20/6	Monteleone Family version of Doc 72	Monteleone Family

No.	Date	Description	Presented by
90	20/6	A Monteleone version of Doc 72	A Monteleone
91	20/6	Closing submission	A Patterson - MPA
92	20/6	Letter to MPA from A West	MPA
93	20/6	Map of revised boundary GGF 'bulge'	M Bartley
94	20/6	Tardis Heritage Report	MPA
95	20/6	Donnybrook Homestead VH Database	MPA
Documents Received Post Hearing			
96	23/06	City of Whittlesea response to Monteleone Family requested changes as outlined in Panel Document #89	T Montebello
97	27/06	Further submissions on behalf of Mirvac regarding APA pipelines	J Trehwella
98	27/06	Email from Catholic Education Office Melbourne requesting copy of Monteleone submission	C Pilatti
99	30/06	Further submissions on behalf of DFC (Donnybrook) and DFC (Woodstock) in response to Mirvac's further submissions regarding APA pipelines	M Bartley
100	5/07	Further information provided by MPA including: <ul style="list-style-type: none"> • Response to Mirvac's further submissions regarding APA pipelines • Response to Monteleone Family requested changes as outlined in Panel Hearing Doc #89 • Extracts from C187 Panel Report including Appendix E – Revised Text regarding Scattered Tree Retention in the City of Whittlesea • Copy of MPA correspondence dated 22 March 2016 to Anthony Monteleone • Letter from VicRoads dated 1 July 2016 responding issues raised by Anthony Monteleone • Copy of original submission by Anthony Monteleone dated 22 December 2015 	S Barclay
101	4/07	Catholic Education Office Melbourne response to Panel Doc #89	S Elder
102	7/07	Email from Mitchell Shire Council regarding Mirvac further submissions regarding APA pipelines	L Wilkinson
103	12/7	Email and attachment on behalf of City of Whittlesea regarding Mirvac further submissions regarding APA pipelines	T Montebello

Appendix D 'Agreed Changes' Table (Hearing Document 72)

AMENDMENT GC28 - Donnybrook / Woodstock Precinct Structure Plan

Document changes matrix with reference to relevant submissions

Version: 3.0 - MPA Conclusion Submission - June 2016

Note: where a change has been made to Plan 2 - Future Urban Structure, it is assumed that the plan change will affect all corresponding plans.

Rows highlighted in blue are additions/changes from the MPA Part A submission, that were included in the Part B submission

Rows highlighted in green are proposed changes that have occurred during the course of the Panel

Reference to	Plan Exhibits	Service Exhibits	Objectives Exhibits	Requirements Exhibits	Guidelines Exhibits	Tools Exhibits	Plan Exhibits	Figure Exhibits	Core System Exhibits	Appendix Exhibits	Exhibit(s) amended	Proposed change	Relevant Submission	Response for proposed change	
											Exhibit(s) amended	Proposed change	Relevant Submission	Response for proposed change	
Identify the Document changes												Exhibit(s) amended	Proposed change		
1	4										City stone wall along the boundary of property 7 and 8	<p>Remove the city stone wall from the plan as it no longer exists.</p> <p>The position to remove the off Plan 2 has changed as a result of further city stone wall development. This city stone wall will remain on Plan 2, with all existing city stone walls to remain labelled as "city stone wall".</p> <p>The value will be designated on Plan 5, as per the change in clause 42. The value of the particular city stone wall to "low" or the Contour height, therefore will be updated as "City Stone Wall - able to remove" (to be suitably re-anchored).</p>	12 - Bond, 21 - Melbourne Family	<p>Proposed change to provide a consistent approach with how the city stone walls identified in the Contour Report are treated, while also allowing a level of flexibility for those identified below residence standard to be retained.</p> <p>The additional proposed new requirement (ref A.25) also allows for further assessment to be considered at the permit application stage. See page 22 of MPA Part A submission for further details.</p>	
2	4						2				Legend item: "gas pipeline buffer"	Change to "gas pipeline measurement length"	22 - MWA	Consistent with MPA submission and SME	
3	4						2				gas pipeline buffer	Amend the gas pipeline measurement length to reflect the DCR measurement length and the 30m length.	21 - MPA	Consistent with MPA submission and SME	
4	4						2				legend title: "existing vegetation (landed trees (native))"	Change to: "Street trees"	7 - Bond, 22 - MWA	Provide consistency across plan 2 and 5 with state layers and appropriate legend title.	
5	8	1									"1. The Donnybrook - Woodstock Development Contributions Plan (DCP) requires development proposals to make a contribution toward infrastructure required to support the development of the Precinct."	"1. The Donnybrook - Woodstock Infrastructure Contributions Plan (ICP) requires development proposals to make a contribution toward infrastructure required to support the development of the Precinct."	7 - DFC, MPA		
6	9	11									Paragraph 5: "Guidelines express how discretion will be exercised by the Responsible Authority on certain matters that require a planning permit. If the Responsible Authority is satisfied that an application for an alternative to a guideline, stipulates the outcomes, the Responsible Authority may consider the alternative. A guideline may include or reference a plan, table or figure in the PSP."	"Guidelines express how discretion will be exercised by the Responsible Authority on certain matters that require a planning permit. If the Responsible Authority is satisfied that an application for an alternative to a guideline, stipulates the outcomes the Responsible Authority may consider the alternative. A guideline may include or reference a plan, table or figure in the PSP."	MPA		
7	9	11									Conditions must be included in a planning permit	Delete	22 - MWA		
8	9	12									"A DCP has been prepared for the adjoining Loderbrook Precinct in the City of Whittlesea, Victoria City Council and Mitchell Shire. Although a separate DCP, the Loderbrook DCP shows an infrastructure project with the Donnybrook-Woodstock DCP."	"A DCP has been prepared for the adjoining Loderbrook Precinct in the City of Whittlesea, Victoria City Council and Mitchell Shire. Although a separate DCP the Loderbrook DCP shows an infrastructure project with the Donnybrook-Woodstock ICP."	MPA		
9	7	14									"The planned English Street (POPS 2)"	"The English Street (POPS 2)"	30 - CWM		
Changes												Exhibit(s) amended	Proposed changes		
Status: Document changes												Exhibit(s) amended	Proposed changes		
10	8						3				Waterways (including basins and wetlands)	Update according to Melbourne Water final COE. An updated COE will be issued during panel.	MPA	Melbourne Water has consulted with all landowners within the precinct with the only unresolved outcome on the Melbourne Treaty property.	
11	8						3				Common Street east of Palmetto Drive to Kookaburra Drive	Downgrade from arterial to local road connector street	22 - MWA	VicRoads, MWA, Bond, DFC, and City of Whittlesea approve of the outcome, which outlines the traffic modelling and creates a good design outcome entering the Transit Centre.	
12	8						3				Re-alignment of Gunn's Gully Road and Palmetto Drive intersection to reduce the impact on bushy/steep land and the conservation area.	Adopt alignment within Bond submission	12 - Bond		
13	9						9				Key bus access street between Hayes HB and LPS	Remove the road from the plan	7 - DFC		
14	8						3				LPS	Reconfigure LPS to remove the small residential strip between the path and the heritage post contact	7 - DFC		
15	8						3				Legend item: "Heritage - post contact"	Change to: "Heritage - post contact"	7 - DFC		
16	8						3				Planned Government school in LTC2	Reduce the shape of school to make more regular and reduce shape of CAC	6 - DET, 22 - MWA		
17	8						3				Existing and proposed railway station layout	Show layout more clearly on FUS	12 - Bond		

Reference No.	Prop Exhibitory	Service Exhibitory	Objective Exhibitory	Appropriation Exhibitory	Guidance Exhibitory	Text Exhibitory	Map Exhibitory	Future Exhibitory	Other Service Exhibitory	Appendix Exhibitory	Exhibited version text	Proposed changes	Related Submissions	Rationale for proposed change
18	X										Legend item "Other multipurpose use land (DMP) contour"	add "D"	7-DFC	
19	X										Legend item "proposed station forecourt and bus interchange"	Change to "transport hub"	12-Band	
20	X										Location of the transport hub for LOC-2	Demonstrate on the PUS location of transport hub as suggested in LDF	12-Band	
21	X										Background of the Plan	Use the background of Plan 5 consistently across all plans to show the future surrounding land use	33-COW	
22	X										Local access streets	Add the key future access streets around the Donnybrook Train Station	MFA	
23	X										Hayes Hill Stakeyard Bridge over Danden Creek	Change to culvert	7-DFC	
24	X										Local Parks on Minc and Bond Land	Reconfigure Local Park locations and shapes as per Minc and Bond submissions	12-Band, 22-Minc	
25	X										Local Parks on Dennis Family Corporation (DFC) land	Reconfigure Local Park locations and shapes as per DFC submission	7-DFC	
26	X										Hayes Hill Future designation	Award subject of Hayes Hill colour to differentiate between various green colours in the legend	7-DFC	
27	X										Local access streets	Award plan to show various realignments of Local Access Streets including retaining the road between Hayes Hill and the open space	MFA, 7-DFC	
28	X											Add Locksley PSP Future Urban Structure (pink)	MFA	
29	X										Referencing Baker's welland in Conservation area	Delete	33-DEWP	
30	X										Connector Street between Patterson Drive and Northern Government School	Realign connector street to be 90 degrees to APA Gas equipment	APA	Consistent with APA submission and DMC
31	X										Temporary access road (indicative alignment)	Delete	MFA	
32	X										Legend: Residential land subject to assessment capability	Delete		
33	X										Connector Street - northern section of PSP	Realign Connector Street to sit at southern boundary of sporting reserve	9 - Mitchell Shire Council	
34	X										Patterson Drive at end beyond northern edge of PSP boundary	Designate as Temporary Access Road		
35	X										Proposed station car parking south of Donnybrook Road	Reduce car parking area		
36	X											Add English Street PSP Future Urban Structure (pink)		
37	X										Conservation areas need to be shown in their entirety	Establish conservation areas to PSP boundary to include the area covered by the G&B building	33-DEWP	
38	X										Conservation areas	Update any DEWP/Conservation approved conservation area boundary changes	MFA	
39	X											Slight amendment to the exhibited PNO to reflect the requirements for the future Plan/Change of Donnybrook Station. Changes reflect initial alignment away from VicRoads	MFA	
40	X										Revised LCP's	Ensure any revised changes to LCP's are incorporated in the Future Urban Structure	MFA	Provide consistency across the LDF and PUS
41	X	21									Various references to Locksley Train Station	Award to "Future Urban Structure Train Station"	33-PTV	
42	X	21									Include at the end of the 1st paragraph in the Vision	"The expansion of the existing Donnybrook (Cheese Farm) site as an agricultural, historical and cultural learning hub will provide new residents with connections to the history of the area"	27 - Montlake Family	Incorporates the Montlake Family's submission for the Donnybrook Springs Development of a Cultural Heritage Community Hub
Changes Document changes											Exhibited wording	Proposed changes		
43	N	NEW									New objective added to (Employment), Town Centre and Community Centre objectives	"To create an agricultural, historical and cultural learning centre at the Donnybrook (Cheese Farm) for residents to learn and engage with the history of the area."	27 - Montlake Family	Incorporates the Montlake Family's submission for the Donnybrook Springs Development of a Cultural Heritage Community Hub

