

Planning and Environment Act 1987

Correction to Panel Report

Melton Planning Scheme Amendment C145

Rockbank PSP and DCP

15 June 2016

Planning and Environment Act 1987

Correction to Panel Report pursuant to Section 25 of the Act

Melton Planning Scheme Amendment C145 **Error! No text of specified style in document.**

Rockbank PSP and DCP

15 June 2016

A handwritten signature in blue ink that reads "Rodger Eade". The signature is written in a cursive, flowing style.

Rodger Eade, Chair

A handwritten signature in blue ink that reads "Michael Ballock". The signature is written in a cursive, flowing style.

Michael Ballock, Member

Amendment Summary

Amendment Summary

The Amendment	Melton Planning Scheme Amendment C145
Common Name	Rockbank PSP and DCP
Subject Site	Bounded by the Western Freeway in the north, the Outer Metropolitan Ring Road reservation in the east, Greigs Road in the south and Paynes Road in the west
Planning Authority	Metropolitan Planning Authority
Exhibition	For one month closing on 5 October 2015
Submissions	20 submissions all of which offered comments on or proposed changes to aspects of the Amendment Submitters are listed in Appendix A

Panel Process

The Panel	Rodger Eade (Chair) and Michael Ballock
Directions Hearing	Monday 14 December 2015 at Planning Panels Victoria 1 Spring Street Melbourne
Panel Hearing	29-31 March 2016 at Western BACE 222 Ferris Road, Melton and 4 and 15 April 2016 at Planning Panels Victoria, 1 Spring Street Melbourne
Site Inspections	Unaccompanied, 30 March 2016
Date of Panel Report	25 May 2016
Date of Corrections Report	15 June 2016

1 Erratum

This report is to be read in conjunction with the Melton Planning Scheme Panel Report for Amendment C145, dated 25 May 2016.

1.1 Issues raised and Panel comment

Planning Panels Victoria received an email from the Metropolitan Planning Authority (MPA) on 6 June 2016, raising a number of minor issues with the Panel Report for this Amendment, dated 25 May 2016. The MPA requested a small number of changes and corrections to the Panel Report. A further email was sent on 10 June 2016 that raised a further issue.

The issues raised by the MPA and the Panel comment on each is as follows:

(i) Section 7.2 Submissions, paragraph 5

Issue

The discussion outlines *“the including of 14.5 hectares of land owned by PTV in the net developable area”*. In fact, approximately 6.5 hectares of the 14.5 hectares landholding will be included in the net developable area, the remainder retaining the existing PUZ4 zoning. Suggested re-wording: *“... it is accepted that approximately 6.5 hectares of this land is potentially developable.”*

Panel Comment

The reference to the 14.5 hectares of PTV land is taken directly from the MPA submission which makes no reference to only 6.5 hectares of it being potentially developable. Nevertheless, the Panel accepts that the clarification sought is consistent with the net changes to the total amount of developable land in the Precinct and recommends that the text be changed accordingly.

(ii) Section 7.2 Submissions, paragraph 6, bullet point 2

Issue

The quoted construction cost for BR04 is incorrect and needs to be updated from \$23,004 to \$12,549,021.

Panel Comment

The quoted figure was taken from the exhibited DCP but the Panel accepts that this was updated at the Hearing and should be corrected as proposed by the MPA.

(iii) Section 7.3 Discussion, paragraph 10

Issue

The report quotes the \$300,536 per net developable hectare estimate provided by the MPA to the Panel and recommends that *“the final figure should not exceed this amount advised at the Hearing.”* The estimate provided by the MPA did not factor in infrastructure costing updates to 2016 dollars nor pre-empt changes to the land valuations (to be updated prior to gazettal). These factors may increase the DCP rate beyond the threshold identified by the

Panel and the report should acknowledge that using words to the effect of “... *acknowledging that land valuations and infrastructure costings will be altered to reflect 2016 dollars and may marginally increase that rate*”.

Panel comment

The wording in the Report was specifically used to give submitters assurance that adjustments to the DCP post Hearing would be limited to those proposed at the Hearing. The Panel took this approach because it was concerned about the number of projects added to the DCP during the Hearing where detailed costings had not been prepared in every instance and the Panel was of the view that the wording used was necessary to protect the interests of developer submitters. However, the Panel accepts that the post Hearing updates in land valuations and adjusting for 2016 dollar values are the norm and the MPA's proposed wording change is accepted and the text should be adjusted as proposed by the MPA.

(iv) Recommendation 3(f)

Issue

The text as per this recommendation is incomplete (i.e. missing important text) when compared to the text in section 9.5 (Recommendations) and Appendix C (the Panel recommended UGZ7).

Panel Comment

The Panel accepts that an error has been made in transferring the recommendation from Chapter 9 of the report to the Executive Summary. Recommendation 3 f) should be corrected to read:

Replace 3.5 and 4.2 in Urban Growth Zone Schedule 7 as set out in Appendix C with the following wording, respectively:

“Railway noise attenuation

An application for use or development within the ‘railway noise amenity area’ on Plan 9 of the Rockbank Precinct Structure Plan must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- **The acoustic assessment report must demonstrate compliance with the ‘Railway Street Interface’ cross-section in the Precinct Structure Plan where Plan 3 (Future Urban Structure) of the PSP shows a residential interface to the railway line.**

The acoustic assessment report must also include (as appropriate to the particular use or development):

- **An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line.**

- **Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LAeq,8h for the night period from 10pm to 6am.**
- **Recommendations for limiting the impact of railway noise on future buildings within the proposed subdivision.**
- **A design response that addresses the recommendations of the acoustic assessment including all necessary architectural noise attenuation treatments.**

All to the satisfaction of the responsible authority and Public Transport Victoria.” and

“Permit Requirement as follows:

Railway noise attenuation area

Any permit for the use or development of land, within the ‘railway noise amenity area’ on Plan 9 of the Rockbank Precinct Structure Plan must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures.

All to the satisfaction of the responsible authority and Public Transport Victoria.”

(v) Appendix C (Panel recommended version of the Urban Growth Zone Schedule 7)

Issue 1

Subclause 2.5 – Table 2 Query the wording of the first row of the ‘Use’ column. The text reads *“Dwelling where the applied zone is a Mixed Use Zone General Residential Zone 1”*. Is the wording of the text supposed to be *“Dwelling where the applied zone is a Mixed Use Zone”*? (i.e. delete General Residential Zone 1). It would be highly problematic if a permit was required for a dwelling in the General Residential Zone.

Panel Comment

This is an error and as suggested the words “General Residential Zone” should be deleted.

Issue 2

Subclause 4.4 Minor typo – second dot point should read *“In accordance with the Public Transport Guidelines for Land Use and Development...”* i.e. delete ‘Victoria’ from the title of the guidelines.

Panel Comment

Suggested change is accepted by the Panel.

Issue 3

Subclause 4.11. This subclause is a duplication of subclause 4.6 and should be deleted.

Panel comment

Suggested change is accepted by the Panel.

1.2 Revised recommendations

Having considered the above, the Panel notes that Recommendation 3 f) in its Report dated 25 May 2016 should be amended to read as follows:

Replace 3.5 and 4.2 in Urban Growth Zone Schedule 7 as set out in Appendix C with the following wording, respectively:

“Railway noise attenuation

An application for use or development within the ‘railway noise amenity area’ on Plan 9 of the Rockbank Precinct Structure Plan must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- **The acoustic assessment report must demonstrate compliance with the ‘Railway Street Interface’ cross-section in the Precinct Structure Plan where Plan 3 (Future Urban Structure) of the PSP shows a residential interface to the railway line.**

The acoustic assessment report must also include (as appropriate to the particular use or development):

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- **Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LAeq,8h for the night period from 10pm to 6am.**
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“Permit Requirement as follows:

Railway noise attenuation area

Any permit for the use or development of land, within the 'railway noise amenity area' on Plan 9 of the Rockbank Precinct Structure Plan must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures.

All to the satisfaction of the responsible authority and Public Transport Victoria."

No other recommendations are to be amended, but the minor changes to the text of the Panel Report, including the Panel recommended version of the Urban Growth Zone Schedule 7 at Appendix C, should be made as follows:

- a) Amend the second sentence in paragraph 5 of section 7.2 to read "The most significant of the changes made is the including of 14.5 hectares of land owned by PTV in the net developable area, as it is accepted that 6.5 hectares this land is potentially developable."**
- b) Amend paragraph 6, bullet point two of section 7.2 to read "*BR04 Paynes Road Rail Flyover share of land and construction costed at \$12,549,021 (construction) and \$756,293 (land). Rockbank DCP to contribute 27.5%.*"**
- c) Amend the last sentence of paragraph 10 of section 7.3 to read "*The Panel is of the view that net of the additional other projects recommended by the Panel to be included in the DCP, the final figure should not exceed this amount advised at the Hearing, acknowledging that land valuations and infrastructure costings will be altered to reflect 2016 dollars and may marginally increase that rate*".**
- d) Amend Table 2 of the Panel recommended version of the Urban Growth Zone Schedule 7 as set out in Appendix C to the Panel Report by deleting the words "*General Residential Zone 1*" from the first row of the 'Use' column.**
- e) Amend dot point two of Subclause 4.4 of the Urban Growth Zone Schedule 7 to read "*In accordance with the Public Transport Guidelines for Land Use and Development...*"**
- f) Delete sub clause 4.11 from the Urban Growth Zone Schedule 7 as set out in Appendix C to the Panel Report.**

Planning and Environment Act 1987

Panel Report

**Melton Planning Scheme Amendment C145
Rockbank PSP and DCP**

27 May 2016

Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Melton Planning Scheme Amendment C145

Rockbank PSP and DCP

27 May 2016

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Rodger Eade, Chair

A handwritten signature in blue ink, reading "Michael Ballock". The signature is written in a cursive, flowing style.

Michael Ballock, Member

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List of Abbreviations

C1Z	Commercial Zone Schedule 1
CEM	Catholic Education Melbourne
CEO	Catholic Education Office
CHMP	Cultural Heritage Management Plan
DCP	Development Contributions Plan
DCPO7	Development Contributions Plan Overlay Schedule 7
DELWP	Department of Environment, Land, Water and Planning
DSS	Development Services Scheme
EPBC	Environmental Protection and Biodiversity Conservation Act, 1999
ESA	Environmental Site Assessment
ESO	Environmental Significance Overlay
GRZ	General Residential Zone
HO	Heritage Overlay
LDRZ	Low Density Residential Zone
LSIO	Land Subject to Inundation Overlay
MPA	Metropolitan Planning Authority
MSA	Melbourne Strategic Assessment
PAO	Public Acquisition Overlay
PPN	Planning Practice Note
PSP	Precinct Structure Plan
PTV	Public Transport Victoria
PUZ	Public Use Zone
RGZ	Residential Growth Zone
UFZ	Urban Floodway Zone
UGZ	Urban Growth Zone

Overview

Amendment Summary

The Amendment	Melton Planning Scheme Amendment C145
Common Name	Rockbank PSP and DCP
Subject Site	Bounded by the Western Freeway in the north, the Outer Metropolitan Ring Road reservation in the east, Greigs Road in the south and Paynes Road in the west.
The Proponent	Metropolitan Planning Authority
Planning Authority	Metropolitan Planning Authority
Exhibition	For one month closing on 5 October 2015
Submissions	20 submissions all of which offered comments on or proposed changes to aspects of the Amendment Submitters are listed in Appendix A

Panel Process

The Panel	Rodger Eade (Chair) and Michael Ballock
Directions Hearing	14 December 2015.at Planning Panels Victoria 1 Spring Street Melbourne.
Panel Hearing	29-31 March 2016 at Western BACE 222 Ferris Road, Melton and 4 and 15 April 2016 at Planning Panels Victoria, 1 Spring Street Melbourne.
Site Inspections	30 March 2016, unaccompanied.
Appearances	See Table 1
Date of this Report	27 May 2016

Executive Summary

Amendment C145 to the Melton Planning Scheme seeks to incorporate the Rockbank Precinct Structure Plan and the Rockbank Development Contributions Plan in the Melton Planning Scheme, and apply Schedule 7 to the Urban Growth Zone to the majority of land in the precinct. The Amendment seeks to make a number of other related changes.

The Rockbank precinct comprises some 752 hectares and is located approximately 29 kilometres west of the Melbourne CBD, centred on the existing Rockbank township and railway station. The precinct is intended to be developed for urban purposes to accommodate some 22,000 new residents and supporting infrastructure. The precinct has the Western Freeway to the north and is bisected by the Melbourne to Ballarat railway line, which restricts access between the main residential areas of the precinct and the Freeway.

The Amendment enjoys strong strategic support that was not questioned by any submitter. There were however a number of issues raised by submitters who requested changes to the Amendment documentation.

A major issue considered by the Panel was the provision of road, bridge and pedestrian infrastructure, particularly the infrastructure included in the Development Contributions Plan. This included upgrading existing level crossings and the possible inclusion of a grade separated crossing of the railway line at Rockbank Road in the Development Contributions Plan.

The Melton Council requested the inclusion of a number of infrastructure items in the Development Contributions Plan, which as exhibited, proposed a levy per net developable hectare at a level which was at the upper end of the range of recent comparable levies. The Panel recommends the inclusion of a pedestrian overpass of the railway line in the Development Contributions Plan, but is of the view that including the road overpass requested by Council, although justified on traffic grounds, would result in a development levy which the Panel considers is too high.

Another significant issue addressed by the Panel was the scope and responsibility for a drainage scheme to cover parts of the existing Rockbank township. The Panel considers that Melbourne Water should be responsible for the drainage scheme and that the alternative approach suggested by Mr Neil Craigie in his evidence should be adopted.

Catholic Education Melbourne requested changes to the Precinct Structure Plan to designate the proposed non-government school site as a Catholic school. The Panel is sympathetic to the case put by Catholic Education Melbourne, but does not accept that designating specific providers in the Precinct Structure Plan is appropriate.

Further issues raised by submitters which were considered by the Panel included: the retention of more native vegetation than was initially proposed; the location and zoning for a constructed waterway; which of the residential zones should be applied in the Schedule to the Urban Growth Zone; development staging; the guidance given in the Precinct Structure Plan to the location of higher density residential development; and a number of issues related to public transport provision.

The Panel has considered all submissions made to it and based on the reasons set out in this report, makes a number of recommendations. A number of issues raised by submitters were resolved before or during the Hearing. The Panel has not generally addressed these, but accepts them as changes to the exhibited Amendment unless they are specifically addressed in recommendations below.

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

Melton Planning Scheme Amendment C145 be adopted as exhibited subject to the following:

1. Amend the Precinct Structure Plan as follows:

- a) Include the cross section of the east west connector boulevard from Rockbank Road to Troups Road North proposed by the Metropolitan Planning Authority and Illustrated as "Proposed Constructed Waterway Interface (MPA)' in Document 11 in Appendix B: Street Cross sections of the Precinct Structure Plan.
- b) Amend Table 6, ID numbers W106 and W109, to attribute responsibility for the Town Centre Drainage Scheme to Melbourne Water.
- c) Include the following note to Plan 10:

"Stormwater quality treatment assets shown on this plan are subject to confirmation through preparation of Melbourne Water Development Services Schemes and through detailed design to the satisfaction of Melbourne Water."
- d) Amend Requirement 22 to read:

"Where the responsible authority is satisfied that land shown as a school site is unlikely to be used for a school, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone. In order to satisfy the responsible authority that a site is unlikely to be used for a school, it is necessary to demonstrate that:

 - **the application for an alternative use is not premature having regard to the extent of development in the surrounding residential area, and**
 - **the school site is no longer strategically justified having regard to the provision of schools in the locality, including land not within the Precinct Structure Plan, as appropriate and**
 - **the landowner provides the responsible authority with evidence that:**
 - **genuine negotiations have been had with a range of educational providers, including the Lead Agency nominated in the Precinct Structure Plan, regarding the use of the site as a school and the sale of the site to the educational provider/s, and**

- the educational provider/s, including the Lead Agency nominated in the Precinct Structure Plan, do not intend to purchase the site, and use the site as a school."
- e) Amend Plan 7 by the addition of a note to require that the future construction of Greigs Road be undertaken in a manner that causes minimum disruption to remnant native vegetation.
- f) Amend the cross sections for Greigs Road on pages 59 and 60 to replace the proposed large tree planting with native vegetation to be retained.
- g) Amend Plan 2 to show the Heritage Overlays which now apply as a result of Amendment C100 to the Melton Planning Scheme.
- h) Amend Requirement 12 to read:

"Housing identified as 'medium density residential opportunity' on Plan 5 must be delivered at a medium density or higher, as illustrated on Plan 5 and outlined in Table 3".
- i) Include a new Guideline to read:

"Subdivision of land within a 400-metre walkable distance of community hubs illustrated on Plan 5 and designated public transport routes illustrated on Plan 9 may create a range of lot sizes suitable for the delivery of medium density housing outlined in Table 2".
- j) Amend Requirement 28 to read:

"All open space and public landscaped areas must be designed to be robust and climatically appropriate, consistent with any local street tree or open space strategies."
- k) Replace Guideline 41 with a new Requirement to read:

"Appropriately scaled lighting must be installed along all major pedestrian thoroughfares traversing public open space and along cycling networks to the satisfaction of the responsible authority."
- l) Amend Requirement 61 by deleting the words "including way finding signage".
- m) Replace Guideline 50 with a new Requirement to read:

"Staging will be determined largely by the development proposals on land within the precinct and the availability of infrastructure services. Within this context, development applications must demonstrate how the development will:

 - integrate with adjoining developments, including the timely provision of road and path connections to the extent practical
 - integrate with other developments, including the timely provision of road and path connections to the extent practical, where the proposed development does not adjoin an existing development front
 - provide sealed road access to each new allotment
 - provide open space and amenity to new residents in the early stages of the development, where relevant

- deliver any necessary trunk services extensions, including confirmation of agreed approach and timing by the relevant authority.”
 - n) Replace Requirement 54 to read:

“Visually transparent fencing along the boundary abutting the rail reserve is to be provided in accordance with VLine standards for fencing, unless an alternative treatment is appropriate to address acoustic requirements within the railway noise amenity area, to the satisfaction of Public Transport Victoria and VicTrack.”
 - o) Include a new Requirement to section 3.6.3 worded as follows:

“Subdivision design must show the location of all bus stops to the satisfaction of Public Transport Victoria.”
2. Amend the Development Contributions Plan and the Development Contributions Plan Overlay as follows:
- a) Include the Ian Cowie bridge as an infrastructure project costed at \$7,560,801 for a 4.7 metre wide bridge, and amend Table 9, the levy per net developable hectare and the Development Contributions Plan Overlay accordingly.
 - b) Replace Table 9 with a revised Table 9 which includes the following projects:
 - BR06B Paynes Road level crossing upgrade
 - BR07B Troups Road North level crossing upgrade
 - BR04 Paynes Road rail flyover
 - Undergrounding of electricity
 - Upgrade of Paynes Road.
3. Amend Schedule 7 to the Urban Growth Zone as per the Panel recommended version at Appendix C, namely:
- a) Include the changes proposed in Tabled Document 24 that are included in the Panel recommended version of the Urban Growth Zone Schedule 7 included in Appendix C.
 - b) Add Melbourne Water as a determining referral authority (as per clause 2.10 of the Panel recommended version at Appendix C) within the schedule to clause 66.04.
 - c) Replace Clause 32.07 – Residential Growth Zone 1 with Clause 32.08 – General Residential Zone 1 in the Applied zone provisions in Table 1 of Schedule 7 to the Urban Growth Zone.
 - d) Add ‘higher density residential’ to the Land use/development section of Table 1 of Schedule 7 to the Urban Growth Zone and the applied zone provisions as Clause 32.07 – Residential Growth Zone 1 Zone.
 - e) Amend the preamble to Clause 3.3 to read:

“Prior to the intensification of an existing sensitive use, the introduction of a new sensitive use or the certification of a Plan of Subdivision, or a stage of subdivision, under the Subdivision Act 1988, the

recommendations of the Phase 2 Environmental Site Assessment lodged with the application, must be carried out to the satisfaction of the responsible authority, along with any further requirements made by the responsible authority after having regard to the guidance set out in the General Practice Note on Potentially Contaminated Land June 2005 (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.”

- f) Replace clause 3.5 and clause 4.2, respectively, with the following wording:

“Railway noise attenuation

- The acoustic assessment report must demonstrate compliance with the ‘Railway Street Interface’ cross-section in the PSP where Plan 3 (Future Urban Structure) of the PSP shows a residential interface to the railway line.
- An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line.
- Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LA_{max} and 40 dB LA_{eq,8h} for the night period from 10pm to 6am.
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“Permit Requirement as follows:

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Any permit for the use or development of land within the ‘railway noise amenity area’ on Plan 9 of the Rockbank Precinct Structure Plan must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures.

All to the satisfaction of the responsible authority and Public Transport Victoria.”

1 Introduction

1.1 Panel process

Melton Planning Scheme Amendment C145 (the Amendment) was prepared by the Metropolitan Planning Authority (MPA) as planning authority. As exhibited, the Amendment proposes to incorporate the Rockbank Precinct Structure Plan (PSP) and the Rockbank Development Contributions Plan (DCP) in the Melton Planning Scheme and make a number of other related changes as detailed in section 1.2.

The Amendment was prepared by the MPA at the request of the Melton City Council, PEET and the Goldfields Group, and was authorised by the Department of Environment, Land, Water and Planning (DELWP) under a standing authorisation for the MPA to prepare amendments involving PSPs.

The MPA referred submissions raising unresolved issues to a Panel. As a result, a Panel was appointed under delegation from the Minister for Planning on 18 November 2015 to consider the Amendment. The Panel comprised Rodger Eade (Chair), and Michael Ballock.

Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Metropolitan Planning Authority	Mr Andrew Walker of Counsel, assisted by Mr Nat Anson, Structure Planning Manager, of the MPA
Melton City Council	Mr Greg Tobin of Harwood Andrews, assisted by Ms Laura-Jo Mellan, Manager Strategy and Environment, Ms Katerina Barclay, Senior Strategic Planner and Ms Kelly Archibald Coordinator, City Strategy, Melton City Council, who called the following expert witnesses: <ul style="list-style-type: none"> - Mr Stuart McGurn, Planner, of Urbis - Mr Stephen Pelosi, Traffic Engineer, of Movendo - Mr Peter Gill, Quantity Surveyor, of WT Partnership - Mr Neil Craigie, Drainage Engineer, of Neil Craigie Pty Ltd.
Melbourne Water	Mr Aaron Dowling, Development Engineer assisted by Mr Michael Prior, Development Services Planner
Peet Rockbank Pty Ltd	Ms Joanne Lardner of Counsel, instructed by Ms Judith Perlstein of Norton Rose Fulbright, who called the following expert witness: <ul style="list-style-type: none"> - Mr Jason Black, Planner, of Insight Planning.
Goldfields Living RB Pty Ltd	Mr Nick Sutton of Planning and Property Partners, assisted by Ms Robyn Lukstin of Verve Projects, who called the following expert witness: <ul style="list-style-type: none"> - Mr Jason Walsh, Traffic Engineer, of Traffix Pty Ltd.

Catholic Education Melbourne	Mr Chris Wren QC assisted by Ms Carol Pilatti of Catholic Education Melbourne, who called the following expert witnesses: <ul style="list-style-type: none"> - Dr Patrick Love, Manager Planning of Catholic Education Melbourne - Mr Dermot Cannon, Manager Property Services, Catholic Archdiocese of Melbourne.
Woodlea	Ms Sarah McQuillen of Echelon Planning
Mr Andrew Booth	

1.2 The proposal

(i) The subject area

The subject area to which the Amendment applies is approximately 752 hectares, located 29 kilometres to the west of the Melbourne CBD. It has a net developable area of approximately 460 hectares. It is bounded by the Western Freeway and the existing Rockbank township in the north, the future Outer Metropolitan Ring Road reservation to the east, Greigs Road to the south and Paynes Road to the west. The subject site includes the existing Rockbank Railway station. Apart from the Rockbank township, the area is essentially rural and used mainly for farming and related purposes. The terrain is essentially flat. The subject area is shown in Figure 1.

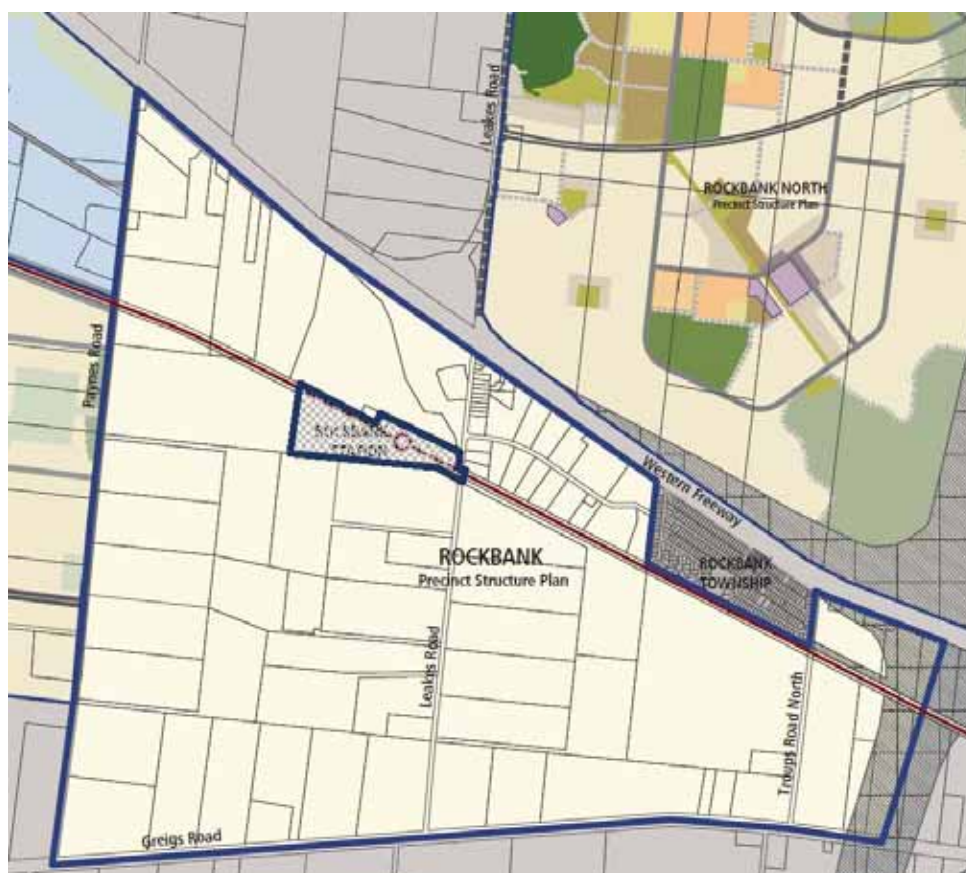


Figure 1 Rockbank Precinct Structure Plan area

(ii) Amendment description

The Amendment proposes to:

- **insert Schedule 7 to Clause 37.07 Urban Growth Zone (UGZ) into the Melton Planning Scheme and rezone land within the amendment area to UGZ Schedule 7 (UGZ7)**
- rezone land within the amendment area from Low Density Residential Zone (LDRZ) to UGZ7
- rezone land within the amendment area from Public Park and Recreation Zone to UGZ7
- rezone land within the amendment area from Public Use Zone Schedule 4 (PUZ4) to UGZ7
- rezone land within the amendment area from Urban Floodway Zone (UFZ) to UGZ7
- insert a new Schedule 7 to Clause 45.06 Development Contributions Plan Overlay (DCPO) and apply the DCPO Schedule 7 (DCPO7) to land zoned UGZ7 within the amendment area
- apply the Land Subject to Inundation Overlay (LSIO) to part of the land within the amendment area
- delete part of the Environmental Significance Overlay Schedule 1 (ESO1) 259-305 Paynes Road, Rockbank
- amend the Schedule to Clause 52.01 to provide for passive open space contributions for land within the amendment area
- amend the Schedule to Clause 52.17 to identify native vegetation removal exempt from requiring a planning permit
- amend the Schedule to Clause 66.04 to require referrals for planning permit applications in the Rockbank Major Town Centre to the Growth Areas Authority
- amend the Schedule to Clause 81.01 to include the new incorporated documents titled *“Rockbank Precinct Structure Plan”* and *“Rockbank Development Contributions Plan”*.

(iii) Purpose of the Amendment

The purpose of the Amendment is to facilitate urban development in the precinct including the development of approximately 7,930 dwellings, the Rockbank Major Town Centre, approximately 119 hectares of open space and a range of community facilities. The proposed urban structure for the Rockbank precinct is as set out in Figure 2.



Figure 2 Future urban structure of Rockbank

1.3 Issues dealt with in this report

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

A significant number of the issues raised in submissions were resolved outside the formal hearing process, as part of one of three processes:

1. The resolution process undertaken between the Directions Hearing and the Hearing as described in section 1.4.
2. As a result of further discussions either at the Hearing or undertaken during the Hearing but outside formal Hearing processes.
3. Between the last main Hearing day of 4 April 2016 and the reconvening of the Hearing on 15 April 2016.

This report concentrates on the remaining unresolved issues. The Panel does not comment on the issues resolved, nor formally endorse the way in which issues were resolved. The Panel is however satisfied that the processes undertaken by the MPA were effective in resolving issues to the satisfaction of the relevant submitters, and that the revised Amendment documentation satisfactorily reflects the resolutions reached.

This report is structured in such a way that key issues raised by more than one submitter are included in a chapter dedicated to each of those issues. All other issues are addressed in

two chapters, the first dealing with issues raised by Melton City Council which remained unresolved and the other dealing with other unresolved issues.

This report deals with the issues under the following headings:

- Strategic planning context
- Traffic, road and pedestrian issues:
 - the east-west connector boulevard
 - pedestrian overpass of the railway line
 - pedestrian overpass of the Western Freeway
 - Rockbank Road rail overpass
- Drainage issues
 - Rockbank township
 - Urban Floodway Zone on Peet and Goldfields land
- Non-government schools
 - designation within the PSP
 - Requirement 22
- Retention of native vegetation
- Development Contributions Plan issues
- Unresolved issues raised by Council
 - use of applied zone
 - Paynes Road wetland area
 - dry stone walls
 - R12/R15 and higher density development
 - inclusion of further requirements in the PSP
 - referral triggers in activity centres
 - sensitive land uses
 - development staging
- Other unresolved issues
 - railway noise issues
 - location of bus stops
 - other issues raised by Goldfields
 - Woodlea submission.

2 Strategic planning context

The MPA provided a response to *Ministerial Direction 11 (Strategic Assessment of Amendments)* as part of the exhibited Explanatory Report.

The Panel has reviewed the policy context of the Amendment and made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

The MPA submitted that the Amendment is supported by the following clauses in the State Planning Policy Framework:

Clause 11 Settlement – The Amendment incorporates a PSP and a DCP. The plans set out an orderly structure for development of the precinct including the location and function of a major town centre, taking into account the existing and planned network of centres in the region, bringing zoned land supply to the market, providing land with good proximity to existing and planned amenities and services, and infrastructure.