Amendment	Page Exclusion	Content Exclusion	Operative Exclusion	Requirements Exclusion	Conditions Exclusion	Table Exclusion	Plan Exclusion	Figure Exclusion	Other Exclusion	System Exclusion	Excluded text/content	Proposed changes	Related submissions	Reasons for proposed change
44	10	NEW									New objectives added to Employment, Town Centres and Community Centres objectives	"Provide for non-government school sites to meet a strategically justified need for Catholic primary and secondary education and other non-government education in the area"	10 - Catholic Education Melbourne	
45	11	26									Establish an integrated and permeable transport network to encourage walking and cycling, reduce car dependency and maximize safety and connectivity for all road users	Establish an integrated and permeable transport network to encourage walking and cycling and public transport, reduce car dependency and maximize safety and connectivity for all road users	26 - PTV	
46	11	51									"Table and establish the gas network to contribute to the linear open space network"	"Table and include the gas network with appropriate landscaping to contribute to the linear open space network"	21 - APA	
Summary and Subject Document changes											Excluded content	Proposed changes		
47	10						4				Working on legend for plan 4 - "Proposed station forecast and bus interchange"	Change to "Proposed rail"	7 - DFC, 20 - MWA	
48	10						4				Colour of TWR cover (A)	Amend the colour on Plan 4 to match the legend	7 - DFC	
49	10						4				Move the wheel	Add wheel size legend line	7 - DFC, 20 - MWA	
50	10						4				Legend line "Heritage - post control"	Change to "Heritage - post control"	7 - DFC	
51	10						4				Relating text / wheel	Remove from legend	7 - DFC	
52	10						4				Legend line "Community facilities (DOP land)"	Change to "Community facilities"	20 - MWA	
53	10						4				Legend line "New arterial roads/arterial/intermediate/feeder DOP land"	Change to "New arterial roads/arterial/intermediate/feeder"	7 - DFC	
54	10						4				Derrick Creek Bike Way outside of PSP boundary	Details	MFA	
55	10						4				Proposed Station Car parking outside of PSP boundary	Details	MFA	
56	10						1				Position of the table repeated information - on the top right of the page	Details the top right portion of the table	MFA	
57	10						1				Under Regional Open Space, the Label of - Municipal Park	Change Municipal Park to Hayes Hill, and include to reserve open space. Delete regional open space from table.	MFA, 7 - DFC	
58	10						1				Include adopted density yields for the PSP that represents the density requirements		MFA, 7 - DFC	
59	10	22									Additional text within section 2.3	The PSP will include a note on the land budget stating "The area for non-government schools have been removed from the Total Developable Area (TDA) if the use of that land is subsequently for a purpose other than a non-government school, the owner of that land shall pay development contributions in accordance with the provisions of the ICP" Working in the DCP will be added identifying use and development for a non-government school are exempt from the provisions of the working	10 - Catholic Education Melbourne	
Implementation											Excluded content	Proposed changes		
11 Image, Character, Heritage, Housing Document change											Excluded content	Proposed changes		
60	14						6				Review station area to ensure appropriately designated	Additional connection interface along Denton Creek	7 - DFC	
61	14						6				400m and 50m catchments	Remove from Plan and legend	7 - DFC	
62	14						6				Heritage Places	Show heritage place on plan and legend	20 - MWA	
63	14						6				Dry stone walls	Plan 5 (Character & Housing) will designate dry stone walls with a note to "very high retention value and others will be subject for removal or reconstruction consistent with the recommendations of the Corridor Report. The weight being proposed together the dry stone walls with a typical note in Table 6 of the Corridor Report as Very High, High, Moderate High and Moderate as "dry stone walls proposed for retention" The walls with a sign/aspect identified as "low" in the Corridor Report would be identified separately on Plan 5 as able to be removed (and potentially reconstructed). Add Dry Stone Walls - proposed for retention and Dry Stone Wall - able to be removed (or potentially reconstructed)	MFA, 30 - G&K, 7 - DFC	Proposed change to provide a consistent approach with how the dry stone walls identified in the Corridor Report are treated, while also allowing a level of flexibility for those identified below moderate standard to be retained. The additional proposed new requirement (at 6.4.7.2) also allows for further assessment to be considered at the panel application stage. See page 22 of MFA Part 4 submission for further details.

Reference No.	Page Exemption	Section Exemption	Objective Exemption	Requirement Exemption	Provision Exemption	Tree Exemption	Fire Exemption	Signage Exemption	Other Exemptions	Substantive issues list	Proposed changes	Related Sub-issues	Response to proposed change
64	14					5				Existing trees to be retained and otherwise	Merged and labelled as "Screen trees"	7 - DFC, 22 - Minor	
65	14					6					Extend Interface - Conservation Area' along length of BCO area	MPs	
66	14					6				Interface - Railway, adjacent to Rolleston basin / Wetland	Delete	25 - PTY	
67	14					6				Interface - Railway, adjacent to Doreywood Hotel	Delete		
68	14					6				Interface - Conservation Area, adjacent to Danden Creek and potential Non-Government School	Delete		
69	15			81						"Street trees must be provided on both sides of all roads and streets (including laneways) at regular intervals appropriate to tree size at maturity, unless otherwise agreed by the Responsible Authority, at an average of: • 8 - 10 metres - Small Trees, • 10 - 12 metres - Medium Trees, and • 12 - 15 metres - Large Trees"	"Street trees must be provided on both sides of all roads and streets (including laneways), and to be spaced at regular intervals appropriate to tree size at maturity, unless otherwise agreed by the Responsible Authority, at an average of: • 8 - 10 metres - Small Trees, • 10 - 12 metres - Medium Trees, and • 12 - 15 metres - Large Trees"	8 - Mitchell Shire Council	
70	15			84						"Subdivision for housing is not permitted on slopes of Hayes Hill with a gradient above 1:20 (5%)"	"Subdivision for housing is not permitted on slopes of Hayes Hill with a gradient above 1:10 (10%)"	7 - DFC, 12 - Binal	
71	15			85						"Street trees should be used consistently across subdivisions and the wider Precinct to reinforce movement hierarchy and local character"	"Street trees should be used consistently across subdivisions to reinforce the local character of the area. They can be selected to provide local landscape and addition to key nodes, local town centres, park footpaths and key intersections and entrances."	8 - Mitchell Shire Council	
72	15			86						"A consistent suite of lighting and furniture should be used across neighbourhoods, appropriate to the type and role of street or public space, unless otherwise agreed by the Responsible Authority"	"A consistent suite of lighting and furniture should be used across subdivisions appropriate to the type and role of the street or public space, unless otherwise agreed by the Responsible Authority."	8 - Mitchell Shire Council	
73	15			NEW						Delete the existing RT and RB and merge them into one Requirement reading as follows:	New Requirement from merger of RT and RB "Earthworks, retaining structures and embankments must be carefully and sensitively designed to transition gradually into natural contours, and retaining walls over 1 metre must be avoided along the street edge."	7 - DFC, 12 - Binal	
74	16	3.1.2								RI1, RI2 and RI3	Move these requirements into Section 3.1.1 Image Character and Heritage	7 - DFC	
75	16	3.1.1		NEW						City stone walls identified as protected for retention on Plan 5 must be retained as part of any future development unless otherwise agreed to by the Responsible Authority after consideration of overall design response and following receipt of advice from a suitably qualified professional regarding the condition of the wall		7 - DFC, 30 - COW, 3 - D Delete	Recommended for inclusion as part of the Waikot Panel report
76	16	3.1.1		NEW						Site investigated as heritage - just contact on Plan 7 must be investigated for potential adaptive reuse, for a residential or public commercial community use		30 - COW, 3 - D Delete	
77	16	3.1.1		RE						Repeals from 2.2.4(a) 2.1.1 and renumber requirement accordingly	Subdivision design must actively respond to the landscape character throughout the precinct by siting streets, lots, open space and public spaces to retain visual character elements such as River Red Gums, stone walls, dry stone walls, heritage places and waterways to the satisfaction of the Responsible Authority	30 - COW	
78	16	3.1.1		NEW						Except with the written consent of Council, a minimum of 80 per cent of trees not given classified as Medium, Large, or Very Large (per DSE publication 'Guide for Assessment of Refused Planning Permit Applications') must be retained on each parcel for their landscape and amenity value. The retention of trees on Plan 7 will contribute to the attainment of this requirement. Where multiple contiguous parcels are owned or controlled by a single entity and planned to be developed in an integrated manner, this Requirement may be applied and met across those contiguous parcels		30 - COW	Consistent with City of Whittlesea Tree Retention Policy and the Waikot Panel Report
79	16	3.1.1		RE						Repeals from 2.2.4(a) 2.1.1 and renumber requirement accordingly	Retained River Red Gums, wind trees and significant trees must be located within the public domain including parks and street reserves, unless otherwise agreed by the Responsible Authority	30 - COW, 3 - D Delete	
80	16	3.1.1		RE						Repeals from 2.2.4(a) 2.1.1	Where trees are retained, applications for subdivision and/or development must apply Tree Protection Zones as identified within Appendix 4.6 of the Precinct Structure Plan	30 - COW, 3 - D Delete	
81	16	3.1.1		NEW						Small River Red Gum and other indigenous trees should be retained where located with other trees identified for retention		30 - COW	Consistent with City of Whittlesea Tree Retention Policy and the Waikot Panel Report

Reference No.	Pop. Estimation	Service Estimation	Objective Estimation	Repayment Estimation	Garaging Estimation	Traffic Estimation	Play Estimation	Public Estimation	Open Space Estimation	Recreation Estimation	Excluded content text	Proposed changes	Related Submissions	Response to proposed change
93	17				5/10						"A consistent landscaping theme should be developed along streets and access ways within the residential area and commercial areas. Variations in street tree species should be used to create visual cues in appropriate locations such as at the termination of view lines, key intersections, and in parks."	"A consistent landscaping theme should be developed along streets and access ways within the residential area and open public areas. Variations in street tree species should be used to create visual cues in appropriate locations such as at the termination of view lines, key intersections, and in parks."	20 - CDW	
94	NEB - 21.1											Recreate Tree Protection requirements to new Section 21.1	5 - Callie Ann Doherty, 7 - DFC	
2.2 Local Centres and Employment - Document Changes											Excluded wording	Proposed changes		
95	18						6				Purple outline of local centre on Plan 6	Change the purple outline and give the local centre a context and locality specifically to the UDF area	22 - Mhuic	The purple outline can be retained for the retail allocation of the site. The change ensures that only the UDF centre area is outlined.
96	18						6				Legend item "improved urban furniture and bus interchange"	Change to "transport hub"	12 - Boral	
97	18						6					Show on plan and on map the 400m and 500m Local Centre catchment	22 - Mhuic	
98	18						6				All Local Town Centres and Local Convenience Centres	Ensure PUS updates consistent with UDF changes are contained across all plans	14 - Gifford, Mitchell SC, & others	
99							7 & 4					Amend table 3 and 4 of the exhibited PSP as follows:	MFA	The changes to the retail allocation are consistent with the Essential Economic advice and the retail hierarchy of the PSP. It is proposed that the wording of the table be modified to be descriptive of the role and function of each centre.