Clause 12 Environmental and landscape values – Offsets for vegetation removal and habitat areas for nationally and state significant species will be provided in accordance with the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* approval for urban development in Melbourne’s Growth Areas (EPBC approval).

Clause 13 Environmental risks – Where assessment of potential contamination on future residential and school land has not already been undertaken, further assessment is required and remediation of any residual contamination from farming is to be managed through conventional permit conditions.

A Phase 2 Environmental Site Assessment (ESA) will be required to be undertaken for properties 1350-1360 Leakes Road, Rockbank and 520-556 Leakes Road, Rockbank. Any recommendations from this report will be required to be implemented through a permit condition (via condition in the UGZ7) to the satisfaction of the responsible authority.

The recommendations of the Phase 2 ESA (prepared by SKM, dated March 2014) for 1195 Leakes Road, Rockbank will be required to be implemented through a permit condition (via condition in the UGZ7) to the satisfaction of the responsible authority.

The recommendations of the Phase 2 ESA (prepared by Atma Environmental, dated March 2010) for 22 Troups Road and 104 Troups Road, Rockbank will be required to be implemented through a permit condition (via condition in the UGZ7) to the satisfaction of the responsible authority.

An assessment of the potential impacts of the Nevas Chicken Farm has been undertaken and it is considered that the farm is located a suitable distance from the precinct to avoid the need for any additional buffers inside the precinct.

Bushfire risk in the precinct is currently managed through the *Building Regulations 2006*, however the Amendment requires site management during construction to minimise the potential spread of any bushfire through maintaining land in a 'low fire threat' state.

Clause 16 Housing – Housing in the precinct will be fully serviced and adjacent to an excellent range of services and transport facilities. New residents will have access to existing services and employment opportunities in the community in adjacent developed neighbourhoods, and through provision of new infrastructure in the precinct. The PSP sets out provisions to facilitate a range of potential housing types and densities. The full range of housing types, sizes and configurations may establish in large areas of the precinct without the need for a land use permit.

Clause 17 Economic Development – The amendment provides for a major town centre to provide localised employment opportunities within the precinct and surrounding future precincts.

Clause 18 Transport – The precinct is strongly integrated with the existing and planned arterial road network and Principal Public Transport Network (PPTN). The proposed road and trail networks provide a robust structure for traffic and transport movement within and through the precinct. The realignment of Leakes Road will improve the road network with regard to the Outer Metropolitan Ring road (OMR), and will improve the function of the railway station and major town centre.

Clause 19 Infrastructure – A comprehensive DCP has been prepared for the precinct. The Amendment provides the strategic basis for the DCP including roads, bicycle paths and open space. Water and sewer can be connected into the precinct from adjoining precincts, and drainage services will be upgraded as part of the development of the precinct through the provision of wetlands / retarding basins and drainage corridors.

(ii) Local Planning Policy Framework

The MPA submitted that the Amendment supports the following local planning objectives:

Municipal Strategic Statement

Clause 21.03 Planning Visions and Objectives sets out Council's vision for the municipality, and key land use planning objectives for residential land, sustainable environment, employment, retailing, transport and movement, rural land use and areas of historical, cultural and environmental significance.

The PSP seeks to achieve the vision for the municipality through facilitating:

- an upgrade to the Rockbank Railway Station
- a major town centre and community hubs, which comprise a mix of retail, community facilities, and open space networks
- a mixture of local parks and sporting fields which will be easily accessible to residents via pedestrian/cycle paths and roads
- a series of drainage corridors that can provide a passive recreation function as well as serving drainage needs.

Local Planning Policy Framework

The Amendment responds to the following local policies:

Clause 22.01 Residential land use

Clause 22.03 Recreation and open space networks

Clause 22.04 Urban development

Clause 22.05 Employment

Clause 22.06 Retailing

Clause 22.07 Transport and movement.

(iii) Other planning strategies or policies used in formulating the Amendment

Growth Framework Plan

The Rockbank PSP is in an area designated for future urban development in the Western Growth Corridor in the *Growth Corridor Plans, 2012*.

2.2 Planning scheme provisions

(i) Zones

The land is currently in a number of zones. The existing Rockbank township is mainly in the General Residential Zone (GRZ) with some Low Density Residential Zone (LDRZ) to the immediate west of the township. The remainder of the land in the PSP area is predominantly in the Urban Growth Zone (UGZ), with small areas in the Urban Floodway Zone (UFZ) and the Public Use Zone (PUZ) in the Rockbank Station precinct.

The Amendment proposes to apply UGZ Schedule 7 to all of the land in the precinct with the exception of the Rockbank township and the Rockbank railway station. The township and the railway station will remain in their current zones.

(ii) Overlays

ESO1 applies to a parcel of land to the west of the Rockbank station.

The Amendment proposes to apply the following Overlays:

- DCPO7 to all land proposed to be zoned UGZ7
- LSIO to part of the land in the PSP area

The Amendment proposes to delete the ESO1 from the land at 259-305 Paynes Road, Rockbank.

2.3 Ministerial Directions

The MPA submitted that the Amendment meets the relevant requirements of the following Ministerial Directions:

Direction No 1 Potentially Contaminated Land

A desktop Environmental, Hydrogeological and Geotechnical Site Assessment was carried out for the precinct (prepared by SKM, September 2013). The report identified that the land

has been predominately used for agricultural purposes, and that there is generally a low potential for contamination across the precinct.

Four properties, (24, 73, 81 and 101) were identified as having medium to high potential for contamination (the addresses for these properties are 1350-1360 Leakes Road, Rockbank, 520-556 Greigs Road, Rockbank, 1195 Leakes Road, Rockbank, and 22 and 104 Troups Road, Rockbank). A Phase 2 ESA was recommended to be undertaken for these properties to determine the extent of contamination and any remediation works.

Peet Ltd subsequently provided evidence of previous testing carried out by Atma Environmental at 22 and 104 Troups Road, Rockbank (property 81), satisfactorily removing the need for further testing to be carried out. A condition is provided within the UGZ7 requiring the recommendations of the Atma Environmental assessment to be carried out to the satisfaction of the responsible authority prior to certification of any plan of subdivision for the land.

Access to carry out Phase 2 testing at 1350-1360 Leakes Road, Rockbank and 520-556 Greigs Road, Rockbank (properties 73 and 101) was unavailable. Therefore, the UGZ7 includes an application requirement that a Phase 2 ESA be carried out as part of any application for subdivision, use or development of these properties. Any recommendations of this Phase 2 assessment will be required to be carried out via a condition in the UGZ7.

A Phase 2 ESA was prepared by SKM, March 2014, for 1195 Leakes Road, Rockbank (property 24). The primary contamination risk for this property arises from an extensive amount of miscellaneous items accumulated on the site. The report recommends that prior to any development on the site, a range of additional assessments should be undertaken. The UGZ7 includes a condition requiring the recommendations of the SKM Phase 2 environmental assessment to be carried out to the satisfaction of the responsible authority prior to certification of any plan of subdivision for the land.

Properties not mentioned above were assessed as having low to medium potential for contamination and therefore no further assessments are considered necessary.

Direction No 9 Metropolitan Strategy

The Amendment implements the growth area elements of the Metropolitan Strategy. The Amendment provides for fully serviced new urban neighbourhoods in a designated growth area. The following initiatives of *Plan Melbourne* are relevant:

Initiative 1.5.3 – Support the planning of other activity centres

Initiative 1.5.4 – Accelerate investment in Melbourne’s growth areas to increase local access to employment

Initiative 2.1.1 – Apply the reformed residential zones

Initiative 2.1.4 – Develop more diverse housing in growth areas

Initiative 2.2.4 – Increase housing choice within walkable distance of railway stations in the growth areas

Initiative 3.3.1 – Improve roads in growth areas and outer suburbs

Initiative 3.3.2 – Improve outer-suburban rail and bus networks

Initiative 4.1.1 – Support a network of vibrant neighbourhood centres

Initiative 4.1.2 – Support local governments to plan and manage their neighbourhoods

Initiative 4.3.1 – Implement design guidelines to promote walking and cycling neighbourhoods for healthy living

Initiative 4.4.2 – A coordinated approach to the delivery of Education, Health, Recreation and Cultural Facilities

Initiative 4.5.2 – Provide new neighbourhood parks and open space

Initiative 5.1.2 – Ensure settlement planning in growth areas and peri-urban areas responds to natural hazards

Initiative 5.2.1 – Increase the protection and restoration of biodiversity areas

Initiative 5.2.2 – Protect the values of our waterways

Initiative 5.4.1 – Integrate noise and air quality guidelines into land use and transport planning provisions

Initiative 7.3.1 – Increase the productivity of the Victorian economy by improving the utilisation of existing and proposed state infrastructure.

Direction No 11 – Strategic Assessment of Amendments

The Amendment is consistent with *Ministerial Direction 11 (Strategic Assessment of Amendments)* and has been assessed against these Guidelines in the exhibited Explanatory Report.

Direction No 12 – Urban Growth Areas

Part 6 of Ministerial Direction 12 requires that when preparing an amendment to introduce or change provisions in a schedule to the UGZ, a planning authority must evaluate and include in the explanatory report a discussion of a number of matters. These are listed and discussed in the exhibited Explanatory Report.

The Form and Content of Planning Schemes (s7(5))

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes issued under section 7(5) of the Act.

2.4 Discussion

The Panel concludes that, subject to addressing the more specific issues discussed in the following chapters, the Amendment is well founded and is strategically justified. No submitter submitted that the Amendment lacked strategic justification, nor that it was not appropriately assessed under *Ministerial Direction 11 (Strategic Assessment of Amendments)*.

3 Traffic, road and pedestrian issues

3.1 The east-west connector boulevard

(i) Issues

The Amendment proposed an east-west connector boulevard from Rockbank Road to Troups Road North, to be located on the south side of the constructed waterway and drainage reserve for the majority of its alignment.

The issues centre around the width of this road, the need for a central median and the need for a two-way bicycle path on the south side of the road and the consequent provision of pedestrian and cycling infrastructure to the south of the constructed waterway and the south of the road.

(ii) Evidence and submissions

Mr Andrew Walker, for the MPA, submitted that the concern over the width of the connector boulevard was ultimately an urban design issue. The connector was designed to play a key role in the precinct and provides a key east-west access. In response to submissions, the MPA proposed modifications to the exhibited cross-section to include:

- a reduction in the central median to 3.0m width, if there were no crossovers provided along the width of the median
- if the connector boulevard was adjacent to the drainage reserve:
 - the nature strip to the south of the two-way bike path was reduced from 3.5metres to 3.0 metres in width
 - the pedestrian path on the north side of the connector street could be removed.

Mr Walker submitted that bicycle connectivity would be enhanced by having a bicycle path on the southern side of the connector boulevard, so that cyclists do not have to cross the road to get access to the schools and community facilities. In addition, the design of the road was intended to provide:

...a landscaped feature boulevard, and one which invites local residents to utilize sustainable modes of transport to travel from their residences to the community node – that is, the two schools, community centre and public open space.

Ms Joanne Lardner, appearing for Peet Rockbank Pty Ltd (Peet), submitted that the revised cross section was an improvement but it provided for unnecessary duplication of pathways and landscaping. Furthermore, a reduction in the width of the cross section would not compromise the design and safety of the road.

In his evidence Mr Jason Black (called by Ms Lardner) stated:

It would seem that each path has a varying function with the footpaths providing pedestrian access for the abutting residential lots, the shared paths accommodating recreational / leisure users and the two way bike path accommodating commuter cyclists. However, the location of the two way bike

path within the road reserve will result in the path being impacted by driveways that connect to the abutting residential lots and therefore will impact the function of the commuter bike path. Further there seems to be a duplication in the shared path function along the waterway as it is considered reasonable that recreational users are required to cross the waterway to access a (non-commuter) shared path.

Mr Black stated that the alternative cross section provided in Mr Jason Walsh's evidence best illustrated his modified proposal.

Mr Nick Sutton, appearing for Verve Projects and Goldfields Pty Ltd (Verve), supported Ms Lardner's position and sought a single rather than a double row of canopy trees on the northern side of the street. In effect, Mr Sutton's proposal would result in a cross section of between 64.9 and 67.9 metres, as opposed to the MPA modified proposal of 72.7 to 75.7 metres.

In his evidence, Mr Walsh (called by Mr Sutton) stated that the boulevard collector was not expected to exceed 2,000 vehicles per day and consequently there was no compelling traffic grounds requiring its construction as a divided road. With respect to the bicycle paths, Mr Walsh stated:

It is not necessary to duplicate the bicycle path on the south side of the road, and in my opinion cyclists should be encouraged to use the shared path on the north side, as it will minimise interaction with vehicles directly accessing properties.

Appropriate access to the school and community facilities can be achieved through the provision of pedestrian/cyclist crossing facilities.

Council's key interest was to ensure the retention of the dedicated two way bike path. From this perspective, Mr Greg Tobin recommended relocating the two way bike path to the northern side of the road near the waterway, in place of the shared path. In addition, this would allow a separate pedestrian path to be provided near the relocated two way bike path, retention of the shared path on the northern side of the waterway, and the ability to have only a footpath on the southern side of the road.

(iii) Discussion

The vision for the Rockbank PSP attempts to achieve a number of outcomes, and includes the following:

Rockbank will be supported by an accessible open space network incorporating linear waterway corridors and generous, tree-lined nature strips. Local parks and sporting reserves will be directly linked by waterways with shared paths to maximise community access and amenity, and provide future opportunities for year-round irrigation across the park network.

A strong focus on cycling and pedestrian movement is continued throughout the precinct; an urban landscape trail features prominently along Greigs Road, and all connector streets incorporate off-road shared paths that will integrate seamlessly with the open space path network.

In addition, Objective O2 states:

Grow an attractive urban environment through the cultivation of a complex and expansive open space network built around natural and constructed wetlands, waterways, parks and public spaces and a street network highlighted by large canopy tree cover.

Objective O18 states:

Create a comprehensive pedestrian and cycling network that ensures residents can be active and travel safely and directly throughout the precinct within the road and open space networks.

The Panel was presented with submissions and evidence dealing with urban design, safety and efficiency, and invited to reach the conclusion that there is unnecessary duplication of some paths.

The Panel recognises that the proposed provision of roads, open space and landscape areas reduces the area of land available for development and conversely increases the costs of developing the remaining land. However the Panel does not support the view that the proposed design of the connector boulevard involves an unnecessary duplication of the bicycle paths.

The Panel does not support the view that there is unnecessary duplication of the bicycle paths. In the Panel's view, a shared path catering for pedestrians and cyclists is not a substitute for a two way dedicated cycle path. As Mr Black observed, the former has more of a recreation purpose, while the latter has a transport or commuter focus. The capacity to separate pedestrians and cyclists in a transport corridor and intermingle them in a recreation area is a reasonable approach, consistent with the objective of a comprehensive pedestrian and cycling network referred to in Objective O18.

The Panel accepts that the two way bike path will transect a number of crossovers on the south side of the collector boulevard. As Mr Black observed, this is not an ideal situation. However, it is a situation that cyclists encounter on any street. Abutting land owners will be well aware of the bike path. In addition, the pedestrian path and nature strip should provide adequate vision for both cyclists and drivers.

The Panel accepts Mr Walsh's evidence that, given the volume of traffic, a divided road is not necessary from an engineering perspective. However, the Panel also accepts Mr Walker's submission that the median and provision for two rows of canopy trees is an issue of urban design. In this respect, the Panel has formed the view that the median and provision for canopy trees is part of creating an attractive urban environment, which is highlighted by large canopy tree cover as described in Objective O2 and in the Vision. The Panel considers that this requirement should be retained.

The Panel is also mindful that, as Mr Walker pointed out, the percentage of developable land in the Rockbank PSP area is not the highest, but it is at the higher end of PSPs in the Western region. While the design of the collector boulevard is expansive, the provision of a two way bike path and double canopy tree planting is not excessive given the significance of the road, and the objectives of creating generous tree-lined nature strips and encouraging cycling and pedestrian movement.

(iv) Conclusions

The Panel concludes that the compromise cross section of the east-west connector boulevard from Rockbank Road to Troups Road North proposed by the MPA in response to submissions should be adopted and incorporated into the PSP.

3.2 Pedestrian overpasses over the railway line

(i) Issue

Three pedestrian overpasses of the railway are identified in the PSP. Whilst two are identified as 'potential projects' only and are not included in the DCP, the bridge that connects the Ian Cowie Reserve with the town centre is in dispute. The issue is whether this bridge should be included in the DCP.

(ii) Evidence and submissions

The Westcott Parade Precinct Urban Design Framework Concept Plan in the exhibited PSP, identifies three potential pedestrian rail crossings. One is associated with the Rockbank Road rail flyover (the Rockbank Road pedestrian bridge), the second just east of the Rockbank Station (the Rockbank Station bridge), and the third on the corner of the Ian Cowie Reserve, connecting to the town centre (the Ian Cowie Reserve bridge).

Mr Tobin submitted that Council had advocated for the inclusion of both the Ian Cowie Reserve and the Rockbank Station bridges in the DCP, but advised that the Ian Cowie Reserve bridge was Council's priority and Council were no longer requesting that the Rockbank Station bridge be included in the DCP. The Rockbank Road bridge is an integral part of the rail flyover.

Mr Walker submitted that the Ian Cowie Reserve bridge had been costed at \$8,767,328.80 and the Rockbank Station bridge at \$10,133,156.00. Mr Tobin submitted that these costings were excessive.

In giving his evidence, Mr Stephen Pelosi (called by Mr Tobin on behalf of Council) stated that a four-metre wide pedestrian bridge would be a starting point for designing an adequate overpass. Mr Gill (also called by Mr Tobin), in his evidence, costed a 4.7 metre wide bridge using MPA rates at \$8,712,589 and his company's rates at \$7,560,801. He considered the "MPA estimate to be generally high by an average 13%."

In reviewing the impact of including these additional projects in the DCP, Mr Black, stated in his evidence:

In assessing the appropriateness of these proposed changes it is important to apply the principles of need, nexus and apportionment and review whether the item's inclusion is strategically justified in the context of the impact that they will have on the overall development levy and therefore the development of the precinct.

Put simply, there is a need to test whether the infrastructure items can be delivered at a cost that is fair and reasonable and does not unduly impact the

cost of housing within an area by simply adding additional (levy) cost to development.

Mr Black said that the Ian Cowie Reserve bridge should be at least three metres wide to allow for all abilities access. He also thought that the overpass was associated with state infrastructure and added a significant cost to the DCP, which was already relatively high.

Mr Walker submitted that the inclusion of the Ian Cowie Reserve bridge was a costing issue. Using Mr Gill's costings of \$7,560,801 the additional cost would be around an additional \$16,320 per net developable hectare.

(iii) Discussion

Mr Black informed the Panel that Section 5 of the PSP guidelines require those developing a PSP to check plans to minimise costs, particularly the overall infrastructure costs. On this basis he argued that measuring the DCP cost is a legitimate element in the assessment of the PSP. He added that it was important to look for other opportunities to fund infrastructure such as the Ian Cowie Reserve bridge.

All parties agree that linking the community facilities and residential areas to the town centre is a beneficial urban design outcome. The need for the overpass originates from the development enabled by the implementation of the PSP, not from the proposed duplication of the rail line.

As a result, the Panel has some difficulty in accepting the view that the overpass would be part of the renewal of state infrastructure. In the Panel's view, to attribute the overpass to state infrastructure would fail the nexus test. This issue is discussed further in chapter 7.

The Panel recognises that upgrades of the level crossings at Troups Road North and Paynes Road have been added to the DCP. Nevertheless, the only other rail crossing is currently at Leakes Road, which means that the rail line becomes a formidable barrier to north-south pedestrian movement.

For someone in a car the locations of these crossings, whilst inconvenient, does not present a substantial barrier to travel north and south of the railway. However, to a pedestrian, it may encourage them to seek an informal crossing of the railway, use the car instead, or not undertake the trip. None of these are good outcomes. Clearly there will be a need for this bridge, and because the need is generated by the development proposed by the Rockbank PSP, it should be included in the PSP.

(iv) Conclusions

The Panel concludes that the Ian Cowie Reserve bridge should be identified as a project and included in the DCP. This latter issue is discussed in the broader DCP context in chapter 7.

3.3 Pedestrian overpass of the Western Freeway

(i) Issue

Whilst the PSP identifies two pedestrian overpasses across the Western Freeway, the issue is whether these bridges should be included in the DCP and land reserved for their landing. The primary issue relates to whether these bridges would provide any real benefit for land in the Rockbank PSP area (as opposed to land in the Rockbank North PSP area).

(ii) Evidence and submissions

The Public Transport and Path Network (Plan 9) shows two potential pedestrian bridges across the Western Freeway to the east and west of Leakes Road. Both bridges were identified as potential projects only and were not included in the DCP.

In his evidence, Mr Pelosi concluded:

The provision of a pedestrian bridge over the Western Freeway east of the Leakes Road interchange represents good pedestrian network planning which will provide an effective and realistic walking alternative for residents moving between Rockbank North and Rockbank.

It responds strongly to multiple clauses in the Melton Planning Scheme with emphasis on Liveable and Sustainable Communities, as well as Access and Mobility Management. The pedestrian bridge also responds to Standard S14 of Element Six (Transport and movement) in the Metropolitan Planning Authority's 'Precinct Structure Planning Guidelines' and to the essential principles that underpin good walking environments described in the Austroads Guide to Road Design Part 6A: Pedestrian and Cyclist Paths.

Mr Tobin submitted that the bridges are supported by numerous policy provisions of Clause 56 and are essential to connect the communities north and south of the freeway.

Mr Walker advised that the bridges had not been costed, but estimated each to be in the order of \$8.5 million. Mr Walker submitted that the projects do not have a strong nexus to the PSP. He also advised that the Rockbank North PSP has not made any contribution towards the cost of funding the bridges, and landowners within the Rockbank PSP area would derive little benefit from the bridges.

(iii) Discussion

Whilst pedestrian bridges over the Western Freeway would connect the communities on either side of that road, it is the Panel's view that most of the movement would be from residents in the north, travelling in the direction of the station. In this respect, the Panel supports Mr Walker's submission that the bridges provide little benefit to the land in the Rockbank PSP.

In addition, the Rockbank North PSP has no provision for a pedestrian bridge, which means that at least 50% of the eastern bridge would be unfunded. This percentage may be higher if indeed a greater benefit is attributable to Rockbank North.

Mr Walker estimated the cost of each bridge being similar to the pedestrian railway overpasses. In the Panel's view this cost is likely to be substantially greater because of the width of the freeway and its reservation compared to that of the railway.

As Mr Walker observed *these are costly pieces of infrastructure, which provide little benefit to the Rockbank precinct.*

Furthermore, the construction of this bridge would also benefit the Rockbank South PSP and the Rockbank North PSP. However, the Panel has not been presented with any rational method for apportioning these costs between the PSPs. It would be inequitable for the Rockbank PSP to fully fund the bridge, through its DCP.

(iv) Conclusion

The Panel concludes that the two pedestrian bridges across the Western Freeway should remain as potential projects in the PSP but not be included in the DCP.

3.4 Rockbank Road rail overpass

(i) Issue

The issue is whether the DCP should include the construction of the Rockbank Road bridge/overpass over the railway line, to an interim standard.

(ii) Evidence and submissions

Mr Walker informed the Panel that a diamond interchange with overpass will be constructed on the Rockbank Road and Western Freeway intersection at some stage in the future. A railway line flyover is also proposed which would bypass the town centre. He added that both of these are state projects and the best outcome is that the flyover and interchange are constructed to the same standard and at the same time as 'one hit'. He advised therefore that the construction of Rockbank Road through the PSP area would be undertaken in stages. He added that construction of the road north and south of the town centre, as well as the purchase of the land for the flyover, would be funded by the DCP, but the construction of the flyover and the interchange would not be funded through the DCP.

Mr Pelosi informed the Panel in his evidence that based on the Jacobs modelling, vehicle movements on the Rockbank Road alignment approaching the Leakes Road overpass will be in the order of 20,000 vehicles per day. These volumes are sufficient to justify the construction of a four lane arterial road. The ultimate full build-out to 2046 scenario recommended a six lane arterial road.

Mr Pelosi concluded:

The traffic volume forecasts for Rockbank Road demonstrate that the corridor will reach a traffic volume of around 20,000 vehicles per day by 2026 just south of the Leakes Road interchange. The Rockbank PSP and DCP should use this finding to pursue the immediate implementation of a bridge over the railway line by 2026. This initiative would be consistent with the ultimate 'intent' of the transport network identified in the PSP which identifies a 6-lane

arterial road bridge over the railway line, on the Rockbank Road alignment, at full build-out.

Mr Pelosi also observed:

If a rail overpass is not constructed linking Rockbank Road to the Leakes Road interchange via a direct route that bypasses the town centre, the forecast traffic of 20,000 vehicles per day would need to use the 2-lane connector street through be (sic) town centre.

Diversion of 20,000 vehicles per day through the town centre to the existing Leakes Road is not a good outcome, especially in view of both the Metropolitan Planning Authority's and VicRoads' road network planning guidelines that emphasise the importance of avoiding arterial road functions and promoting low speeds and pedestrian amenity through the 'main street' of activity centres and town centres.

Mr Walker agreed that there might be *"justification for the construction of the Rockbank Road railway overpass as an interim treatment."* However, the cost of this overpass would increase the DCP by around \$41,830 per net developable hectare. In addition, an interim build would unnecessarily complicate the 'one hit' construction of the interchange and flyover which, in turn, may increase the ultimate cost of the bridge.

Mr Walker stated that Mr Pelosi had made no attempt to apportion any of the cost of construction to other PSPs, even though the Jacobs modelling had assumed partial development of the surrounding precincts in 2026.

(iii) Discussion

Much of the argument presented to the Panel is reflected in the discussion of the matters above. There appears to be agreement that there is a need for the railway overpass, but including it will increase the cost per net developable hectare substantially in an already high DCP levy.

There was also argument over the interim alignment of Leakes Road and whether the road went through or around the town centre. Much was made of Figure 3f in the PSP and the staging and changes to Leakes Road and Rockbank Road.

In the Panel's assessment, the staging displayed in Figure 3f refers to the development of the town centre as well as the road. On this basis, it is clear that in Stage 1 Leakes Road will be on the western periphery of the town centre identified as *Retail High Street Character* in Figure 3e *Character Precincts*.

Stage 2 sees the development of the *Civic Character* and *Commercial Character* precincts on the west side of Leakes Road, as well as the at grade construction of Rockbank Road to the south of these precincts. Leakes Road now passes through the town centre between the civic and retail precincts. The new Rockbank Road, which has a north south alignment, ends on the southern periphery of the town centre where it connects to Leakes Road.

Stage 3 is the construction of the Rockbank Road flyover on the western periphery of the town centre, with the closure of Leakes Road.

Unfortunately, Figure 3f does not provide any time frames for the three stages.

Mr Pelosi was concerned that without the construction of the Rockbank Road bridge/overpass over the railway line, 20,000 vehicles per day would be diverted onto Leakes Road through the town centre. This would appear justified in Stage 2 of the development of Leakes Road and the town centre. In Mr Pelosi's opinion, this situation would be exacerbated because the collector roads through and abutting the town centre have a design capacity of 7,000 vehicles per day.

The result would be that Leakes Road would become a very effective barrier between the two sides of the town centre.

If the Panel accepts that an interim crossing would be an inefficient use of resources and an unjustifiable cost, then it also needs to accept that the interim alignment of Leakes and Rockbank Roads, whilst far from ideal is, as Mr Walker put it, *"a reasonable solution to the issues that arise in this precinct."*

(iv) Conclusions

The Panel concludes that there is justification for the construction of the Rockbank Road railway overpass as an interim crossing. However, this project is costed at \$19,379,030 for a dual carriageway bridge. The cost of including the project in the DCP is unreasonable. Further, the timing of this project could lead to the unnecessary redundancy of infrastructure when the 'ultimate' crossing is constructed. The inclusion of this infrastructure item in the DCP is discussed in the context of broader DCP issues in chapter 7.

3.5 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

- a) Include the cross section of the east west connector boulevard from Rockbank Road to Troups Road North proposed by the Metropolitan Planning Authority and illustrated as "Proposed Constructed Waterway Interface (MPA)" in Document 11 in Appendix B: Street Cross sections of the Precinct Structure Plan.**
- b) Include the Ian Cowie Reserve bridge as an infrastructure project costed at \$7,560,801 for a 4.7 metre wide bridge in the Rockbank Development Contributions Plan and amend Table 9, the levy per net developable hectare and the Development Contributions Plan Overlay accordingly.**

4 Drainage issues

4.1 Rockbank township

(i) Issue

The issue relates to the area south of the Western Freeway and bounded by the existing Rockbank township, the railway line and Leakes Road. This was referred to as the Town Centre Drainage Scheme.

The area is low lying and requires its own drainage scheme. However, the balance of the Rockbank PSP is covered by the Leakes Road Development Services Scheme (DSS) and will be constructed by Melbourne Water with payments made under the drainage scheme to recover the costs of the scheme.

The issue is whether Council or Melbourne Water should implement the Town Centre Drainage Scheme.

(ii) Evidence and submissions

Mr Walker stated that the MPA's position was that this was an issue between Melbourne Water and Council. The MPA's concern was that the cost of the scheme should not be part of the DCP or be applied to landowners.

Mr Tobin advised that Table 6 in the PSP attributed responsibility for the Town Centre Drainage Scheme to Council. Mr Tobin submitted that Council has different and less effective powers under the *Local Government Act 1989*, compared to Melbourne Water, in the implementation of the Town Centre Drainage Scheme. He concluded that in addition to having more appropriate powers, Melbourne Water also had greater expertise and experience to deliver the implementation phase.

In his evidence, Mr Neil Craigie (called by Mr Tobin on behalf of Council) proposed an alternative drainage scheme to the one that had been developed by Melbourne Water. This scheme would require less land acquisition and would cost approximately \$5,264,000, compared to Melbourne Water's scheme of \$9,600,000. He added that the Town Centre was an integral part of the catchment for Melbourne Water's Rockbank North Strategy, which should be amended to include this area. He stated that the only feasible alternative to Melbourne Water undertaking the scheme was to include it in the DCP.

In his evidence, Mr Gill (also called by Mr Tobin on behalf of Council) reviewed Mr Craigie's costings of Mr Craigie's proposed alternative scheme, and stated that it was 1% lower than his company's estimate of the costs.

Appearing for Melbourne Water, Mr Dowling advised that Melbourne Water supported Mr Craigie's revised scheme in principle. He submitted that Melbourne Water did not support Mr Craigie's financial model because the catchment area was 30% smaller than that estimated by Mr Craigie, and due to the likely long lead-time for the area to be developed. He acknowledged that the DSS mechanism was an appropriate tool to service the Rockbank Township. However, he identified several risks for Melbourne Water including:

- high cost of drainage infrastructure

- significant well established development
- fragmented land ownership
- significant up-front infrastructure costs.

Mr Dowling suggested possible planning controls to address the risk in Melbourne Water implementing a DSS, including:

- any development in the township must be referred to Melbourne Water and pay the applicable DSS contributions
- no concession made for existing development
- development of any portion of a property will trigger a contribution
- works will only commence if contributions have been received from at least 20% of the developable area
- there may be a need for Melbourne Water and Council to contribute to the scheme
- any other planning controls that help reduce the risk to Melbourne Water.