Reference to Page Submitter	Table (Submitter)	Objective (Submitter)	Proposition (Submitter)	Guidance (Submitter)	Table (Submitter)	Other (Submitter)	Page (Submitter)	Cross Section (Submitter)	Appendix (Submitter)	Excluded version text	Proposed changes	Related Submitters	Rationale for proposed change																																																																	
100											<p>Table 3 - Local Town Centre Hierarchy - Donningbrook Woodstock Precinct. Note: This table includes a centre external to the Precinct area.</p> <table border="1"> <thead> <tr> <th>LOCAL TOWN CENTRE</th> <th>GROSS LAND AREA (HECTARES)</th> <th>ESTIM. FLOOR SPACE (SQM)</th> <th>COMMERCIAL FLOOR SPACE (SQM)</th> <th>LOCATION AND LAND USE</th> </tr> </thead> <tbody> <tr> <td>Locksley Principal Town Centre (External to the Precinct)</td> <td>82 ha</td> <td>80,000</td> <td>40,000</td> <td>Located in the adjacent Locksley precinct, PSP 1006. The Locksley Town Centre is a regional centre for a full range of community uses, including a major commercial centre, a hospital site and function providing the location of health, education and financial facilities as outlined in the Northern Growth Corridor Plan.</td> </tr> <tr> <td>ETC 1: Brookside Drive Local Town Centre</td> <td>8 ha</td> <td>11,000</td> <td>4,000</td> <td>Located to primarily service residents in the north and east of the Precinct. It will provide for two full-line supermarkets, a large community centre and a number of other community facilities, a state primary school, non-government secondary school, day care and other community facilities, a sporting reserve and local parks. 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Tables 3 and 4 on this page were incorrectly inserted by the MPA. The correct tables are contained in Hearing Document 41. The Panel's preferred versions are provided in Appendix F of this Panel Report.

Reference No.	Prop. Exhibitors	Senior Exhibitors	Non-senior Exhibitors	Requestor Exhibitors	Statutory Exhibitors	Date Exhibitors	Pre-Exhibitors	Future Exhibitors	Over-sites Exhibitors	Appendix Exhibitors	Excluded content list	Proposed changes	Related S2 records	Rationale for proposed change
101	38					6					Home based business	The figure is an error and will be updated to 33	22 - Minor	
102	38					6					Control residential density, measured by per hectare ratio	Amend to 10 jobs per hectare, and update figure	38 - CoW	
103	38			80							"Local town centres may be developed in the location shown on Plan 6 (Local Centres Plan) and must be consistent with the role and function guidance provided in Table 2"	"Local town centres must be developed primarily in accordance with the location shown on Plan 6 and Centre Plan, and must be consistent with the role and function guidance provided in Table 2"	3 - Callie-Lou Doherty, 7 - DFC	Provides a level of flexibility for the location of centres
104	26			90							"Subdivision, land use and development within each Local Town Centre must be generally in accordance with the relevant preliminary Town Centre Concept Plans reflected in Appendix 4.2"	"Subdivision, land use and development within each Local Town Centre must be generally in accordance with the relevant Town Centre Concept Plans and Local Town Centre Performance Criteria, attached as Appendix 4.2. Alternative concepts may be considered where it can be demonstrated that the key design elements, principles and guidelines have been achieved, to the satisfaction of the Responsible Authority."	7 - DFC	Provides a level of flexibility for alternative concepts to be considered where the key design elements along with principles and guidelines have been appropriately met
105	26			94							"Land use and development within each local town centre must have regard to the relevant design criteria for each centre as outlined in Appendix 4.2"	Delete this requirement	22 - Minor	
106	38			95							"A Local Convenience Centre may be developed in the location shown on Plan 6 (Local Centres Plan) and must be consistent with the role and function guidance provided in Table 4"	"A Local Convenience Centre must be developed primarily in accordance with the location shown on Plan 6 (Local Centres Plan) and must be consistent with the role and function guidance provided in Table 4"	3 - Callie-Lou Doherty, 7 - DFC, 22 - Minor	Provides a level of flexibility for the location of centres
107	38			95							"Subdivision, use and/or development within neighbourhood or local centres must have regard to the relevant preliminary Convenience Centre Concept Plans as Appendix 4.3"	"Subdivision, land use and development within each Local Convenience Centre must be generally in accordance with the relevant Convenience Centre Concept Plans and Local Convenience Centre Performance Criteria, attached as Appendix 4.3. Alternative concepts may be considered where it can be demonstrated that the key design elements, principles and guidelines have been achieved, to the satisfaction of the Responsible Authority."	7 - DFC	Provides a level of flexibility for alternative concepts to be considered where the key design elements along with principles and guidelines have been appropriately met
108	38			97							"Subdivision, use and/or development within Local Convenience Centres must have regard to the relevant design criteria for Neighbourhood or Local Centres Centres outlined in Appendix 4.3, as appropriate."	Delete this requirement	7 - DFC	
109	38			98							"The design of any Local Convenience Centre must: • Provide for a mix of tenancies; • Locate any existing infrastructure and/or parking in the use or centre of the site/lot in a manner that protects the visual amenity of the Precinct; • Provide outdoor integration"	"The design of Local Convenience Centres as shown on Plan 6, must be generally in accordance with Appendix 4.3 and respond appropriately to the key design elements associated with a particular centre and the principles outlined in the Local Convenience Centre Performance Criteria"	6FA, 7 - DFC	
110	26	22, 2									The below requirements also: "The following requirements apply to areas shown as retail and intensive urban on Plan 3 & 4"	Change to: "The following requirements apply to areas shown as retail and intensive urban on Plans 3, 4 & 5"	6FA, 7 - DFC	
111	38			99							"Evaluation of land uses, building design, and interface treatment in retail and intensive urban (e.g. mixed use) areas shown on Plan 3 and 4 must make a positive address to streets and minimise negative impacts on the amenity of adjacent residential areas."	"Evaluation of land uses, building design, and interface treatment in retail and intensive urban areas shown on Plan 3 and 5, must make a positive address to streets and minimise negative impacts on the amenity of adjacent residential areas. In addition to the performance criteria outlined in Appendix 4.2 and 4.3, retail and intensive urban areas must incorporate features of interest into the built form and surrounding landscape, including retention of built form elements such as building heights, use of materials, signage, shade structures, balconies, and roof elements, articulation of building facades, feature colours and materials."	7 - DFC	