(iii) Discussion

Over the course of the Hearing and following directions from the Panel, the MPA, Council and Melbourne Water had discussions about this issue and eventually reached an agreement to present to the Panel. The agreement was based on the acceptance of the Craigie scheme, and implementation of this agreement was proposed through modifications to the proposed UGZ7. The draft of these amendments was contained in Document 17 and further refined in Document 24, which were presented to the Panel during the Hearing.

In summary, the amendments provide for:

- Melbourne Water to be a referral authority for any permit application in the Westcott Parade precinct
- to prevent fragmented development, an urban design framework has to be approved before a permit application can be decided in the Westcott Parade precinct
- Melbourne Water may impose conditions that ensure collection of contributions to the DSS
- guidelines which require a developer to establish that water retention can be achieved on-site if a DSS is not approved, and enable Melbourne Water to refuse an application if it would prejudice the DSS.

Melbourne Water also requested that a Public Acquisition Overlay (PAO) be applied to the land to be acquired for the retarding basin.

Whilst the Panel supports the agreement and the reservation of the land, the application of the PAO cannot be achieved through Amendment C145 and will have to undergo a separate amendment process.

(iv) Conclusions

The Panel concludes that:

- Table 6 in the PSP, ID numbers W106 and W109, should attribute responsibility for the Town Centre Drainage Scheme to Melbourne Water
- the Drainage Scheme to be implemented should be the scheme proposed by Mr Craigie in his evidence
- the UGZ7 should be amended to include the changes proposed by the MPA in Document 17 and amended in Document 24 presented to the Panel on 15 April 2016 by Mr Prior, Development Services Manager, Melbourne Water. These changes have been included in the Panel recommended version of the UGZ7 included in Appendix C
- add Melbourne Water as a determining referral authority (as per clause 2.10 of the UGZ7) within the schedule to clause 66.04
- the application of a PAO to the proposed retarding basin should be undertaken as a separate amendment, which should be prepared as soon as possible.

4.2 Urban Floodway Zone on Peet and Goldfields land**(i) Issue**

The issue is whether the UGZ7 should be applied to the area identified as the drainage reserve or whether it should be replaced by the UFZ.

(ii) Evidence and submissions

The amendment, as exhibited, replaced the UFZ with the UGZ7. In its submission to the Amendment, Peet requested that the UFZ be retained. The MPA in its submission agreed with Peet, subject to the ultimate alignment reflecting the Melbourne Water drainage reserve.

Ms Lardner submitted that retaining the UFZ was appropriate:

...as the land for the waterway will ultimately be transferred to Melbourne Water so that the latter is able to manage the land for drainage and flood management purposes. The purpose of the current land use support this land use.

Mr Black stated that the UFZ forms part of “an existing historic waterway” connecting to a wetland on the east of Troups Road. Much of Mr Black’s evidence focused on the suitability of the UFZ as opposed to the LSIO. Nevertheless, he thought the continued application of the UFZ to the land appropriate, given the ability to amend the boundaries to reflect the required waterway.

Goldfields, however, did not support this change. Mr Sutton submitted that retaining the UFZ would have unintended consequences on the Goldfields land.

He stated:

Put simply, if the UFZ is applied to the Goldfields land without detailed resolution of the constructed waterway alignment it would effectively sterilise a significant swath of Goldfields' intended Stage 1 development of the precinct.

Mr Sutton informed the Panel that the drainage plan would evolve over time as detailed permit applications were developed. Goldfields believed that it had obtained in-principle support for a realignment of the waterway, which would achieve a superior design outcome.

Council initially did not make a submission on the UFZ but addressed the matter in its closing submission. Mr Tobin submitted that the entire area, including waterways, will be subject to change as development occurs. He stated that the UFZ was unnecessary and that the appropriate control was the application of the UGZ7. He also advised that Council was not aware of another PSP in the City of Melton that combined a UFZ with a UGZ.

Mr Prior, for Melbourne Water, advised that an alternative proposal for the alignment of the waterway, would be considered on submission of a functional design and formal permit application. He also submitted that Melbourne Water supported the position that the UFZ be rezoned to the UGZ7 as exhibited.

The MPA's closing submission stated that its preferred position was to:

- rezone the UFZ to UGZ7
- not apply the LSIO
- add a notation to Plan 10 to provide flexibility in interpreting the waterway location.

(iii) Discussion

The Panel accepts the view that changes will occur as detailed applications take place within the framework established in the PSP. In the case of waterways, where changes are proposed by landowners they need to be assessed by the relevant servicing authority, in this case Melbourne Water.

The Panel accepts Mr Tobin's submission that the UFZ and UGZ have not been combined elsewhere in the City of Melton. There appears to be no sound reason for applying both zones in Rockbank.

The MPA's suggested change is reasonable. It provides land owners with some certainty and the opportunity to reach an agreement with Melbourne Water through the detailed design stage.

(iv) Conclusions

The Panel concludes that:

- the UFZ be replaced by the UGZ7 as exhibited
- no LSIO be applied to the land
- that the following note be added to Plan 10 in the PSP:

“Stormwater quality treatment assets shown on this plan are subject to confirmation through preparation of Melbourne Water Development Services Schemes and through detailed design to the satisfaction of Melbourne Water.”

4.3 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

- a) Amend Table 6 in the Precinct Structure Plan, ID numbers W106 and W109, to attribute responsibility for the Town Centre Drainage Scheme to Melbourne Water.
- b) Amend the Urban Growth Zone Schedule 7 to include the changes proposed in Tabled Document 24 and included in the Panel version of the Urban Growth Zone Schedule 7 included in Appendix C.
- c) Add Melbourne Water as a determining referral authority (as per clause 2.10 of the Panel recommended version of Urban Growth Zone Schedule 7) within the schedule to clause 66.04.
- d) Include the following note to Plan 10 of the Precinct Structure Plan:

“Stormwater quality treatment assets shown on this plan are subject to confirmation through preparation of Melbourne Water Development Services Schemes and through detailed design to the satisfaction of Melbourne Water.”

5 Non-government schools

Two issues with respect to the location of the non-government Catholic School in the Rockbank area are addressed in this chapter. These are:

- The appropriate designation of the Catholic School within the PSP to provide some certainty for Catholic Education Melbourne (CEM) in its wish to acquire the land designated for a non-government School in the PSP. The issue has arisen because in another PSP, another non-government provider acquired a site that Catholic Education Melbourne, in conjunction with the MPA, had identified for its use through the process of planning of the PSP.
- The appropriate wording of Requirement 22 in the PSP, which addresses the conditions under which land designated for a school may be used for alternative purposes when the site is no longer required for its designated purpose.

The former Catholic Education Office (CEO) is now known in part as Catholic Education Melbourne (CEM). To avoid confusion, the latter term is used in this report, except in direct quotes.

5.1 Designation within the PSP

(i) Evidence and submissions

Mr Chris Wren QC (appearing on behalf of CEM) submitted that evidence given by Dr Patrick Love showed that CEM educates some 23% of children in Victoria, compared with the State government which is responsible for 66% of educational needs. Mr Wren submitted that this is a significant contribution that requires significant detailed strategic planning by CEM. Dr Love's evidence demonstrated the detail of that planning. Mr Wren explained that because PSPs designate non-government schools without any indication of who the non-government provider might be, CEM could participate in planning processes with the MPA only to have another non-government provider acquire the site and leave CEM having to try to acquire what was likely to be a suboptimal site in terms of its locational characteristics.

What CEM is seeking is summed up by Mr Wren as follows:

...seeking the opportunity to have first right of refusal and it (CEM) be recognised, in a meaningful way, of having been involved in the planning of the PSP from the outset.

...the naming of non-government school sites as 'non-government (Catholic)' within the legend of the PSP as well as altering the table of uses in the Schedule to the UGZ to show such designated school sites as Section 1 uses but that otherwise non-government school sites not strategically justified can still be provided for in Section 2.

Mr Wren submitted that the PSP Guidelines refer to schools in the category of 'community facilities' and that this refers to both government and non-government schools, that is there is no differentiation. The Guidelines recognise the importance of planning for non-government schools in the growth areas, and the importance of the non-government school

sector participating in the planning process in the growth areas. The MPA has established a 'School Advisory Reference Group' for this purpose.

Mr Wren quoted from the PSP notes prepared by the GAA which provide further guidance on PSPs as follows:

Sites for non-government schools are shown in the Precinct Structure Plans where a clear case is made for the need for such a school and where there is a demonstrated commitment to establish a non-government school on the site.

Precinct Structure Plans show the type of school that has been strategically justified.

Dr Love's evidence sets out CEM's role in the planning process which, he states, demonstrates CEM's commitment to the identified site.

Mr Wren submitted:

As is apparent in the witness statement of Dr Love and as accepted by the MPA and Council, the CEO's [CEM's] strategic justification for the need for a school is accepted.

He goes on to say that the CEM gains no certainty from the process.

Mr Wren tabled and analysed the implications for the CEM of a letter on this issue, from the (then) Growth Areas Authority (GAA) to Dr Love, dated 9 September 2013.

Mr Wren submitted that the GAA rationale for not identifying Catholic Schools in a PSP is that the role of the PSP is to identify land uses, not specific providers. He then argues that because there is no clear distinction between government and non-government schools in the VPPs, the designation of a 'non-government school' in the PSP identifies the provider rather than relating to the proposed land use.

The problem arises where CEM has participated in the planning process to identify an appropriate site, but that site is in fact also appropriate for other private providers. In the Bacchus Marsh Grammar School example, the site was purchased by the alternative provider after CEM had participated in the PSP planning process. The MPA argued that in such situations the decision maker is required to issue a permit in accordance with the PSP. Mr Wren submitted that it is incumbent on the decision maker to ensure that the person who has participated in the process is the beneficiary of it.

In his submission, Mr Walker acknowledged the broad strategic role of CEM in the process and confirmed a Memorandum of Understanding between the MPA and CEM which sets out the basis of that role. He submitted that the PSP designates CEM as the lead agency in providing the non-government primary school within this PSP, and that this "*achieves the appropriate balance between direction and flexibility in achieving PSP outcomes*".

In summary he submitted:

It is not appropriate to mandate that a particular use be undertaken by a particular operator.

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.

Mr Tobin submitted that Council does not agree that the non-government school in the Rockbank PSP should be designated as a Catholic school. Mr Tobin cited extracts from Panel reports for Hume C154, Greater Geelong C246 and Surf Coast C66 in support of the Council position. In Surf Coast C66, the Panel commented that the issue of designating Catholic Schools in the PSP appears to be one of policy and that it was not prepared to change policy on the run in order to meet the demands of the CEM submission.

(ii) Discussion

To come to a position on this issue, the Panel considers it appropriate to first set out some bases for its position:

- It is acknowledged that the Catholic Education system is a very significant education provider in Victoria.
- The role that CEM plays in planning in growth areas is understood, and is not matched by other non-government providers who understandably appear to operate and plan in a more fragmented manner.
- Because CEM is a large provider, Catholic schools have much smaller catchments than other non-government providers whose catchments may extend over many PSPs and indeed over suburbs and municipalities. In this respect, other non-government providers are more 'footloose', and as demonstrated by the Bacchus Marsh Grammar School example, can purchase sites effectively planned for the Catholic system.
- This Panel is not in a position to comment definitively whether this is a legal or policy question, but there is every indication that it is indeed a policy issue.

The Panel further comments that the MPA does appear to have made considerable effort to ensure that the planning needs of CEM are met through the PSP process, albeit not as far as the CEM considers necessary to give it the certainty it desires.

The Panel agrees that the current approach does not give the CEM the certainty which it is entitled to given the significance of the role it plays as an education provider in Victoria. Indeed, as the Bacchus Marsh Grammar case demonstrates, no certainty is provided to CEM. The Panel is of the view that this issue will continue to be raised in the context of future PSPs and that there are clear grounds for further work to try and resolve the policy dilemma which exists.

The Panel considers that there is a fundamental tension between the understandable wish of the MPA not to identify particular non-government 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.

(iii) Conclusion

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

5.2 Requirement 22

(i) Submissions

The MPA, Council and Peet, all made submissions on the appropriate wording for Requirement 22 in the PSP, which sets out the conditions under which a site initially designated for use as a school is no longer proposed for that purpose and therefore would be available for alternative uses. Mr Sutton supported the Peet position.

Each of the three submitters with an interest in this matter continued discussions on wording through the course of the Hearing and offered alternative wording. This issue revolved around the criteria to be used to determine when a site was no longer required as a school site.

The various iterations of the wording are not presented here, but rather the exhibited wording of Requirement 22 and the final positions presented to the Panel by each of the MPA, Council and Peet.

Requirement 22 in the exhibited PSP was as follows:

Where the responsible authority is satisfied that the land shown as a school is unlikely to be used for a school, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone.

Mr Tobin submitted that the exhibited wording was creating problems in implementation in existing PSPs where the Council can be put under pressure to accede to developer requests to allow an alternative use of the land.

Mr Tobin submitted that the wording should be:

Where the responsible authority is satisfied that the land shown as a school is unlikely to be used for a school, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the

provisions of the applied zone. In order to satisfy the responsible authority that a site is unlikely to be used it is necessary to demonstrate that:

- The site is not required (at full build out of the PSP area) having regard to the provision of schools in the locality, including land not within the PSP as appropriate; and*
- Genuine discussions have been had with a range of educational providers concerning the use of the site and in each instance there is no intention to utilise the site (in a fully built out scenario).*

Ms Lardner submitted that Peet's preferred wording was:

Where the responsible authority is satisfied that the land shown as a school is unlikely to be used for a school, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone. In order to satisfy the responsible authority that a site is unlikely to be used it is necessary to demonstrate that:

- The site is not required (in a fully built out scenario) having regard to the provision of schools in the locality, including land not within the PSP as appropriate; or*
- Genuine discussions have been had with a range of educational providers concerning the use of the site and in each instance there is no intention to utilise the site (in a fully built out scenario) or to pay market rates.*

Mr Sutton submitted that Goldfields concurs with Peet's concerns about the wording of Requirement 22, and was broadly supportive of the refinements to Council's wording as proposed by Peet, above.

In his closing submission Mr Tobin submitted that:

There exists agreement between Council and the MPA concerning the appropriate wording to be included in the PSP to assist the exercise of discretion regarding non-government schools.

The revised wording proposed by the MPA and agreed by Council as circulated in the MPA's 8 April 2016 issues paper was:

Where the RA is satisfied that land shown as a school site is unlikely to be used for a school, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone. In order to satisfy the responsible authority that a site is unlikely to be used it is necessary to demonstrate that:

- The application for an alternative use is not premature having regard to the extent of development in the surrounding residential area; and*
- The school site is no longer strategically justified having regard to the provision of schools in the locality, including land not within the PSP, as appropriate; and*
- The landowner provides the RA with evidence that:*

- *Genuine negotiations have been had with a range of educational providers, including the Lead Agency nominated in the PSP, regarding the use of the site as a school and the sale of the site to the educational provider/s; and*
- *The educational provider/s, including the Lead Agency nominated in the PSP, do not intend to purchase the site, and use the site as a school.*

(ii) Discussion

The Panel accepts the submissions of the MPA and Council with respect to the proposed wording of Requirement 22. The sites designated in the PSP have resulted from considerable detailed planning, both for the school site itself but also in the context of other community facilities proposed to be collocated. For this reason, the Panel agrees that the tighter ‘test’ for the release of these sites proposed by Council and the MPA is appropriate.

The Panel sees little argument to make reference in the Requirement to the issue of ‘market rates’ as submitted by Peet, as in its view the issue of the price that may be offered for the site should not be directly linked to its planned use.

(iii) Conclusion

The Panel concludes that the wording of Requirement 22 in the PSP as agreed between the MPA and Council should replace the exhibited wording.

5.3 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

a) Amend Requirement 22 in the Precinct Structure Plan to read:

“Where the responsible authority is satisfied that land shown as a school site is unlikely to be used for a school, that land may be used for an alternative purpose which is generally consistent with the surrounding land uses and the provisions of the applied zone. In order to satisfy the responsible authority that a site is unlikely to be used for a school, it is necessary to demonstrate that:

- **the application for an alternative use is not premature having regard to the extent of development in the surrounding residential area, and**
- **the school site is no longer strategically justified having regard to the provision of schools in the locality, including land not within the Precinct Structure Plan, as appropriate and**
- **the landowner provides the responsible authority with evidence that:**
 - **genuine negotiations have been had with a range of educational providers, including the Lead Agency nominated in the Precinct Structure Plan, regarding the use of the site as a school and the sale of the site to the educational provider/s, and**

- **the educational provider/s, including the Lead Agency nominated in the Precinct Structure Plan, do not intend to purchase the site, and use the site as a school.”**

6 Retention of native vegetation

6.1 The issue

The issue is whether there has been adequate provision in the PSP to retain and protect remnant native vegetation.

6.2 Submissions

Mr Booth (an individual submitter) submitted that further steps should be taken as part of the PSP to protect the following:

- Greigs Road, roadside remnant native grassland
- Paynes Road swamp
- Troups Road North swamp
- Rockbank railway swamp
- Grassland paddock north of Greigs Road (west).

At the Hearing, Mr Booth presented a detailed PowerPoint presentation, and placed particular emphasis on the Greigs Road reserve and the protection of remnant native grassland.

Mr Booth submitted that the PSP should:

- *Retain clearing controls, e.g. Environment Significance Overlay or similar, over Greigs Roadside*
- *Retain clearing controls over Troupes Rd North Swamp, and other significant habitats which can be partly retained in recreation and waterway reserves*
- *Show vegetation in precinct plan (Plan 7), in the above sites, as being partly retained dependent on subsequent design and planning processes*
- *Set out environmental requirements in the PSP to minimise vegetation impacts from works in the above sites.*

Mr Walker acknowledged the need to retain the Paynes Road swamp and indicated that the PSP set the land aside for a local conservation reserve. Mr Walker further acknowledged that the PSP would be amended as follows:

- amend the cross section for Greigs Road to replace the proposed large tree planting with native vegetation to be retained
- ensure that the construction and future duplication of Greigs Road would be undertaken to minimise the disruption to native vegetation.

However, Mr Walker emphasised that the *Melbourne Strategic Assessment* (MSA), undertaken for the purposes of the EPBC approval did not identify any part of the Rockbank PSP as containing remnant vegetation suitable for retention. As a result, the MPA has no obligations beyond those already included in the PSP.

Subsequent to the Hearing, Mr Booth circulated a letter from DELWP to the MPA, dated November 2015, which sets out amended criteria for the retention of remnant native vegetation. However, this was not discussed or tested at the Hearing. Further, Mr Booth circulated a copy of the recently released report of the Panel considering the Wollert PSP,

which, he asserted, provided for the retention of vegetation beyond that covered by the MSA.

Mr Tobin submitted that Council supported the retention of the Paynes Road swamp as a conservation reserve, but made no submission on the other areas addressed by Mr Booth.

Ms Lardner submitted that her client supported the position of the MPA on the retention of native vegetation. Ms Lardner relied on the comments made by Panels considering Amendment C175, C176 and C177 to the Wyndham Planning Scheme and Amendment C183 to the Whittlesea Planning Scheme, where she submitted Panels were not prepared to recommend the retention of native vegetation beyond that identified in the MSA.

6.3 Discussion

The Panel understands the issues raised by Mr Booth in respect of the environmental values in the precinct. It commends the MPA for responding to the issues initially raised by Mr Booth and making changes to the PSP to provide further protection to the remnant grassland on the Greigs Road reserve. The Panel accepts that the changes proposed are appropriate and does not support the application of an ESO or similar, as proposed by Mr Booth.

With respect to the further documents provided by Mr Booth, the Panel notes that neither Council nor the MPA has had the opportunity to comment on these. The Panel notes Mr Booth's contention that areas beyond those included under the MSA were accepted by the Panel considering the Wollert PSP to be retained, but notes that in that situation there were issues of connectivity of a network of conservation areas.

The Panel notes the support for the provision of a local conservation reserve in the area known as the Paynes Road swamp and supports this proposal. The supports the changes to the PSP proposed by the MPA with respect to the remnant native vegetation in the Greigs Road reserve, and is of the view that the PSP should be amended to ensure that the undertakings which it has given and which are outlined here are implemented. The Panel accepts Mr Booth's suggestion that this may be achieved for Greigs Road by appropriate amendments to Plan 7, including the possible inclusion of a note to the Plan which makes clear the MPA's position on the retention of native vegetation.

6.4 Conclusions

The Panel concludes that:

- Plan 7 of the PSP should be amended to include a note on the retention of native vegetation during the future construction of Greigs Road.
- The cross section of Greigs Road in the PSP should be amended to replace the large tree plantings with the retention of native vegetation.

6.5 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

- a) Amend Plan 7 in the Precinct Structure Plan, by the addition of a note to require that the future construction of Greigs Road be undertaken in a manner that causes minimum disruption to remnant native vegetation.**
- b) Amend the cross sections for Greigs Road on pages 59 and 60 of the Precinct Structure Plan to replace the proposed large tree planting with native vegetation to be retained.**

7 Development Contributions Plan

7.1 The issue

The MPA has cast the DCP in order to achieve a per hectare contributions rate that is broadly in line with other recent DCPs. Other submitters, including Council, have submitted that there are a range of other infrastructure items that are justified on the basis of DCP principles which should be included in the DCP.

Inclusion of individual items in the DCP has been discussed in earlier sections of the report. This section considers overall impacts and DCP issues.

7.2 Submissions

The exhibited Amendment proposed a contribution of \$287,512.72 per net developable hectare, plus a community infrastructure levy at the capped level of \$900 per dwelling.

Mr Walker submitted that in developing the DCP, the MPA *‘seeks to ensure that development contributions are reasonably consistent from PSP to PSP, and do not pose an impediment to development.’* Mr Walker tabled data from the MPA that shows that approved DCPs for areas subject to the Growth Areas Infrastructure Charge approved over the last three years ranged from \$153,073 to \$284,216 per net developable hectare, with the majority in the range \$255,000 to \$280,000 per net developable hectare. The levies are not strictly comparable because they are cast in current, not constant, dollar terms.

Mr Walker submitted that the projects included in the DCP were consistent with the DCP principles of need, nexus, equity and accountability.

Ms Lardner submitted that Peet acknowledged the tension that exists around the funding of infrastructure and the desire of the MPA to be reasonably consistent between PSPs.

Mr Walker submitted that the MPA is proposing changes to the net developable area (NDA) which result in it increasing from 459.68 hectares to 463.27 hectares in the precinct. The most significant of the changes made is the including of 14.5 hectares of land owned by PTV in the net developable area, as it is accepted that this land is potentially developable. This inclusion is in line with a number of submissions on the matter.

As a result of the revenue that will be generated by imposing levies on this additional NDA, the MPA has proposed adding the following infrastructure items, which were initially excluded from the DCP:

- BR11 Paynes Road level crossing upgrade costed at \$590,661¹
- BR04 Paynes Road Rail Flyover share of land and construction costed at \$23,004 (construction) and \$756,293 (land). Rockbank DCP to contribute 27.5%
- BR12 Troups Road North railing crossing upgrade costed at \$590,661².

¹ This project is identified in the Amended Table 9 tabled at the hearing as Document 19 as project BR06B

² This project is identified in the Amended Table 9 tabled at the hearing as Document 19 as project BR07B

As a result of further discussions during the Hearing, the following additional projects were proposed by the MPA to be added to the DCP. These were outlined in the MPA's closing submission:

- undergrounding of electricity along Paynes Road at a cost to the DCP of \$765,000
- constructing Paynes Road for projects RD05 and RD07 to the same standard as other sections of Paynes Road at a cost to the DCP of \$202,000.

Mr Tobin submitted that a number of other projects are also justified on the basis of the underlying DCP principles. The Panel notes that the Council position was refined between the time of its initial submission and what was presented to the Panel. The outstanding unresolved infrastructure items for inclusion in the DCP were discussed in chapter 3 and are as follows:

(i) Construction of the Rockbank Road Bridge over the railway line to interim standard (BR02)

Land required for this road overpass is included in the DCP but construction is not. The scope and costing of the interim construction was discussed in section 3.4. Mr Tobin submitted that relying on another funding source, such as the upgrade of the railway line, is not acceptable, as that funding may not materialise.

According to Mr Black's calculations this would add in the order of \$32,000 per net developable hectare to the DCP rate.

It was acknowledged by Mr Walker that contributions to this infrastructure item from both the Rockbank North and Rockbank South DCPs could be justified, but that data to make the appropriate apportionment was not available because of the lack of future traffic flow data, and apportionments that will be associated with the yet to be prepared Rockbank South DCP.

Mr Pelosi indicated in answer to a question from the Panel that to develop such apportionments would be a relatively straight forward exercise. Ms Lardner submitted that the lack of a testable basis upon which to appropriately apportion costs for this infrastructure item is 'fatal' to the proposal to include the infrastructure.

(ii) Pedestrian Bridges across rail reserve BR07 and BR08

Council prioritises the eastern of these two bridges, BR07 which is referred to as the Ian Cowie Reserve bridge, for inclusion in the DCP. The scope and costing of the Council priority overpass are discussed in section 3.2.

In each case, Mr Walker submitted that the cost is such that including this project would increase the per hectare DCP rate to levels which are unacceptable.

Ms Lardner submitted that:

Peet and the MPA share a common concern that should the entire suite of proposed additional projects be included as DCP projects, this would jeopardise the timely development of the precinct. It would also adversely impact on the affordability of the housing offer.

She further submitted that based on the amended MPA proposed DCP, plus the suite of all the extra projects suggested, this would be in the order of \$3,819 per lot. Ms Lardner did however support the proposed addition of the rail crossing upgrades on the basis that they are justified on safety grounds and do not unreasonably increase the per hectare DCP levy. Peet do not support the inclusion of any other projects suggested.

In his evidence, Mr Black stated that a number of the projects proposed by Council to be included should be considered in the context of future state projects, such as the upgrade of the Western Highway and the electrification of the railway line.

At the Hearing, Mr Walker advised the Panel that the costs of two intersections had been incorrectly apportioned in the DCP and that these should be amended as follows:

- IT01C from 100% to 50%
- IT03B from 50% to 100%

Mr Walker tabled an amended Table 9 of the DCP which included these changes.

As changes were made to the projects included in the DCP during the course of the Hearing, a number of iterations of the per hectare levy were presented to the Panel. These are not presented here. In closing Mr Walker submitted that with the various changes made the levy was now *“around \$300,536 per Net Developable Hectare”*.

7.3 Discussion

The Panel acknowledges the tension that exists between following the underlying principles of need, nexus equity and accountability, and what might be described as pragmatic outcomes. It further acknowledges that the application of those principles are not always internally consistent with one another.

The Panel agrees with Mr Walker that the infrastructure items included in the DCP broadly meet these principles.

As indicated in section 3.4, a case can be made for the inclusion of the Rockbank Road rail overpass on the grounds of need and nexus. However the Panel considers that the issue of equity is more problematic. When this principle was established it was not in respect of equity between different PSPs, but the Panel accepts that this could be considered as relevant. The inclusion of the project would result in a DCP charge which the Panel acknowledges is well out of kilter with recent DCPs.

Although not relevant to the Panel’s considerations, the likely introduction of the Infrastructure Contribution Plan (ICP) based approach to funding infrastructure in the near future will put the onus on Planning Authorities to prioritise infrastructure within a capped levy. It is unclear to the Panel how Council would prioritise this infrastructure item.

The Panel accepts that both Rockbank North and Rockbank South PSPs should contribute to this overpass if it was built, but the data required as the basis of a fair apportionment is not available. The Panel accepts Mr Pelosi’s contention that traffic data to underpin such an apportionment is not difficult to prepare, but the fact is that it is not available at this stage. In the Panel’s view this is a relatively minor consideration in its overall conclusion that on equity grounds, the Rockbank Road overpass of the railway line should not be included in the DCP.

With respect to the pedestrian overpass of the rail line near the Ian Cowie Reserve, as set out in section 4.2, the Panel is of the view that the need and nexus principles are also met. The Panel considers that the equity principle is less problematic in this case. Including this project in the DCP will add approximately \$16,320 per net developable hectare to the DCP levy, and the Panel considers this to be an acceptable extra levy.

With respect to responsibility for various projects, the Panel repeats the point made by the Panel considering Wyndham C177 in that there is some lack of clarity surrounding the exact definition of state infrastructure. Providing a crossing of state infrastructure in itself does not appear to lead to the conclusion that that crossing is a state responsibility, if the need for it is essentially local.

It is clear that in the longer term, if Rockbank Road becomes a declared arterial road, its crossing of the rail line will become a state responsibility, but the same conclusion cannot be drawn for the proposed pedestrian bridge over the railway line at Ian Cowie Reserve. The need for the pedestrian bridge is clearly local. The Panel does not accept Mr Black's argument that that crossings such as this should be considered in the context of the upgrade of the railway line³.

The Panel notes that the additional per hectare contribution that will be required as a result of including the pedestrian bridge is relatively modest, and concludes that this infrastructure item should be included in the DCP.

The Panel is of the view that the amendments to the DCP levy during the Hearing were less than satisfactory, in that projects were being included on the basis of costings which were estimates and not well based. This is not a good outcome from the point of view of transparency and fairness to submitters. This resulted in the MPA indicating that the final levy was about \$300,536 per net developable hectare. The Panel is of the view that net of the additional other projects recommended by the Panel to be included in the DCP, the final figure should not exceed this amount advised at the Hearing.

In saying this, the Panel is aware that it is the City of Melton which will need to manage any shortfall that this recommendation creates. Developers should not be required to make up any shortfall, as they have not contributed to its existence.

The Panel notes that the final DCP levy of \$300,536 per net developable hectare as proposed by the MPA includes the undergrounding of electricity and the upgrade of Paynes Road, accepted as included projects during the Hearing. Neither of these projects are included in the revised Table 9 (table document 19) and this table will need further revision before it is included in the DCP.

³ The Panel notes that subsequent to the Hearing the Victorian Budget allocated some funds for upgrading this railway line. The details are not clear at this stage, nor has the Panel taken this into consideration.

7.4 Conclusions

The Panel concludes that:

- The additional infrastructure projects proposed to be included in the DCP as represented in the revised table 9 of the DCP tabled at the Hearing, plus the upgrade of Paynes Road and undergrounding of electricity, are endorsed and the exhibited Table 9 should be replaced by a further revised table 9 to reflect this.
- The Ian Cowie Reserve pedestrian bridge should be added to the DCP as an additional infrastructure project.

7.5 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

- a) **Replace Table 9 in the Development Contributions Plan with a revised Table 9 which includes the following projects:**
 - **BR06B Paynes Road level crossing upgrade**
 - **BR07B Troups Road North level crossing upgrade**
 - **BR04 Paynes Road rail flyover**
 - **Undergrounding of electricity**
 - **Upgrade of Paynes Road.**
- b) **Amend the Development Contributions Plan, and the Development Contributions Plan Overlay to include the Ian Cowie Reserve pedestrian bridge as an infrastructure item at a cost of \$7,560,801 for a 4.7 metre wide bridge.**

8 Unresolved issues raised by Council

8.1 Use of applied zone

(i) The issue

The issue is the applied zone in the UGZ7 for 'all other land' (i.e. not arterial road, commercial, major town centre, local convenience centre or mixed use). As exhibited it was proposed to be the Residential Growth Zone (RGZ1). Council asserts that the RGZ1 should apply only to those areas identified as higher density residential, with the remainder having the GRZ as the applied zone.