Revisions to	Proposed	Justified	Objective	Regulation	Guidance	Form	Pro	Form	Other	Appendix	Existing version text	Proposed changes	Relevant Submission	Response for proposed change																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								
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area	SR01	Public	Cricket	Cricket	Northcote	SR02	Public	Cricket	Cricket	Northcote	SR03	Public	Cricket	Cricket	Northcote	SR04	Public	Cricket	Cricket	Northcote	SR05	Public	Cricket	Cricket	Northcote	SR06	Public	Cricket	Cricket	Northcote	SR07	Public	Cricket	Cricket	Northcote	SR08	Public	Cricket	Cricket	Northcote	SR09	Public	Cricket	Cricket	Northcote	SR10	Public	Cricket	Cricket	Northcote	SR11	Public	Cricket	Cricket	Northcote	SR12	Public	Cricket	Cricket	Northcote	SR13	Public	Cricket	Cricket	Northcote	SR14	Public	Cricket	Cricket	Northcote	SR15	Public	Cricket	Cricket	Northcote	SR16	Public	Cricket	Cricket	Northcote	SR17	Public	Cricket	Cricket	Northcote	SR18	Public	Cricket	Cricket	Northcote	SR19	Public	Cricket	Cricket	Northcote	SR20	Public	Cricket	Cricket	Northcote	SR21	Public	Cricket	Cricket	Northcote	SR22	Public	Cricket	Cricket	Northcote	SR23	Public	Cricket	Cricket	Northcote	SR24	Public	Cricket	Cricket	Northcote	SR25	Public	Cricket	Cricket	Northcote	SR26	Public	Cricket	Cricket	Northcote	SR27	Public	Cricket	Cricket	Northcote	SR28	Public	Cricket	Cricket	Northcote	SR29	Public	Cricket	Cricket	Northcote	SR30	Public	Cricket	Cricket	Northcote	SR31	Public	Cricket	Cricket	Northcote	SR32	Public	Cricket	Cricket	Northcote	SR33	Public	Cricket	Cricket	Northcote	SR34	Public	Cricket	Cricket	Northcote	SR35	Public	Cricket	Cricket	Northcote	SR36	Public	Cricket	Cricket	Northcote	SR37	Public	Cricket	Cricket	Northcote	SR38	Public	Cricket	Cricket	Northcote	SR39	Public	Cricket	Cricket	Northcote	SR40	Public	Cricket	Cricket	Northcote	SR41	Public	Cricket	Cricket	Northcote	SR42	Public	Cricket	Cricket	Northcote	SR43	Public	Cricket	Cricket	Northcote	SR44	Public	Cricket	Cricket	Northcote	SR45	Public	Cricket	Cricket	Northcote	SR46	Public	Cricket	Cricket	Northcote	SR47	Public	Cricket	Cricket	Northcote	SR48	Public	Cricket	Cricket	Northcote	SR49	Public	Cricket	Cricket	Northcote	SR50	Public	Cricket	Cricket	Northcote	SR51	Public	Cricket	Cricket	Northcote	SR52	Public	Cricket	Cricket	Northcote	SR53	Public	Cricket	Cricket	Northcote	SR54	Public	Cricket	Cricket	Northcote	SR55	Public	Cricket	Cricket	Northcote	SR56	Public	Cricket	Cricket	Northcote	SR57	Public	Cricket	Cricket	Northcote	SR58	Public	Cricket	Cricket	Northcote	SR59	Public	Cricket	Cricket	Northcote	SR60	Public	Cricket	Cricket	Northcote	SR61	Public	Cricket	Cricket	Northcote	SR62	Public	Cricket	Cricket	Northcote	SR63	Public	Cricket	Cricket	Northcote	SR64	Public	Cricket	Cricket	Northcote	SR65	Public	Cricket	Cricket	Northcote	SR66	Public	Cricket	Cricket	Northcote	SR67	Public	Cricket	Cricket	Northcote	SR68	Public	Cricket	Cricket	Northcote	SR69	Public	Cricket	Cricket	Northcote	SR70	Public	Cricket	Cricket	Northcote	SR71	Public	Cricket	Cricket	Northcote	SR72	Public	Cricket	Cricket	Northcote	SR73	Public	Cricket	Cricket	Northcote	SR74	Public	Cricket	Cricket	Northcote	SR75	Public	Cricket	Cricket	Northcote	SR76	Public	Cricket	Cricket	Northcote	SR77	Public	Cricket	Cricket	Northcote	SR78	Public	Cricket	Cricket	Northcote	SR79	Public	Cricket	Cricket	Northcote	SR80	Public	Cricket	Cricket	Northcote	SR81	Public	Cricket	Cricket	Northcote	SR82	Public	Cricket	Cricket	Northcote	SR83	Public	Cricket	Cricket	Northcote	SR84	Public	Cricket	Cricket	Northcote	SR85	Public	Cricket	Cricket	Northcote	SR86	Public	Cricket	Cricket	Northcote	SR87	Public	Cricket	Cricket	Northcote	SR88	Public	Cricket	Cricket	Northcote	SR89	Public	Cricket	Cricket	Northcote	SR90	Public	Cricket	Cricket	Northcote	SR91	Public	Cricket	Cricket	Northcote	SR92	Public	Cricket	Cricket	Northcote	SR93	Public	Cricket	Cricket	Northcote	SR94	Public	Cricket	Cricket	Northcote	SR95	Public	Cricket	Cricket	Northcote	SR96	Public	Cricket	Cricket	Northcote	SR97	Public	Cricket	Cricket	Northcote	SR98	Public	Cricket	Cricket	Northcote	SR99	Public	Cricket	Cricket	Northcote	SR100	Public	Cricket	Cricket	Northcote		
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133	SR										SR07 Athletics 2 x Sports grounds with pavilion	SR07 Athletics 1 x Sports ground with pavilion	8 - Mitchell Shire Council																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
134	SR										The following sporting provision relates to the update of table 5 needs to be made	SR01 3 x soccer, 6 x tennis with pavilion SR02 2 x AFL/Local, 2 x netball with pavilion SR03 2 x soccer with pavilion SR04 2 x AFL/Local, 2 x netball with pavilion SR05 2 x lawn bowls, 6 x tennis, 1 x play strike facility, 8 x netball with pavilion and 6 court outdoor recreation centre SR06 3 x rectangular sports ground	30 - CDW																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
135	SR		R08								All public landscaped areas must be designed to be robust and climatically appropriate, consistent with any local street tree or open space strategies	All public landscaped areas must be designed to be robust and climatically appropriate, consistent with any relevant Council open space strategies or street tree policy	8 - Mitchell Shire Council																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
136	SR			R10							"All parks must be located, designed and developed in accordance with the relevant description in Table 5 and any local open space strategies. The area of the park may vary as long as it remains within the guidance for the relevant type of park. Where a park is smaller than that outlined in the table, the land must be added to another park or used to create a new park in addition to those outlined in Plan 7. Where a proposed park is larger than outlined in the table it may be accepted as long as it does not result in the removal of another park, allocation in the submission of the Proposed Authority."	"All parks must be located, designed and developed in accordance with the relevant description in Table 5, and any local open space strategies. The area of the park may vary as long as it remains within the guidance for the relevant type of park. Where a park is smaller than that outlined in the table, the land must be added to another park or used to create a new park in addition to those outlined in Plan 7. Where a proposed park is larger than outlined in the table it may be accepted as long as it does not result in the removal of another park, allocation in the submission of the Proposed Authority."	11 - Sport and Recreation VIC, 22 - MVA																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
137	SR										"Provision to relocate allocated open space onto another property will not be considered"	"Provision to relocate allocated open space onto another property will only be considered with the written consent of the landowner and to the satisfaction of the Responsible Authority."	11 - Sport and Recreation VIC, 7 - OFG 22 - MVA																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
138	SR										"Any fencing of open space, whether enclosed or unenclosed, must be low scale and visually permeable to facilitate public safety and surveillance"	"Any fencing of open space, whether enclosed or unenclosed, must be low scale and visually permeable to facilitate public safety and surveillance, unless otherwise agreed by the Responsible Authority."	8 - Mitchell Shire Council																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
139	SR										"Any local parks integrated within the Crowding Green Frog Corridor Conservation Area must be located in an area identified by "positive residuals" in Plans 8-11 and must not detract from the conservation values in the Reserve, unless an alternative location is agreed, to the satisfaction of the Secretary to the Department of Environment and Primary Industries"	"Any recreational uses within the Crowding Green Frog Corridor Conservation Area must be located in an area identified for "positive residuals" in Plans 8-11 and must not detract from the conservation values in the Reserve, unless an alternative location is agreed, to the satisfaction of the Secretary to the Department of Environment, Land, Water and Planning"	7 - OFG 22 - MVA, MVA, 28 - DELWP																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
140	SR										"If parks interface with a drainage corridor, heritage site or environmental remnant vegetation, the design of that open space must demonstrate that it has integrated these relevant environmental and heritage constraints and features into the design of the park"	"If parks interface with a drainage corridor, heritage site, play field or environmental remnant vegetation, the design of that open space must demonstrate that it has integrated these relevant environmental and heritage constraints and features into the design of the park"	34 - FOMC																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									

Reference No.	Page Exclusion	Section Exclusion	Clause Exclusion	Approved Exclusion	General Exclusion	Table Exclusion	Not Excluded	Figure Exclusion	Other Section Exclusion	Appendix Exclusion	Excluded section text	Proposed change	Related Sub-sections	Reasons for proposed change
141	38			840							<p>"Further to the public open space contribution required by Clause 52.01 of the Whittlesea Planning Scheme, the provision sets out the amount of land to be contributed by each property in the Precinct and consequently where a cash contribution is required in lieu of land. All land owners must provide a public open space contribution equal to 4% of the total Developable Area (DA) upon subdivision of land in accordance with the following:</p> <ul style="list-style-type: none"> Where land is required for unencumbered open space purposes as shown on Plan 7 and specified in Table 4 and is equal to 4% of DA that land is to be transferred to Council at no cost. Where no land of less than 4% of DA is shown on Plan 7 and specified in Table 5, as required for unencumbered open space purposes, a cash contribution is to be made to Council to bring the total open space contribution to a value equal to 4% of DA of that site. Where land required for unencumbered open space purposes as shown on Plan 5 and specified in Table 5 is more than 4% of DA, Council will pay an amount equivalent to the value of the additional land being provided by that proposed development. The value of land for equalisation purposes is to be assessed as an equivalent proportion of the value of the whole of the field, in accordance with Section 10 of the Subdivision Act 1988." 	<p>The POC contribution percentage will be updated once the total location and size of local parks is determined prior to the finalisation of the POP.</p> <p>The inclusion of this requirement is also dependent on the submission of the ICP with regard to the inclusion of land for local parks.</p>	3 - Culture Env Objects, MFR	
142	38			822							<p>"Subject to being compatible with Table 5, parks and open space should contain extensive tree planting. Species selection, spacing of plants and landscaping features should be designed to prevent an increased risk of fire and facilitate ongoing emergency vehicle access to open space areas."</p>	<p>"Subject to being compatible with Table 5, parks and open space should contain extensive tree planting. Species selection, spacing of plants and landscaping features should be designed to prevent an increased risk of fire and facilitate ongoing emergency vehicle access to open space areas."</p>	MFR	
143	38			823							<p>"A proposal delivering a master plan for a local park that traverses multiple property boundaries should consult with the landowners of parcels covered by the plan to ensure an integrated design."</p>	Design guideline	7 - DFC	
144	38			826							<p>"Community facilities, schools, and active recreation reserves which are co-located should be designed to:</p> <ul style="list-style-type: none"> maximise efficiencies through the sharing of car parking and other complementary infrastructure; maximise direct access and permeability for pedestrians and cyclists through and between facilities; apply a user-centred approach to ensure these spaces are accessible, flexible, safe and inclusive to create a positive experience for community." 	<p>"Community facilities, schools, and active recreation reserves which are co-located should be designed to:</p> <ul style="list-style-type: none"> maximise efficiencies through the sharing of car parking and other complementary infrastructure; maximise direct access and permeability for pedestrians and cyclists through and between facilities; apply a user-centred approach to ensure these spaces are accessible, flexible, safe and inclusive to create a positive experience for community." 	11 - Sports and Rec Use	
145	38			829							<p>"A range of local park types with a variety of functions should be provided serving a variety of roles and functions."</p>	<p>"A range of local park types should be provided across the precinct, in accordance with the City of Whittlesea's Play Space Planning Framework and Policy, or any other policy as relevant to the Mitchell Shire Council."</p>	30 - GOLF	
146	37			827							<p>"The indicative layout of community facilities, schools, and open space as illustrated in Plan 7 may be altered to the satisfaction of the Responsible Authority."</p>	Design guideline	3 - Culture Env Objects, 22 - Minor	
147	37			828, 830							<p>Combine these guidelines into one single guideline that reads as follows:</p>	<p>"Any additional private children, medical, educational, community care infrastructure or similar facility should be located proximate to the Local Teen Centre, Local Community Centre or recreational community hub, to the satisfaction of the Responsible Authority."</p>	22 - Minor	
148	37			740							<p>"Community facilities, schools and sports fields which are co-located must be designed to:</p> <ul style="list-style-type: none"> maximise efficiencies through the sharing of car parking and other complementary infrastructure; apply a user-centred approach to ensure these spaces are accessible, flexible, safe and inclusive to create a positive experience for community." 	<p>Community facilities, schools and sports reserves which are co-located must be designed to:</p> <ul style="list-style-type: none"> maximise efficiencies through the sharing of car parking and other complementary infrastructure; apply a user-centred approach to ensure these spaces are accessible, flexible, safe and inclusive to create a positive experience for community." 	11 - Sport and Recreation Use	
148	37			740							<p>"Schools and community facilities must be designed to front, and be directly accessed from a public street with car parks located away from the main entry."</p>	<p>"Schools and community facilities must be designed to front, and be directly accessed from a public street."</p>	22 - Minor	
150	31					7					<p>LOCE: Member's Components, (6th para 2) - Separate include MD4 office within work space (15m2) does not include public toilet or kitchen facilities</p>	<p>LOCE: Member's Components, (6th para 2) - Separate include MD4 office within work space (15m2) does not include public toilet or kitchen facilities</p>	6 - Mitchell Shire Council	