(ii) Evidence and submissions

Mr Walker submitted that the issue was limited to the most appropriate mechanism to implement the Rockbank PSP, given the agreement around higher density opportunities identified in Plan 5. He added that the provisions of the PSP guide the decision whether or not to grant a permit, and that the purposes of the applied zones are not relevant.

Mr Walker provided a number of examples of PSPs in Casey and Wyndham where the RGZ was the applied zone and he stated:

Whether or not the applied zone is Residential Growth Zone or General Residential Zone makes no difference in assessing a permit application. The terms of the PSP and general requirement that any development be generally in accordance with the PSP guide the exercise of discretion.

Council submitted that the application of the applied zones should be on the basis of the purpose of the zones. The primary differences relate to the higher density encouraged by the RGZ and moderate growth in the GRZ. Mr Tobin argued that *Planning Practice Note 78 – Applying the Residential Zones*, supports the application of the GRZ in most residential areas. The Rockbank PSP Plan 5 has identified higher density residential opportunities in and around the town centre and community hubs, but the majority of the land in the PSP was not identified for higher density residential development.

Mr Tobin submitted that the RGZ as the applied zone could result in a proliferation of non-residential uses at a time when the activity centres are being established. It may also dilute the demand for increased densities in and around the activity centres.

This view was supported by Mr Stuart McGurn in his evidence. In conclusion, he observed:

Overall, I consider that the blanket application of the RGZ is contrary to the proper application of the residential zones and is unsupported by strategic policy and planning guidelines.

Mr Walker made reference to *Develco Capital v Melton CC* [2015] VCAT 1619, where the Tribunal considered whether the proposed development was generally in accordance with the PSP. Mr Tobin also referenced this case, and both he and Mr McGurn provided the example of the Wollert PSP which applied both the RGZ and GRZ.

(iii) Discussion

In the Panel's view it is a concern that there is some variation in the approach taken in different PSPs to the application of applied zones in the UGZ. Mr Walker nominated a number of examples where only the RGZ had been used and Mr Tobin and Mr McGurn did the same for the use of both the RGZ and the GRZ.

Both Mr Walker and Mr Tobin referred to the *Develco Capital* case and provided differing interpretations of the Tribunal's decision. The Panel did not find this case particularly helpful because the Tribunal was dealing with the question of whether a development was in accordance with the PSP. What the Panel has before it is the question of which zone is the most appropriate for the PSP. In this respect, there are three documents that are the most relevant; the PSP, *Planning Practice Note 47 – Urban Growth Zone* and *Planning Practice Note 78 – Applying the Residential Zones*.

In Plan 5 of the PSP, as well as section 3.1.3 Housing, the PSP makes a clear distinction between *high density residential opportunity* and *residential*. The high density residential opportunities are identified as within 400 metres of the town centre, community hubs and designated public transport routes. Table 3 outlines that a minimum of 18 dwellings per net developable hectare is to be achieved in the community hubs, and 24 dwellings per net developable hectare in the town centre. This compares to the overall density requirement of 16.5 dwellings per net developable hectare.

In the Panel's view there is a clear distinction in the PSP in the approach to residential development in these two areas.

The purpose of *Planning Practice Note 47 – Urban Growth Zone* (PPN47) is to explain the provisions of the UGZ and the role of PSPs. In applying use and development controls, PPN47 identifies three potential options. *Option 1 – Apply zones* involves designating zones to specific parts of the PSP and explains:

Land must be used and developed in accordance with the provisions of the zone applying to it. This approach is preferred because:

- *planning scheme users are familiar with the requirements of the zone*
- *it promotes consistency in the way that planning authorities deal with particular land use issues*
- *the zones include provisions that implement State planning policy. For example, the General Residential Zone ensures that maximum use is made of Clause 56 to plan residential subdivisions*
- *the zones include provisions necessary to manage potentially conflicting land uses. For example, the Industrial 1 Zone contains specific provisions to control industrial development close to housing, schools, hospitals and other sensitive uses*
- *once development is underway, it is a straightforward task to translate the UGZ.*

The practice note explains further:

Once development in a precinct structure plan commences, the UGZ will need to be translated into an appropriate standard zone.

For some precinct structure plans, the certification of a subdivision for a major landholding may be an appropriate time to carry out the zone translation. Other precinct structure plans may require further development to proceed before a translation occurs.

The Panel notes that incorporating applied zones into the UGZ is the preferred approach nominated by the practice note, and that this approach has been used in the Rockbank PSP area. Consistency and simplicity are the reasons offered for preferring this approach.

Finally, *Planning Practice Note 78 – Applying the Residential Zones* (PPN78) has as one of its purposes guidance on how to apply the residential zones. In summarising the purpose and characteristic of each zone, PPN78 offers the following descriptions of the RGZ and GRZ:

The Residential Growth Zone enables new housing growth and allows greater diversity in appropriate locations while providing certainty about the expected built form outcomes.

The Residential Growth Zone may be appropriate for:

- *areas planned for increased housing growth and density*
- *the provision of increased or predominate medium density housing*
- *land near activity centres, train stations and town centres*
- *redevelopment sites, brownfield or urban renewal sites.*

The General Residential Zone enables moderate housing growth and diversity. In the suite of residential zones, the role of the General Residential Zone sits between the Residential Growth Zone, which enables housing growth and diversity, and the Neighbourhood Residential Zone, which favours existing neighbourhood character and restricts housing growth.

The General Residential Zone may be appropriate for:

- *most residential areas where moderate growth and diversity of housing will occur consistent with neighbourhood character*
- *areas with a diversity of housing stock, diversity of lot sizes and a more varied neighbourhood character.*

Given the PSP's differentiation between the high density residential opportunities areas and the remaining residential areas, different controls will be needed. In this respect, when the UGZ is removed, the high density residential opportunities will be in a RGZ and the residential in a GRZ, which is consistent with PPN78. On the basis, and given that the use of applied zones in the UGZ is intended to provide consistency and simplicity, the Panel concludes that it would be appropriate that the applied zones reflect the differences.

(iv) Conclusions

The Panel concludes that:

- both the General Residential Zone and the Residential Growth Zone should be applied zones in the Urban Growth Zone Schedule 7
- higher density residential opportunities areas be added to the Land use/development column of Table 1 of Schedule 7 to the Urban Growth Zone,

and the applied zone provisions in these areas be Clause 32.07 – Residential Growth Zone 1

- for all other land in Table 1 of Schedule 7 to the Urban Growth Zone, the Applied zone provisions be amended to replace Clause 32.07 – Residential Growth Zone 1 with Clause 32.08 – General Residential Zone 1.

8.2 Paynes Road wetland area

(i) The issue

The issue is the future management of the Paynes Road wetland area.

(ii) Submissions

Mr Tobin submitted that the use of the words “*service open space*” in the PSP was unclear to Council, and that his client was concerned about future management responsibility for the Paynes Road wetland. Council had sought further guidance from the MPA and DELWP on this matter. In the updated issues document dated 8 April 2016 circulated by the MPA, the MPA proposed no change to the wording, and indicated that Council and DELWP would have further discussions on the matter of management of the reserve.

Neither the MPA nor Council addressed these matters further in their closing submissions.

(iii) Discussion and conclusion

The Panel notes that there is still uncertainty regarding the future management of this area but that this is an issue to be resolved between Council and DELWP.

8.3 Dry stone walls

Plan 2 of the PSP, which depicts dry stone walls to be retained in the PSP area, was prepared before the outcome of Amendment C100 to the Melton Planning Scheme was known. That Amendment applies a Heritage Overlay (HO) to a number of walls currently shown in the exhibited PSP. Council wishes to ensure that the PSP plans are consistent with the heritage protection afforded through the overlays. This includes HO115, HO121 and HO120 being represented on an updated Plan 2.

This was listed in the Council submission as an unresolved submission and the Panel can find no record of further submissions on this issue during the Hearing. For the sake of completeness, the Panel concludes that Plan 2 of the PSP should be amended to reflect the HOs which now apply.

8.4 R12/R15 and higher density development

(i) The issue

The issue is the area in which higher density housing should be encouraged, and the role of Requirement 12 and Requirement 15 in achieving this.

(ii) Submissions

In the exhibited PSP, the two relevant requirements were as follows:

Requirement 12

The majority of housing within and adjacent to the Rockbank Major Town Centre, along major transport routes and in key amenity areas in the precinct must be medium or higher density as designated on Plan 5 and in Table 3.

Requirement 15

Subdivision of land within a 400 metre walkable distance of the Rockbank Major Town Centre, community hubs and designated major public transport routes (including the Rockbank Railway Station) as designated on Plan 5, must create a range of lot sizes suitable for the delivery of medium or higher density housing types, as listed in Table 2.

In the issues paper dated 8 April 2016 circulated by the MPA, it was proposed that R12 be amended to read:

R12: Housing identified as 'medium density residential opportunity' on Plan 5 must be delivered at a medium density or higher, as illustrated on Plan 5 and outlined in Table 3.

It was further proposed that R15 be replaced by a guideline:

G##: Subdivision of land within a 400-metre walkable distance of community hubs illustrated on Plan 5 and designated public transport routes illustrated on Plan 9 may create a range of lot sizes suitable for the delivery of medium density housing outlined in Table 2.

Mr Tobin initially submitted that it was Council's position that the PSP should not mandate or specifically encourage higher density residential development across broader urban areas, and that the words relating to higher density in R15 should be removed.

Council initially sought the consolidation of the two requirements but subsequently agreed that this was not necessary subject to the change to R12 being implemented. In its closing submission, Council accepted the proposed wording change to R12 and the proposed new Guideline.

(iii) Discussion and conclusion

The Panel accepts that this issue is resolved and endorses the proposed wording changes to R12 and the proposed new Guideline.

8.5 Inclusion of further requirements in the PSP

(i) The issue

The issue is whether additional requirements and guidelines proposed by Council should be added to the PSP.

(ii) Submissions

Council submitted that the absence of the requirements and guidelines which it wishes to include in the Rockbank PSP will make the implementation of the PSP more difficult. He further submitted that the proposed guidelines and requirements are included in drafts of other PSPs under preparation in Melton, and that the inconsistency between PSPs may be used against Council.

Council submitted that the following requirements should be included:

All open space and public landscaped areas must be designed to be robust and climatically appropriate, consistent with any local street tree or open space strategies

Appropriately scaled lighting must be installed along all major pedestrian thoroughfares traversing public open space and along cycling networks to the satisfaction of the responsible authority.

Council submits that the following guidelines should be included:

Path networks associated with open space located inside and outside of the precinct should include way finding signage which clearly identifies key destinations.

Water sensitive urban design principles should enable excess water runoff from within or, where appropriate, external to the park to be directed to support park planting and/or rain gardens to the satisfaction of the responsible authority rather than being diverted to drains.

In its issues paper dated 8 April 2016, the MPA proposed:

- *Replace R28 with proposed requirement in the first paragraph 197 of Council's submission.*
- *Replace G41 with proposed requirement in the second paragraph of paragraph 197 of Council's submission.*
- *Reword R61 to remove the words "including way-finding signage" (Addresses Council's issue set out in the first paragraph of 198 of the Council's submission).*
- *The proposed change set out in the second paragraph of paragraph 198 of Council's submission, is addressed in G43 of the PSP.*

Council has accepted these proposed changes.

(iii) Discussion and conclusion

The Panel endorses the wording changes proposed by the MPA and accepted by Council and concludes that the PSP should be amended accordingly.

8.6 Referral triggers in activity centres**(i) The issues**

The issues are:

- Should the proposed soft cap of 30,000 square metres apply to Shop or Retail premises?
- Is the \$500,000 threshold for a referral of an application in the Rockbank town Centre to the MPA appropriate?

(ii) Submissions

Mr Walker informed the Panel that Table 2 of Schedule 7 to the Urban Growth Zone provides for soft caps for Shop floorspace of 30,000 square metres for the major town centre, and 1,000 square metres for the community hubs. A soft cap is the trigger for a planning permit. He submitted that Shop is used as a setting for the retail hierarchy, rather than Retail premises, because floorspace is ultimately determined by the number of department stores and supermarkets or anchors.

Mr Tobin advocated for the soft cap to be applied to Shop and Food and drink premises. He referred to the background reports undertaken by Urbis and peer reviewed by Essential Economics, which appeared to include Food and drink premises with Shop. Because these reports set the 30,000 square metres cap used in the UGZ, he argued that it should include Food and drink premises.

Mr Walker advised that the UGZ provided that where the value of works in the Rockbank Major Town Centre exceeded \$500,000, an application to subdivide or develop land must be referred to the MPA. He advised that this figure was the MPA's standard and preferred threshold and had proved appropriate.

Mr Tobin submitted that a floor area approach was superior to a monetary value approach. He argued that a floor area approach would catch developments of a lesser investment value. However, Mr Tobin did not suggest an appropriate floor area threshold.

(iii) Discussion

The applied zone for the Rockbank Town Centre and the local convenience hubs is the Commercial 1 Zone. Both Shop and Retail premises are Section 1 uses and do not require a permit. Shop, however, can have a floor space cap included in the Schedule which, if exceeded, means a permit would be required.

The Panel acknowledges that the background reports may have included Food and drink premises in identifying the appropriate threshold for the activity centres. However similar arguments apply here as in the consideration of the applied zones in section 9.1 above. Consistency and simplicity are the reasons for preferring the applied zones in the UGZ. There is no provision in the C1Z for floorspace cap in a Retail premises (which includes Food

and drink premises). The activity centres have the C1Z as the applied zone, so if a floorspace cap were introduced to Retail premises in the UGZ, it would be inconsistent with the C1Z and complicate the translation from the UGZ.

In the Panel's view, either a monetary value or floorspace could be used to define a threshold for referral of an application. Both have advantages and disadvantages, but for the most part, they should relate to each other. In other words, there is generally a consistent dollar per square metre value that can be applied to a commercial development in the Rockbank Town Centre. Consequently, there is no significant difference in using a dollar or floor area value as the means of identifying an application of a size that needs to be referred to the MPA. Mr Walker advised that the \$500,000 value the MPA's standard and preferred and it has proven adequate. The Panel can see no advantage in changing this threshold.

(iv) Conclusion

The Panel concludes that there should be no change to Table 2 and Clause 2.10 of the exhibited UGZ.

8.7 Sensitive land uses

(i) The issue

This issue surrounds the use of two parcels generally located at the intersection of Leakes Road and Greigs Road for sensitive uses. The issue is the wording of clause 3.3 in Schedule 7 to the UGZ.

(ii) Submissions

The preamble paragraph of Clause 3.3 of the exhibited UGZ7 stated:

An application to subdivide land or to use or develop land for a sensitive use (residential use, child care centre, pre-school centre or primary school) on land at 1350-1360 Leakes Road, Rockbank and 520-556 Greigs Road, Rockbank must be accompanied by a Phase 2 Environmental Site Assessment of the land prepared by a suitably qualified environmental professional to the satisfaction of the responsible authority, which takes account of the report titled 'Phase 1 Environmental Site Assessment' (Sinclair Knight Merz, September 2014) and provides information including:

At the Hearing, Council proposed that the Clause be worded as follows:

Prior to the intensification of an existing sensitive use, the introduction of a new sensitive use or the certification of a Plan of Subdivision, or a stage of subdivision, under the Subdivision Act 1988, the recommendations of the Phase 2 Environmental Site Assessment lodged with the application, must be carried out to the satisfaction of the responsible authority along with any further requirements made by the responsible authority after having regard to the guidance set out in the General Practice Note on Potentially Contaminated

Land June 2005 (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

The MPA has accepted this change.