Reference	Page Exhibits	Section Exhibits	Object Exhibits	Regional Exhibits	Local Exhibits	Topic Exhibits	Plan Exhibits	Figure Exhibits	Other Issues Exhibits	Appendix Exhibits	Consideration text	Proposed changes	Related Documents	Rationale for proposed change
164	38						11				Conservation Area Concept Plan - Conservation Area 25	Show Future Urban Structure land use within white areas of plan.	26 - DELWP	
27 Transport and Movement - Localised changes														
165	38						12				Left in left out shown on Plan 12	Remove all left in left out on Plan 12	7 - DFC 12 - Bond	
166	38						12				Review Key Local Access Street	Amend Key Local Access Streets as per Minor and DFC Submission	5 DFC 22 - Minor	
167	38						12				Ensure whether key local access street (conservation area) are designated taking of easement areas that affect key local access streets	MPA		
168	38						12				Additional info on plan	"Left in Left out is possible in circumstances subject to the satisfaction of the Responsible Authority and VicRoads"	7 - DFC	
169	38						12				Location of pedestrian signal along the centre of Queens Gully Road is correct	Show to be correct location as demonstrated on Plan 12	12 - Bond	
170	38						12				Making pedestrian signal	Pedestrian signal along the western portion of Queens Gully Road as shown on Plan 12 to be shown on Plan 12	MPA	
171	38						12				Roundabout south-west corner of PSP / Hayes Hill Road and Key Local Access Street	Shift roundabout to meet Key Local Access Street	MPA	
172	38						12				Legend missing key local access street (but capable)	Add new legend item as key local access street (but capable)	24 - Tweedley Road Garden Supply	
173	38						12				Legend "Station handout and bus interchange"	Legend "Transport Hub" and amend configuration of hatched area on the plan to match Plan 2 Future Urban Structure	28 - PTV	
174	38						12				Interface key local access street - rd	Amend location to describe around the retaining basin	28 - PTV	
175	38						12				Legend symbol for signalised intersection	Modify legend symbol as an rd to indicate a key intersection	30 - COW	
176	38						12					Show additional shared path on the opposite side of Darwin Creek	7 - DFC	
177	38			ROI							ROI	Reverts ROI to section 2.5.1	7 - DFC	
178	41			RII							"Streets must be constructed to property boundaries where an off-street connector is intended or indicated in the PSP, by any date or stage of development required or approved by the responsible authority"	Delink this requirement as it is repeated in staging section of PSP	22 - Water	
179	41			RII							"Where a connector street crosses a waterway on Plan 12, the developer(s) must construct a connector street bridge prior to the issue of statement of compliance for the first stage of residential subdivision on the second side of the waterway to be developed, whether or not that residential subdivision directly abuts the waterway."	"Where a connector street crosses a waterway on Plan 12, the developer(s) must, <u>prior to an agreement with the Responsible Authority</u> to construct a connector street crossing prior to the issue of statement of compliance for the first stage of residential subdivision on the second side of the waterway to be developed, whether or not that residential subdivision directly abuts the waterway."	7 - DFC	
180	41				NER						New Guidelines	"Subdivision design adjacent to the high-pressure gas pipeline corridor should ensure road crossings are at 90 degrees to the pipeline"	21 - APA	
181	41				NER						New requirement	"Temporary access roads must be delivered at the cost of the developer, to the satisfaction of the Responsible Authority"	30 - COW	
182	41				NER						New requirement	"Subdivisions of the area to the north of the PSP in the Shire of Mitchell must ensure that two access and egress points are provided to service the development, and be generally in accordance with the locations set out in the PSP"	8 - Mitchell Shire Council	This ensures the CFA requirement of 2 access points is met while not seeking to designate a specific path for a temporary access road.

Reference No	Page Footnote	Section Footnote	Diagram Footnote	Proposed Footnote	Guidance Footnote	Table Footnote	Plan Footnote	Figure Footnote	Other Issues Footnote	Appendix Footnote	Excluded content text	Proposed changes	Public Submissions	Reasons for proposed change
183	41				03						"If integrated interventions should be designed in accordance with the Victorian Growth Area Road Network Planning Guidelines & Policy Principles handbook."	All integrated interventions should be designed (as per part 10 of the Victorian document "Guidance for Planning Road Networks in Growth Areas" November 2015) as essential from road to road to the satisfaction of Victorian and the responsible authority.	MFA	
184	41				04						"Streets should be the primary interface between development and waterways. Public open space and lots with a 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 provide pedestrian and service vehicle access to those lots, to the satisfaction of Melbourne Water and the responsible authority"	"Streets should be the primary interface between development and waterways. Public open space and lots with a direct frontage may be provided as a minor component of the waterway interface. This should be in accordance with the relevant state-wide documents 4.4"	22 - Minor	
185	45				06						Where practical, integrated water management systems should be designed to: - Maximize habitat values for local flora and fauna species - Enable future remediation and treatment and re-use of stormwater - Protect and enhance (or create) wetlands, particularly within riparian areas, in relation to water quality and suitable hydrological regimes (both surface and groundwater)	Where practical, integrated water management systems should be designed to: - Maximize habitat values for local flora and fauna species - Enable future remediation and treatment and re-use of stormwater - Protect and enhance (or create) wetlands, particularly within riparian areas, in relation to water quality and suitable hydrological regimes (both surface and groundwater)	20 - DELWP	
186	47				11						"Existing above ground (B&T) electric cables should be removed and placed underground as part of the upgrade of existing roads."	Existing above ground (B&T) electric cables should be removed and placed underground as part of the above duplication of existing roads.	7 - DFC	
187	47							11			Signage intersection (non DOP funded) along Pakenham Drive	This should be shown as a pedestrian signal as shown in Plan 12	MFA	
188	47							11			Shared path (off road)	Show shared path on Plan 12 along key local access street from Pakenham Drive towards Donnybrook Lane Station	7 - DFC	
189	47							11			Legend signage intersection	Modify legend symbol so as not to indicate a T-junction	21 - CrW	
190	47							11			Legend for on-road bike lanes and shared path (off road), and shared path (off road)	Change categories to bike lane (on-road), shared path (off road), shared path (off road), bike way (off road) and update application in line with cross sections	MFA	
191	47							11			At-road road network	Ensure on road bike lane and shared path (off road) are shown only on secondary arterial roads. Ensure Primary roads have 2 way bikeway (off road) or demarcated on the cross section.	MFA	
192	47							11			For Plan 12, there are bus capable corners or streets designated around Donnybrook Station where they are agreed to be key local access streets on the PUS. This is because there is no legend item for bus capable local access street	Add legend item and designate bus capable local access streets for those appropriate to the PUS and bus transport network. Ensure the appropriate local access streets are shown as bus	7 - DFC	
193	47							11			Legend items referring to DOP or non DOP funded	Remove the legend reference to DOP non DOP funded	30 - COM	
194	47							11			Shared path along FVW easement	Show layer more clearly along the ground boundary	12 - Best	
195	47							11				Merge the layers of "pedestrian signals (DOP funded)" and "pedestrian signals (non DOP funded)" layers to one layer as "pedestrian signalling"	MFA	
196	47							11				Merge the layers of "integrated interventions (DOP funded)" and "integrated interventions (non DOP funded)" to one layer as "integrated interventions"	MFA	
197	47							11			Legend missing key local access street (bus capable)	The streets leading to Donnybrook Station and Donnybrook Station (labelled as connector road (bus capable)) Add new legend item as key local access street (bus capable)	24 - Donnybrook Road Corridor Study	PTV report for this road to be a connector street. This was listed incorrectly in previous list of changes, but represented correctly in the revised LEP's
198	47							11				The Proposed Public Transport Network (PTN) will be shown on Plan 12 as it is shown on the North Growth Corridor Plan.	7 - DFC, 22 - Minor	

Reference No.	Page Exclusion	Active Exclusion	Operative Exclusion	Requirements Exclusion	Conditions Exclusion	Table Exclusion	Plan Exclusion	Figure Exclusion	Other Exclusion	Amendment Exclusion	Excluded section text	Proposed changes	Related Sub-section	Reasons for proposed change
199	C						11					Include a proposed cycle/pedestrian link into the Locksley PSP (not IOP linked)	6 - Mitchell Shire Council	
200	B		RT1								"Substation around and abutting the Locksley Train Station must be generally in accordance with the Locksley East Local Convenience Centre - Urban Design Framework (Figure 4.3.3), to the satisfaction of the Responsible Authority and Public Transport Victoria (PTV)"	"Substation around and abutting the Locksley Train Station must respond to the key design elements for the Locksley East Local Convenience Centre (Figure 4.3.3), generally as depicted in the Locksley East Urban Design Framework"	12 - BSH	
201	A1		RT4								"Design of all streets and arterial roads must give priority to the requirements of pedestrians and cyclists by providing: • Footpaths of at least 1.5 metres on both sides of all streets and roads unless otherwise specified by the PSP. • Shared paths or bicycle paths of 3.0 metres in width where shown on Plan 12, the relevant route exclude in Appendix 4.3, or as specified by another requirement in the PSP. • Safe and convenient crossing points of connector roads and local streets at all intersections and on key design lines as well as crossing or overalls and waterways. • Safe pedestrian crossings of arterial roads at all intersections, at key design lines, and at regular intervals appropriate to the function of the road and public transport provision. • Pedestrian priority crossings on all slip lanes. • Safe and convenient transition between on- and off-road bicycle networks. All to the satisfaction of the coordinating roads authority and the Responsible Authority"	"Design of all streets and arterial roads must give priority to the requirements of pedestrians and cyclists by providing: • Safe and convenient crossing points of connector roads and local streets at all intersections and on key design lines as well as crossing or overalls and waterways. • Safe pedestrian crossings of arterial roads at all intersections, at key design lines, and at regular intervals appropriate to the function of the road and public transport provision. • Pedestrian priority crossings on all slip lanes. • Safe and convenient transition between on- and off-road bicycle networks. All to the satisfaction of the coordinating roads authority and the Responsible Authority"	7 - DFC	
202	A1		RT7								"Shared and pedestrian paths along waterways must: • be delivered by development proposals consistent with the network shown on Plan 12 • be above 1.10 year flood level with any crossing of the waterway designed to maintain hydraulic function of the waterway • be constructed to a standard that satisfies the requirements of Melbourne Water. Shared paths identified on Plan 12 are to be constructed with a concrete surface. • Where a shared path is to be delivered on one side of a waterway as outlined in Plan 12, a path is also to be delivered on the other side of the waterway but may be constructed to a lesser standard, such as crushed rock or similar granular material. All to the satisfaction of the Melbourne Water and the Responsible Authority"	"Shared and pedestrian paths along waterways must: • be delivered by development proposals consistent with the network shown on Plan 12 • be above 1.10 year flood level with any crossing of the waterway designed to maintain hydraulic function of the waterway • be constructed to a standard that satisfies the requirements of Melbourne Water. Shared paths identified on Plan 12 are to be constructed with a concrete surface. • Where a shared path is to be delivered on one side of a waterway as outlined in Plan 12, a path is also to be delivered on the other side of the waterway but may be constructed to a lesser standard, such as crushed rock or similar granular material. • Where the flow of water, all paths along waterways must be constructed with stone. All to the satisfaction of the Melbourne Water and the Responsible Authority"	7 - DFC, 8 - Mitchell Shire Council	
203	A1		NEW								Add new guideline	"Slip lanes should be provided to high pedestrian traffic areas such as town centres and schools"	31 - CSH	
12 Wastewater Management and Water Document changes														
204	A1						14				Melbourne Water DSS	Update DSS generally across plans and distinguish between natural and constructed waterway	7 - DFC, Melbourne Water MPA	
205	A1						14				Legend Item: non-paved	Add the legend item	7 - DFC	
206	A1		RZ								"Development staging must provide for the delivery of ultimate wastewater and drainage infrastructure, including stormwater quality treatment. Where this is not possible, development proposals must demonstrate how any storm solution adequately manages and treats stormwater generated from the development and how this will enable delivery of an ultimate drainage solution, to the satisfaction of Melbourne Water."	"Development staging must provide for the delivery of ultimate wastewater and drainage infrastructure, including stormwater quality treatment. Where this is not possible, development proposals must demonstrate how any storm solution adequately manages and treats stormwater generated from the development and how this will enable delivery of an ultimate drainage solution, to the satisfaction of Melbourne Water and the Responsible Authority."	31 - CSH	
207	A1						15				Roll over plan Proposed for Pipe Reserve Transfer Map	Roll over plan Proposed for Pipe Reserve Transfer Map	15 - MPA	
208	A1						15				Show 500m and 20m gas pipeline measurement length	MPA		
209	A1						15				Reduce detail on Urban Plan as per DFC submission	7 - DFC, RVM, MPA		

Reference	Page Reference	Section Reference	Objective Reference	Requirement Reference	Outcome Reference	Task Reference	Plan Reference	Topic Reference	Development Reference	Approval Reference	Existing version text	Proposed changes	Related Sub-issue	Rationale for proposed change
210	47			R08								"Delivery of underground services must be coordinated, located, and funded (including cost-sharing) to facilitate the planting of trees and other vegetation within road verges, to the satisfaction of the Responsible Authority."	22 - Minor	
211	47			R09							"All existing above ground electricity cables of less than 60kV voltage must be placed underground as part of the upgrade of existing roads."	All existing above ground electricity cables of less than 60kV voltage must be placed underground as part of the planned duplication of existing roads, including Devonport Road."	22 - Minor, 7 - DFC	
212	47			R01							"Where existing above ground electricity cables of 66kV voltage are retained along road easement, underground conductors are to be provided as part of the upgrade of these roads to allow for future undergrounding of the electricity supply."	Where existing aboveground electricity cables of 66kV voltage are retained along road easement, underground conductors designed for future undergrounding of the powerlines are to be provided as part of the installation of regulated infrastructure project provided public land is available for the conduct installation and provided that the cost of the works are funded through the ICP. Where such works are required, they need to be funded out of the contribution of both roads and the Responsible Authority."	22 - Minor, 7 - DFC	
213	47			R02							"Utilities must be placed outside any conservation areas shown on Plans 9 - 11. Utilities must be placed outside of natural waterway corridors or on the outer edges. These corridors to avoid disturbance to existing waterway values, native vegetation, significant landscape features and heritage sites, to the satisfaction of Whittlesea Water and the Responsible Authority."	"Utilities must be placed outside of conservation areas. Natural waterway corridors must be the outer edges of these corridors or the outer edges. (As utility services cannot avoid crossings or being installed within a conservation area or natural waterway corridor they must be located to avoid disturbance to existing waterway values, native vegetation, areas of strategic importance to Whittlesea Water, significant landscape features and heritage sites, to the satisfaction of the Department of Environment, Land, Water and Planning, Whittlesea Water and the Responsible Authority."	22 - Minor	
214	47			R04								Delete	7 - DFC	
215	47			R06							"Subdivision showing the APA high pressure gas transmission pipeline easement must provide for the easement detailed in Figure 5."	"Subdivision showing the APA high pressure gas transmission pipeline easement must provide for the easement detailed in the appropriate cross section in Appendix 4.4."	7 - DFC	
216	49					9						Update table 9 with MW current ICD	19 - MW	
217	49					9					Additional note below table 9		19 - MW	
218	57			R07							"Streets must be constructed to property boundaries where an easement connection is intended or indicated in the PSP by any date or stage of development required or approved by the responsible authority."	"Streets must be constructed to property boundaries where an easement connection is intended or indicated in the PSP or in relevant stage of development required or approved by the responsible authority."	7 - DFC	
219	57			R06							"Subdivision of land within the Precinct must provide and meet the total cost of delivering the following infrastructure: <ul style="list-style-type: none"> • Connector roads and local streets • Local bus stop infrastructure (where locations have been agreed in writing by Public Transport Victoria) • Landscaping of all existing and future roads and local streets • Intersection works and traffic management measures along arterial roads, connector streets and local streets (except those included in the Corridor/Waterloo Infrastructure Contributions Plan (ICP)) • Council approved fencing and landscaping (where required) along arterial roads • Local shared, pedestrian and bicycle paths along local arterial roads, connector roads, utility easements, local streets, waterways and within local parks including bridges, intersections, and barrier crossing points (except those included in the ICP) • Bicycle parking • Appropriately scaled lighting along all roads, major shared and pedestrian paths, and freewalking public open space • Basic improvements to local parks and open space (paler open space delivery below) • Local drainage system • Local street or pedestrian path crossings of waterways unless included in the ICP or outlined as the responsibility of another agency in the Precinct Infrastructure Plan • Infrastructure as required by utility service providers including water, sewerage, drainage (except where the line is funded through a Development Services Scheme), electricity, gas, and telecommunications • Construction of shared paths along waterways and public paths • Remediation and / or reconstruction of dry stone walls where required" 	"Subdivision of land within the Precinct must provide and meet the total cost of delivering the following infrastructure: <ul style="list-style-type: none"> • Connector roads and local streets • Local bus stop infrastructure (where locations have been agreed in writing by Public Transport Victoria) • Fencing along the natural resource boundary to the satisfaction of Public Transport Victoria • Landscaping of all existing and future roads and local streets • Intersection works and traffic management measures along arterial roads, connector streets, and local streets (except those included in the Corridor/Waterloo Infrastructure Contributions Plan (ICP)) • Council approved fencing and landscaping (where required) along arterial roads • Local shared, pedestrian and bicycle paths along local arterial roads, connector roads, utility easements, local streets, waterways and within local parks including bridges, intersections, and barrier crossing points (except those included in the ICP) • Bicycle parking • Appropriately scaled lighting along all roads, major shared and pedestrian paths, and freewalking public open space • Basic improvements to local parks and open space (paler open space delivery below) • Local drainage system • Local street or pedestrian path crossings of waterways unless included in the ICP or outlined as the responsibility of another agency in the Precinct Infrastructure Plan • Infrastructure as required by utility service providers including water, sewerage, drainage (except where the line is funded through a Development Services Scheme), electricity, gas, and telecommunications • Construction of shared paths along waterways and open space • Remediation and / or reconstruction of dry stone walls where required" 	7 - DFC, 22 - Minor	

Reference No	Page Exclusion	Section Exclusion	Operative Exclusion	Requirement Exclusion	Condition Exclusion	Time Exclusion	Pre-Exclusion	Time Exclusion	Other Exclusion	Agency Exclusion	Excluded content	Proposed change	Related Sub-section	Reference for proposed change																																																																																																	
232												<table border="1"> <thead> <tr> <th>Category</th> <th>Title</th> <th>Description</th> <th>Lead Agency</th> <th>Timing</th> <th>RCP</th> <th>REF NO.</th> </tr> </thead> <tbody> <tr> <td colspan="7">EDUCATION FACILITY</td> </tr> <tr> <td>School</td> <td>P-12</td> <td>Land and construction of a potential government school in Donnybrook (LCC-1)</td> <td>DET</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-6</td> <td>Land and construction of a potential government school in Donnybrook (LTC-2)</td> <td>DET</td> <td>S</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-6</td> <td>Land and construction of a potential government school in Donnybrook (LTC-3)</td> <td>DET</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-6</td> <td>Land and construction of a potential government school in Woodstock (LTC-4)</td> <td>DET</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-6</td> <td>Land and construction of a potential government school in Donnybrook (LCC-5)</td> <td>DET</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-12</td> <td>Land and construction of a potential government school in Donnybrook (LTC-2)</td> <td>DET</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-12</td> <td>Land and construction of a potential non-government school in Donnybrook (LTC-2)</td> <td>Anglican Diocesan Schools Commission</td> <td>S</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-6</td> <td>Land and construction of a potential non-government school in Donnybrook (LTC-3)</td> <td>Catholic Education Office</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-6</td> <td>Land and construction of a potential non-government school in Donnybrook (LTC-4)</td> <td>Catholic Education Office</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td>School</td> <td>P-12</td> <td>Land and construction of a potential non-government school in Donnybrook (LTC-3)</td> <td>Catholic Education Office</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> <tr> <td colspan="7">ROAD</td> </tr> <tr> <td>Temporary access</td> <td>-</td> <td>located north of the of the OMR/ES to provide secondary access land north of CA22</td> <td>CoW/Mitchell Shire</td> <td>M-L</td> <td>NO</td> <td>--</td> </tr> </tbody> </table>	Category	Title	Description	Lead Agency	Timing	RCP	REF NO.	EDUCATION FACILITY							School	P-12	Land and construction of a potential government school in Donnybrook (LCC-1)	DET	M-L	NO	--	School	P-6	Land and construction of a potential government school in Donnybrook (LTC-2)	DET	S	NO	--	School	P-6	Land and construction of a potential government school in Donnybrook (LTC-3)	DET	M-L	NO	--	School	P-6	Land and construction of a potential government school in Woodstock (LTC-4)	DET	M-L	NO	--	School	P-6	Land and construction of a potential government school in Donnybrook (LCC-5)	DET	M-L	NO	--	School	P-12	Land and construction of a potential government school in Donnybrook (LTC-2)	DET	M-L	NO	--	School	P-12	Land and construction of a potential non-government school in Donnybrook (LTC-2)	Anglican Diocesan Schools Commission	S	NO	--	School	P-6	Land and construction of a potential non-government school in Donnybrook (LTC-3)	Catholic Education Office	M-L	NO	--	School	P-6	Land and construction of a potential non-government school in Donnybrook (LTC-4)	Catholic Education Office	M-L	NO	--	School	P-12	Land and construction of a potential non-government school in Donnybrook (LTC-3)	Catholic Education Office	M-L	NO	--	ROAD							Temporary access	-	located north of the of the OMR/ES to provide secondary access land north of CA22	CoW/Mitchell Shire	M-L	NO	--	
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233	10										Bridge BR-01 does within the POP	Ensure the Main Creek crossing component of the bridge is included in the description	10 - Schedule																																																																																																		
Appendix 4.1 - Property Specific Land Budget - Document changes											Excluded content	Proposed change																																																																																																			
233	10-01										Property Specific Land Use budget will be updated more generally in line with the updates to the Future Urban Structure prior to finalisation of the POP		MX																																																																																																		
Appendix 4.2 - Local Town Centres Urban Design Frameworks - Document changes											Excluded content	Proposed change																																																																																																			
235	42-05	42									Local Town Centres - Draft Concept Plans and Design Guidelines	Review scope of the finer grain detail of these concept plans	7 - DFC, 22 - Minor																																																																																																		
236	10	42									Local Town Centres Urban Design Framework - Patterson Drive	Key change is the reconfiguration of the Government Primary School. Slight change to location of the community centre and retail area adjacent to the community centre	22 - Minor, 06 - Department of Education and Training																																																																																																		
237	70	43									Local Communities Centre Urban Design Framework - Donnybrook Fairhouse	Reconfigured the community centre to north of the local access street, retail centre location to become a proposed cultural centre and take in the cheese farm, realigned the connector to curve around a strong knoll	27 - Mitchell Family																																																																																																		
238	71	432									Donnybrook Station Local Centre Urban Design Framework	Add note: "Development facing Donnybrook Road must encourage passive surveillance and create a positive street address"	9 - Ingot Planning Consultants																																																																																																		
239	71	432									Donnybrook Station Local Centre Urban Design Framework	Add note: "Encourage higher density development along all grade use parking areas"	16 - Stanton Grant Legal																																																																																																		
240	71	432									Donnybrook Station Local Centre Urban Design Framework Legend: Heritage Open Space	Legend: Town Squares	16 - Stanton Grant Legal																																																																																																		
241	10	42									Local Communities Centre Urban Design Framework - Donnybrook Station	Key change is amend the configuration of the road alignment and train station hub	24 - Sonneton Road Garden Supplies, 33 - PTV																																																																																																		
242	72	42									Lockette Station Local Centre Urban Design Framework	Key change is the removal of passive open space	12 - Bone																																																																																																		
243	73	42									Hazel Hill Local Centre Urban Design Framework	Key Change is the reconfiguration of the local access streets around the local centre	7 - DFC																																																																																																		
244	10	42									Review title of "Design guidelines"	Change to "Performance Criteria" in heading and contents page	36 - Cull																																																																																																		
245	71	432									Meredith Local Town Centre Design Framework	Align Design Framework in line with Mitchell's submission -widen connector road to allow for a bus capable loop road -relocate the park alongside the town centre -relocate the town centre -include a shared path alongside the railway line	6 - Mitchell Shire Council																																																																																																		
246	10-05	42									Change of references from Village Centres to Town Centres in the Performance Criteria	Village Centres changed to Town Centres	36 - Cull																																																																																																		

Appendix E Revised Clause 3.3 of UGZ Schedules

Panel recommended text to replace Clause 3.3 of UGZ4 (Mitchell Shire) and Clause 3.3 of UGZ6 (City of Whittlesea)

3.3 Use or develop land for a sensitive purpose – Environmental Site Assessment

An application to develop land identified as High Risk and Medium Risk described in Table 3 below for a sensitive use (including accommodation, child care centre, kindergarten, primary school or public open space) must be accompanied by a detailed site investigation (Phase 2 assessment) conducted by a suitably qualified professional (contaminated land), of the Environmental Assessment Areas ranked as 'High Potential for Contamination' and 'Medium Potential for Contamination' in the Woodstock Precinct Structure Plan 1096, Environmental, Hydrological & Geotechnical Assessment (Meinhardt, June 2013) and Growth Areas Authority - Donnybrook Precinct Structure Plan 1067, Environmental, Hydrological & Geotechnical Assessment (Meinhardt, June 2013). The Phase 2 assessment must provide for the following information:

- Further detailed assessment of potential contaminants on the relevant land;
- Further detailed assessment of surface and subsurface water conditions and geotechnical characteristics on the relevant land and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater conditions and geology on the development and the impact of the development on surface and subsurface water; and
- An unequivocal recommendation on whether the environmental condition of the land is suitable for the proposed use/s or whether an environmental audit in accordance with Part IXD of the Environment Protection Act 1970 for all or part of the land is recommended having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.

Table 3

Address	Legal Description
1025 Donnybrook Road, Donnybrook	Lot 1 TP843230 only
895A & 895B Donnybrook Road, Donnybrook	Lot 3 PS334583
855 Donnybrook Road, Donnybrook	Lot 1 PS334583
875 Donnybrook Road, Donnybrook	Lot 2 PS334583
835 Donnybrook Road, Donnybrook	Lot 2 PS449806
905 Donnybrook Road, Donnybrook	Lot 1 TP663551
915 Donnybrook Road, Donnybrook	Lot 1 TP248727
975 Donnybrook Road, Donnybrook	Lot 1 TP444829
1085 Merriang Road, Woodstock	Lot 8 LP56455
1131 Merriang Road, Woodstock	Lot 1 LP83456
1135 Merriang Road, Woodstock	Lot 3 LP56455
1145 Merriang Road, Woodstock	Lot 2 LP99885
1165 Merriang Road, Woodstock	Lot 1 LP99885
1305 Donnybrook Road, Woodstock	Lot 2 LP130685
1285 Donnybrook Road, Woodstock	Lot 1 LP130685

Address	Legal Description
1145 Donnybrook Road, Woodstock	Lot 2 LP208748 only
1315 Merriang Road, Woodstock	Lot 2 LP123745
825 Donnybrook Road, Donnybrook	Lot 1 PS449806
845 Donnybrook Road, Donnybrook	Lot 1 TP827515
1085 Donnybrook Road, Donnybrook	Lot 1 LP77367
1025 Merriang Road, Woodstock	Lot 14 LP64456
1343-1345 Donnybrook Road, Woodstock	Lot 16 LP56455
1325 Donnybrook Road, Woodstock	Lot 17 LP56455
1035 Merriang Road, Woodstock	Lot 13 LP56455
1045 Merriang Road, Woodstock	Lot 12 LP56455
1055 Merriang Road, Woodstock	Lot 11 LP56455
1065 Merriang Road, Woodstock	Lot 10 LP56455
1075 Merriang Road, Woodstock	Lot 9 LP56455
1105 Merriang Road, Woodstock	Lot 2 LP82581
1115 Merriang Road, Woodstock	Lot 1 LP82581
1125 Merriang Road, Woodstock	Lot 2 LP83456
1265 Donnybrook Road, Woodstock	Lot 19 LP56455
1255 Donnybrook Road, Woodstock	Lot 20 LP56455
1145 Donnybrook Road, Woodstock	Lot 1 LP208748
1235 Merriang Road, Woodstock	Lot 2 TP366337 only

Appendix F Revised PSP Tables 3 and 4 (Hearing Document 41)

Panel Recommended Deletions show ~~as strike through~~

Panel Recommended Insertions show highlighted in green

Table 3 Local Town Centre Hierarchy – Donnybrook-Woodstock Precinct. Note: This table includes a centre external to the Precinct area.

PSP GUIDELINE				PSP REQUIREMENT	
LOCAL TOWN CENTRE	GROSS LAND AREA (HECTARES)	RETAIL FLOOR SPACE SQ M	COMMERCIAL FLOOR SPACE SQ M	LOCATION AND ANCILLARY USES	ROLE AND FUNCTION
Lockerbie Principal Town Centre (External to the Precinct)	40 ha	80,000	40,000 -50,000	Located in the adjacent Lockerbie precinct, PSP 1066. The Lockerbie Principal Town Centre will serve a regional role and function providing the location of higher order health, education and shopping facilities as outlined in the Northern Growth Corridor Plan.	
LTC 1: Koukoura Drive Local Town Centre	8 ha	21,500	6,200	Located to primarily service residents in the north and east of the Precinct. LTC 1 will provide for two full-line supermarkets, a discount department store, specialty retail and commercial floor space. Co-located with a state secondary school, Non-government secondary school, library and other community facilities and sporting reserve and local parks. Higher density residential and mixed use development is envisaged as part of the overall centre concept.	
LTC 2: Patterson Drive Local Town Centre	4 ha	10,000	5,500	Located to service residents in the southern, central part of the Precinct. LTC 2 will provide for two supermarkets comprising one full-line supermarket, a smaller supermarket, specialty retail and commercial floor space. Co-located with a state primary school, Non-government P-12 school, community facilities and sporting reserve and local parks. Higher density residential and mixed use development is envisaged as part of the overall centre concept.	
LTC 3: Lockerbie East Local Town Centre	2 ha	5,000	2,200	Located to service residents in the north-west of the Precinct. LTC 3 will provide for one full-line supermarket, specialty retail and commercial floor space. Co-located with a state primary school, non-government primary school, community facility and sporting reserve and local parks. Higher density residential and mixed use development is envisaged as part of the overall centre concept.	
LTC 4: Darebin Creek Local Town Centre	1 ha	2,000	500	Located to service residents in the south-west of the Precinct. LTC 4 will provide for one supermarket, specialty retail and commercial floor space. Co-located with a state primary school, Non-government P-6 school, community facilities and sporting reserve and local parks. Medium density housing development is envisaged as part of the overall centre concept.	

LTC 5: Donnybrook Station Local Town Centre	1ha	2,500	None Specified 4,500	Located adjacent to the existing Donnybrook railway station, LTC 5 provides a strategic opportunity for the development of a high density residential and mixed use centre to take advantage of the future upgrades to the station and services. A supermarket and specialty retail combined with mixed use development including commercial is envisaged for LTC 5.
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Table 4 Local Convenience Centres Hierarchy

PSP GUIDELINE				PSP REQUIREMENT
LOCAL CONVENIENCE CENTRES	GROSS LAND AREA (HECTARES)	RETAIL FLOOR SPACE SQ M	COMMERCIAL FLOOR SPACE SQ M	LOCATION AND ANCILLARY USES ROLE AND FUNCTION
LCC 1: Donnybrook Farmhouse Local Convenience Centre	0.5ha	1,500	None Specified	Located to service residents in the south-west of the Precinct and co-located with the proposed combined state primary / secondary school, community facilities and sporting reserve. LCC 1 adjoins the existing Donnybrook Farmhouse Cheese restaurant and shop. LCC 1 will serve a local convenience role and function with the provision of specialty retail.
LCC 2: Donnybrook Station Local Convenience Centre	1ha	2,500	None Specified	Located adjacent to the existing Donnybrook railway station, LCC 2 provides a strategic opportunity for the development of a high density residential and mixed use centre to take advantage of the future upgrades to the station and services. A supermarket and specialty retail combined with mixed use development including commercial is envisaged for LCC 2.
LCC 3 LCC 2: Lockerbie Station Local Convenience Centre	1.5 ha	1,000	None Specified	Located adjacent to the future Lockerbie Station railway station, LCC 3 LCC 2 provides a strategic opportunity for the development of a higher density residential and mixed use centre to take advantage of the future station and services by providing convenient access to goods and services for residents accessing the east side of the future station. Specialty retail combined with mixed use development including commercial is envisaged for LCC 3 LCC 2.
LCC 4 LCC 3: Hayes Hill Local Convenience Centre	0.5 ha	1000	None Specified	LCC 4 LCC 3 will provide access to convenience retail to service residents in the central south-east of the Precinct and to complement the community facilities, a heritage place and the Hayes Hill landscape reserve.

<p>LCC5-LCC 4: Woodlands Local Convenience Centre</p>	<p>0.5 ha</p>	<p>1,000</p>	<p>None Specified</p>	<p>Located to service residents in the north of the Precinct. Co-located with a State Primary School, community facility, sporting reserve and local parks. LCC3-LCC 4 will serve a local convenience role and function with the provision of specialty retail.</p>
<p>LCC56-LCC 5: Merri-stock Local Convenience Centre</p>	<p>0.5 ha</p>	<p>1,500</p>	<p>None Specified</p>	<p>Located to serve residents in the north of the Donnybrook Precinct. Co-located with a community facility sporting reserve and local parks. LCC3-LCC 5 will serve a local convenience role and function with the provision of specialty retail and potential for a supermarket.</p>

Appendix G Revised Text for Appendix 4.6 – Scattered Tree Retention in the City of Whittlesea

Scattered Tree Retention in the City of Whittlesea

The following guidelines apply, where appropriate, to the retention of scattered trees and may, where appropriate, be applied as conditions of planning permits.

Tree protection zones (TPZs) are exclusion zones designed to protect all trees and stags identified for retention in a development.

CALCULATING TREE PROTECTION ZONES

A Tree Protection Zone is defined by a circle or polygon, the centroid point of which is the centre point of the tree at ground level and whose radius is equal to half the height of the tree or half the crown width (whichever is the greatest) plus the tree canopy plus one metre (refer to Figure x).

The Tree Protection Zone is to be determined by a consulting arborist, to the satisfaction of the Responsible Authority.

Calculating Tree Protection Zones

Insert Figures x, y, z

AS4970 – 2009 TREE PROTECTION ZONES ON DEVELOPMENT SITES

The Tree Protection Zone as set out in this Appendix should be applied in preference to AS4970 – 2009 and/or any other tree protection zone standard/calculation.

The Tree Protection Zone as set out in this Appendix considers both the ongoing health of the tree but has also been developed to protect people, infrastructure and property (i.e. the shape considers the impact of falling limbs and delineates a pedestrian deterrent zone) whereas AS4970 – 2009 only considers the impact of works on the ongoing health of the tree.

CONDITION – TREE PROTECTION ZONES

No works are to be undertaken within a Tree Protection Zone unless:

- Council determines that the works proposed within the Tree Protection Zone will not adversely impact on the tree or damage any part of the tree including its canopy, branches, trunk and roots; or
- Council determines that the variation is required to minimise risk to the public and/or property; or
- Council otherwise consents.

All works located in or in close proximity to a Tree Protection Zone must be supervised by a suitably qualified and experienced consulting arborist.

CONDITION – WORKS WITHIN A TREE PROTECTION ZONE

With Council consent, works may encroach into a Tree Protection Zone, including (where appropriate):

- “no dig” footpaths, mulching and limited soft landscaping provided all footpaths are first pegged on site and confirmed by the responsible authority prior to construction and all works are undertaken by hand to minimise disturbance to surface roots.
- boring for services where all other alternative alignments have been investigated and determined unfeasible to the satisfaction of Council.

CONDITION – DOCUMENTATION OF WORKS WITHIN A TREE PROTECTION ZONE

All works proposed to occur within a Tree Protection Zone must be documented in the civil infrastructure drawings and landscape plans, or otherwise approved in writing, to the satisfaction of the Responsible Authority.

CONDITION – TREE PROTECTION ZONE FENCING

The Tree Protection Zone as calculated by the consulting arborist must be clearly identified on site by an appropriately qualified person.

Temporary Tree Protection Zone fencing (refer to Figure x) must be erected around the perimeter of all Tree Protection Zones and must be inspected and approved by Council prior to the commencement of any buildings, works or demolition.

Tree Protection Zone fencing must be to the satisfaction of the Responsible Authority and should comprise:

- Treated pine posts with a minimum height of 1.8 metres (total post length) at every corner or at a maximum interval of 9.0 metres. These posts must be sunk 450mm into the ground. Concrete may affect the soil pH level and must not be used to secure posts.
- Treated pine stays must be fixed to all corner posts.
- Steel star pickets with a minimum height of 1.8 metres (total picket length) must be installed between the treated pine posts at a maximum interval of 3.0 metres. These pickets must be sunk 450mm into the ground and must include high visibility safety caps.
- Ring lock wire mesh fencing with a minimum height of 1.2 metres must be securely fixed at each post with wire ties. The fence must completely enclose the tree protection zone.
- High visibility hazard marker tape must be securely fixed to the top of the ring lock mesh fencing with wire ties.
- Signage must be attached to the fence at regular intervals. Signage must read “TREE PROTECTION ZONE. NO ENTRY EXCEPT TO AUTHORISED PERSONNEL. FINES SHALL BE IMPOSED FOR REMOVAL OR DAMAGE OF FENCING AND/OR TREES” (refer to Figure x).

Tree Protection Zone fencing must be regularly maintained and may only be removed after the landscape pre-commencement meeting has occurred or until such date as is approved by the responsible authority in writing.

With the agreement of the responsible authority, Tree Protection Zone fencing may not be required where permanent fencing is introduced prior to construction. The specification of the permanent fencing must be to the satisfaction of Council.

Prior to the removal of Tree Protection Zone fencing, any required landscape planting below existing trees must be completed. The landscape planning must be designed to act as a deterrent to pedestrian access into the Tree Protection Zone, to minimise weed establishment, encourage habitat values and generally improve the visual amenity, to the satisfaction of the responsible authority. Alternative permeable mulching (eg oversized gravel) below existing trees may be considered where appropriate.

Figure x: Tree Protection Zone Fencing

Insert figure

CONDITION – ENHANCED GROWING ENVIRONMENT WITHIN TREE PROTECTION ZONES

The area within the Tree Protection Zone must be modified to enhance the growing conditions of the tree to help reduce stress or damage to the tree as a direct result of adjacent construction works to the satisfaction of the Responsible Authority.

Specific improvements may include one or a combination of the following:

- Ground surfaces within tree protection zones must be left intact and a Glyphosate based herbicide mixed in accordance with the manufacturer's recommendations used to remove any weeds or unwanted vegetation.
- The area within the exclusion zone must be mulched with wood chips to a depth of 150mm.
- If required or as directed by the responsible authority, trees are to receive supplementary water. The amount of water is to be determined by the consulting arborist and will be determined by the amount of disturbance the tree has sustained and/or climatic conditions.
- Where severing of roots (greater than 50mm in diameter) is required directly adjacent to tree protection zones, the roots must be cleanly cut. Where possible this is to be completed at the beginning of the development of the site. Roots are not to be left exposed, they are to be back filled or covered with damp hessian.

The health of retained trees must be recorded prior to the commencement of works and periodically monitored by the consulting arborist during those works to the satisfaction of the responsible authority.

CONDITION – TREE PROTECTION ZONE INDUCTION

Prior to any works commencing in proximity to a Tree Protection Zone, a consulting arborist must induct all personnel involved in construction in close proximity to and/or involved in works that may impact Tree Protection Zone.

Construction personnel must be advised:

- Unless authorised by the consulting arborist or as directed by the responsible authority, no party must enter into a tree protection zone or modify the tree protection zone fencing in any way.
- No buildings or works (including loading and unloading, storage of materials, dumping of waste, vehicle access and parking or other construction activity) are to

occur in the tree protection zone without the written consent of and to the satisfaction of the responsible authority.

- The storing or disposal of chemicals or toxic material must not be undertaken within 10 metres of any exclusion zone. Where the slope of the land suggests that these materials may drain towards an exclusion zone, the storing or disposal of these materials is strictly forbidden.
- Any trees that are to be removed next to exclusion zones are to be done so manually under the direct supervision of the consulting arborist (ie cut not pushed). Stumps are to be ground and not excavated to prevent damage to trees in close proximity.

CONDITION – TREE PROTECTION BOND

In appropriate circumstances, a Tree Protection Bond may be required as a condition of a permit for subdivision or development where existing trees are required to be retained. Such a condition may, as appropriate, include the following:

- Prior to commencement of the subdivision, a bank guarantee or other security to the satisfaction of the Responsible Authority for the total amount of \$100,000.00 (or otherwise as determined by the responsible authority) must be submitted to the Responsible Authority as security for the satisfactory observance of the conditions in relation to the Tree Protection Zones within that subdivision.
- Upon completion of any building or subdivision works to the satisfaction of the Responsible Authority, the bank guarantee or other security will be returned to the person providing the bank guarantee or security.

Where the Responsible Authority determines that a tree covered by a Tree Protection Zone has been damaged as a result of buildings and works by the developer or its contractors to an extent that it affects detrimentally the life, health and appearance of the tree or its contribution to the landscape, an amount from the security is to be paid by the developer for the purchase of trees for planting on the land or the pruning or other arboricultural works to rehabilitate and improve existing trees, all to the satisfaction of the responsible authority.

- The extent of amount of security to be forfeited is to be determined by the appointment of an independent suitably qualified person at the developer's expense.

CONDITION – HAZARD REDUCTION PRUNING

Prior to the issue of Practical Completion of the landscaping works, all trees that are to be retained must have hazard reduction pruning undertaking by a suitably qualified and experienced arborist to ensure the tree does not present an unreasonable risk. If necessary, pruning works shall include:

- Removal of all dead and diseased branches. Specifically, dead branches greater than 40mm in diameter (measured at the base of the branch) shall be removed from the canopy unless they contain hollows that are clearly being used for habitat. Due care shall be given to ensure the integrity of the tree as habitat for

native fauna is not compromised (larger material shall be left on site for its habitat value).

- Weight reduction and canopy thinning (especially for branches overhanging trafficable areas and fixed infrastructure). No live branches greater than 200 mm in diameter shall be removed from the tree without authorisation from the responsible authority. Remove no more than 20 percent of live foliage from any tree.

Removal of epiphytic plant material, wire and any attached debris/rubbish.

Prior to any pruning works being undertaken, the arborist engaged to undertake the works must arrange a site meeting with a representative from Council's Parks and Open Space Department.

All pruning works must be to approved arboricultural practices and have regard to AS4373 – 2007.

CONDITION – TREE REMOVAL

Where a tree is permitted to be removed:

- Each tree nominated for removal must be suitably marked prior to its removal and an inspection arranged with an appropriate Council Officer to verify that the tree marked accords with the permit and/or endorsed plans;
- Prior to removal, the tree to be removed shall be inspected by an appropriately qualified and experienced zoologist to determine the presence of any native animals living or nesting in the tree. Should any native animals be detected they must be caught and relocated to a site deemed appropriate by the zoologist;
- Tree removal is to be undertaken in a safe manner;
- All services either above or below ground are to be located prior to the commencement of any works;
- Stumps and any surface roots are to be ground down below ground level. Ground and chipped material to a depth of 50mm is to be removed from site at the direction of the project manager. The project manager must supply and place suitable topsoil and seed the area making certain that the reinstated ground surface is level, even and safe;
- Stumps must be removed within 14 days of the removal of a tree. All stumps not removed immediately after removal of the tree are to be paint marked with a suitable bright yellow reflective marking paint;
- Where ever possible and appropriate, native trees to be removed should be retained for use in core conservation areas for habitat purposes or reused in open space as urban art, park furniture and/or other use determined appropriate by the responsible authority;
- After a tree has been fallen, the tree must be protected from firewood harvesting via temporary fencing and signage to the satisfaction of Council until such time as the tree has been relocated for habitat or mulched;

- All timber greater than 300mm in diameter that cannot be reused as habitat, furniture or another use determined appropriate by the responsible authority shall be hammer milled and shredded for reuse as mulch within the site;

All timber less than 300mm in diameter and branch/leaf material must be shredded for reuse as mulch within the site.