(iii) Discussion and conclusion

The Panel accepts the revised wording.

8.8 Development staging

(i) The issue

The issue is the management of staging of development to ensure timely and orderly provision of infrastructure.

(ii) Submissions

The exhibited PSP included the following Guideline:

Staging will be determined largely by the development proposals on land within the precinct and the availability of infrastructure services. Development applications should demonstrate how the development will:

- *Integrate with adjoining developments, including the timely provision of road and path connections, to a practical extent*
- *Provide open space and amenity to new residents in the early stages of the development, where relevant*
- *Provide sealed road access to each new allotment*
- *Deliver any necessary trunk services extensions, including confirmation of agreed approach and timing by the relevant authority.*

Council's position on this wording evolved during the Hearing as a result of further discussions, and as part of his closing submission Mr Tobin submitted that a requirement worded as follows be included in the PSP:

Generally staging will be determined largely by the development program of developers within the precinct and the availability of infrastructure services. Within this context the following planning and design requirements must be met:

- *Development staging must not create circumstances in which residents will be unreasonably isolated from commercial or community facilities or public transport.*
- *Development staging must, to the extent practicable, be integrated with adjoining developments, including the timely provision of connecting roads, and walking/ cycling paths, and*
- *Access to each new lot must be provided via a sealed road.*
- *Subdivisional permit applications must deliver the necessary infrastructure to facilitate and service development. Where necessary to support the development, permit applicants must provide non DCP and*

DCP funded infrastructure with any DIL to be offset by credits secured under agreement.

In his closing comments, Mr Walker objected to the first and fourth dot points, on the grounds that the first was unrealistic in developing areas, and that the fourth goes too far.

Alternatively, Mr Walker proposed the following wording for a new requirement in the PSP:

Staging will be determined largely by the development proposals on land within the precinct and the availability of infrastructure services. Within this context, development applications must demonstrate how the development will:

- integrate with adjoining developments, including the timely provision of road and path connections, to a practical extent*
- integrate with other developments, including the timely provision of road and path connections, to a practical extent where the proposed development does not adjoin an existing development front*
- provide sealed road access to each new allotment*
- provide open space and amenity to new residents in the early stages of the development, where relevant*
- deliver any necessary trunk services extensions, including confirmation of agreed approach and timing by the relevant authority.*

(iii) Discussion

The Panel is sympathetic to the concerns raised by Council in a situation where there are increasing amounts of land covered by approved PSPs, and that the increase is likely to be significant in the next few years. It agrees that Council's proposed first dot point is unrealistic. The first development in any development front is likely to be relatively isolated from commercial and community facilities, and the thresholds to trigger such a provision are not likely to have been met at that stage.

The Panel recognises both the intent and perhaps the desirability of Council's fourth dot point. The main difference between that and the MPA proposed wording is the specific reference to DCP and non DCP funded infrastructure. The Panel understand that the reality is, these matters are often the subject of agreement between Council and developers. The Panel is of the view that the MPA proposed wording allows for such arrangements, and at the same time provides a level of flexibility for a range of options to be pursued.

(iv) Conclusion

The Panel concludes that the wording proposed by the MPA be included in the PSP as a new requirement.

8.9 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

- a) **Replace Clause 32.07 – Residential Growth Zone 1 with Clause 32.08 – General Residential Zone 1 in the Applied zone provisions in Table 1 of Schedule 7 to the Urban Growth Zone as contained in the Panel version of the Urban Growth Zone Schedule 7 in Appendix C.**
- b) **Add ‘higher density residential’ to the Land use/development of Table 1 of Schedule 7 to the Urban Growth Zone and the applied zone provisions be Clause 32.07 – Residential Growth Zone 1 Zone as contained in the Panel version of the Urban Growth Zone Schedule 7 in Appendix C.**
- c) **Amend Plan 2 of the Precinct Structure Plan to show the Heritage Overlays which now apply as a result of Amendment C100 to the Melton Planning Scheme.**
- d) **Amend Requirement 12 in the Precinct Structure Plan to read:**

“Housing identified as ‘medium density residential opportunity’ on Plan 5 must be delivered at a medium density or higher, as illustrated on Plan 5 and outlined in Table 3”.
- e) **Include a new Guideline in the Precinct Structure Plan to read:**

“Subdivision of land within a 400-metre walkable distance of community hubs illustrated on Plan 5 and designated public transport routes illustrated on Plan 9 may create a range of lot sizes suitable for the delivery of medium density housing outlined in Table 2”.
- f) **Amend Requirement 28 of the Precinct Structure Plan to read:**

“All open space and public landscaped areas must be designed to be robust and climatically appropriate, consistent with any local street tree or open space strategies.
- g) **Replace Guideline 41 of the Precinct Structure Plan with a new Requirement to read:**

“Appropriately scaled lighting must be installed along all major pedestrian thoroughfares traversing public open space and along cycling networks to the satisfaction of the responsible authority.”
- h) **Amend Requirement 61 in the Precinct Structure Plan by deleting the words “including way finding signage”.**
- i) **Amend the preamble to Clause 3.3 of Urban Growth Zone Schedule 7 to read:**

“Prior to the intensification of an existing sensitive use, the introduction of a new sensitive use or the certification of a Plan of Subdivision, or a stage of subdivision, under the Subdivision Act 1988, the recommendations of the Phase 2 Environmental Site Assessment lodged with the application, must be carried out to the

satisfaction of the responsible authority along with any further requirements made by the responsible authority after having regard to the guidance set out in the General Practice Note on Potentially Contaminated Land June 2005 (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use”

as contained in the Panel recommended version of the Urban Growth Zone Schedule 7 in Appendix C.

- j) Replace Guideline 50 in the Precinct Structure Plan with a new Requirement to read:

“Staging will be determined largely by the development proposals on land within the precinct and the availability of infrastructure services. Within this context, development applications must demonstrate how the development will:

- integrate with adjoining developments, including the timely provision of road and path connections, to a practical extent
- integrate with other developments, including the timely provision of road and path connections, to a practical extent where the proposed development does not adjoin an existing development front
- provide sealed road access to each new allotment
- provide open space and amenity to new residents in the early stages of the development, where relevant
- deliver any necessary trunk services extensions, including confirmation of agreed approach and timing by the relevant authority.”

9 Other unresolved issues

9.1 Railway noise issues

(i) The issues

The issue is the appropriate wording in UGZ7 for addressing noise attenuation in areas adjacent to the Melbourne to Ballarat railway line. A further issue is the requirements for noise attenuating fencing along the railway reserve. A related issue is the wording of Requirement 54 of the PSP, which addresses the fencing of the railway reserve.

(ii) Submissions

At the Hearing, Ms Lardner tabled proposed alternative wording to be included in UGZ7, which Ms Lardner submitted would *“result in a comparatively streamlined approach of a single acoustic assessment being completed for the land the subject of the planning permit application for development.”*

Mr Tobin did not object to the wording proposed by Ms Lardner. The MPA indicated that their support was conditional on the support of PTV, and that its preferred wording was as follows:

Railway noise attenuation

An application for use or development within the ‘railway noise amenity area’ on Plan 9 of the Rockbank Precinct Structure Plan must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- The acoustic assessment report must demonstrate compliance with the ‘Railway Street Interface’ cross-section in the PSP where Plan 3 (Future Urban Structure) of the PSP shows a residential interface to the railway line.*

The acoustic assessment report must also include (as appropriate to the particular use or development):

- An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line.*
- Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LAeq,8h for the night period from 10pm to 6am.*
- Recommendations for limiting the impact of railway noise on future buildings within the proposed subdivision.*
- A design response that addresses the recommendations of the acoustic assessment including all necessary architectural noise attenuation treatments.*

All to the satisfaction of the responsible authority and Public Transport Victoria.

Permit Requirement as follows:

Railway noise attenuation area

Any permit for the use or development of land, within the 'railway noise amenity area' on Plan 9 of the Rockbank Precinct Structure Plan must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures.

All to the satisfaction of the responsible authority and Public Transport Victoria.

In an email tabled at the reconvened Hearing, PTV indicated that it supported the MPA's alternative wording. PTV said:

We do not support the further changes proposed by Peet as we are concerned that the changes could delay the noise attenuation assessment, and in turn compromise a good outcome to noise attenuation through subdivision layout and design.

Ms Lardner submitted that no explanation was provided as to PTV's position and that she did not find their rationale compelling.

In respect to Requirement 54 in the PSP regarding the possible provision of acoustic fencing, Mr Sutton submitted that it be amended to read:

Visually transparent fencing along the boundary abutting the rail reserve is to be provided in accordance with VLine standard for fencing, unless an alternative treatment is appropriate to address acoustic requirements within the railway noise amenity area, to the satisfaction of PTV and VicTrack.

The MPA accepted this change but Council did not, as it does not support the use of acoustic walls. Council supports the use of sound attenuation measures in buildings that will be implemented through the permit process. PTV further submitted that they support the use of acoustic walls only as a last resort.

There appeared to be some confusion about the purpose of the fencing referred to in the railway cross section at p67 of the PSP. It was subsequently clarified that it is a barrier fence rather than having acoustic properties, and as such, could be visually permeable.

At the close of the Hearing, Mr Sutton reinforced Goldfield's position that it would be inappropriate to preclude the possibility of acoustic fencing.

(iii) Discussion and conclusion

The Panel believes that the wording proposed by the MPA and supported by Council and PTV is appropriate. It is of the view that the wording in the third and fourth dot points in paragraph 3 of the MPA proposal gives the appropriate guidance and flexibility to ensure identified noise issues can be addressed, and that the Peet proposal to refer specifically to the 'buffer' may be unnecessarily restrictive.

With respect to the wording of Requirement 54, the Panel agrees that acoustic fencing should be used as a last resort only, but also accepts Mr Sutton's submission that it would

be inappropriate to exclude the possibility of the need for it at this stage. For these reasons the Panel supports the amendment to the wording of Requirement 54 as submitted by Mr Sutton.

9.2 Location of bus stops

(i) The issue

The issue is the wording to be included regarding a trigger for the decision by PTV on the location of bus stops.

(ii) Submissions

Ms Lardner submitted that the evidence of Mr Black indicates that the current wording in the PSP on the location of bus stops has potential delay and cost risks.

Ms Lardner proposed that Clause 3.6.3 of the PSP should be augmented by a new requirement as follows:

Subdivision design must show the location of all bus stops to the satisfaction of PTV

The MPA accepted this wording, and Council agrees with the MPA position. PTV indicated that they regard the proposed new Requirement as unnecessary.

(iii) Discussion and conclusion

The Panel accepts Mr Black's evidence, and is of the view that a change to the PSP to increase the level of certainty for developers is justified. The Panel concludes that a new Requirement as proposed by Peet should be added to the PSP.

9.3 Other issues raised by Goldfields

(i) The issues

This section of the report addresses two other issues raised by Goldfields, relating to:

- the designation of the area of Aboriginal Cultural Heritage sensitivity shown on Plan 2 of the PSP
- additional key local access streets added to Plan 3. The issue of additional local access streets was also raised by Ms Lardner.

(ii) Submissions

Mr Sutton submitted that the layout and "*area of Aboriginal Cultural heritage sensitivity*" shown on Plan 2 has been significantly altered. Goldfields were concerned that the change may significantly alter the land within the PSP area which is the subject of a Cultural Heritage Management Plan (CHMP). He further submitted that Plan 3 includes a further local access street.

Because the revised plans were only circulated just prior to the commencement of the Hearing, this issue was not one raised in initial submissions.

In his closing submission, Mr Walker indicated that the approach being taken now, in conformity with the legislation, was to be broadly indicative of the areas likely to be of significance. The area will be refined as a result of the preparation of a CHMP. He submitted the MPA could consider a note being added to the plan to this effect.

With respect to the local access streets, Mr Tobin responded to the Goldfields concern suggesting that the final location of that particular local access street was dependent on the final location of the constructed waterway, an issue addressed by the Panel in section 4.2.

(iii) Discussion and conclusion

The Panel expresses concern that relatively significant changes to plans were only addressed in the closing stages of the Hearing, where there was inadequate time for the issues to be properly ventilated. While at one level these may be considered relatively minor matters, they can have significant cost implications for the land owners and developers involved.

The Panel accepts that the issue of the key local access streets cannot be effectively resolved until the location of the constructed waterway is finalised.

The Panel has little basis on which to draw firm conclusions on these issues, both because they were raised late in the process, and because little explanation was provided as to the genesis of either change. The Panel accepts that there may be on-going discussions on the possibility of including a note to Plan 2 in respect of the cultural heritage issue. The Panel does accept that the changes proposed to the way in which areas of cultural sensitivity are indicated appears to be in conformity with the relevant legislation.

9.4 Woodlea submission

(i) The issues

Woodlea, the developers of the precinct north of the Western Freeway, have raised issues with respect to the potential inequity of them having provided a contribution to district open space through the Rockbank North DCP and the potential provision of a pedestrian overpass of the Western Freeway. The latter issue is addressed in section 3.3.

(ii) Submissions

Ms Sarah McQuillen for Woodlea submitted with respect to the provision of district open space, that her clients are required to contribute \$5.4 million for this purpose. Mr Walker acknowledged this, but indicated that it is now proposed that district open space be funded from different sources. He further indicated that the fact that such a contribution was made in the Rockbank North DCP is not sufficient reason for such a contribution to be required in the Rockbank DCP. He pointed out that the submitter had not objected to the contribution when it was proposed.

Ms Lardner supported the MPA's position, and relied on the evidence of Mr Black that there was no nexus between the Rockbank PSP area and the location of the proposed district or regional open space.

Ms McQuillen submitted that if such contributions were now considered to be outside the scope of DCPs, the Rockbank North DCP should be adjusted accordingly.

(iii) Discussion and conclusion

The Panel understands the current position of the MPA and that previous Panels have endorsed such a position. Therefore the Panel does not agree that such a levy should be included in the Rockbank DCP. The Panel does not comment on the nexus between the area and the proposed regional open space. Neither is it within the Panel's remit to review the Rockbank North DCP and it offers no comment on this.

9.5 Recommendations

The Panel recommends:

Amend the exhibited documentation as follows:

- a) **Replace 3.5 and 4.2 in Urban Growth Zone Schedule 7 as set out in Appendix C with the following wording, respectively:**

"Railway noise attenuation

An application for use or development within the 'railway noise amenity area' on Plan 9 of the Rockbank Precinct Structure Plan must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- The acoustic assessment report must demonstrate compliance with the 'Railway Street Interface' cross-section in the Precinct Structure Plan where Plan 3 (Future Urban Structure) of the PSP shows a residential interface to the railway line.**

The acoustic assessment report must also include (as appropriate to the particular use or development):

- An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line.**
- Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LAmax and 40 dB LAeq,8h for the night period from 10pm to 6am.**
- Recommendations for limiting the impact of railway noise on future buildings within the proposed subdivision.**
- A design response that addresses the recommendations of the acoustic assessment including all necessary architectural noise attenuation treatments.**

All to the satisfaction of the responsible authority and Public Transport Victoria." and

"Permit Requirement as follows:

Railway noise attenuation area

Any permit for the use or development of land, within the 'railway noise amenity area' on Plan 9 of the Rockbank Precinct Structure Plan must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures.

All to the satisfaction of the responsible authority and Public Transport Victoria."

- b) Replace Requirement 54 in the Precinct Structure Plan to read:**

"Visually transparent fencing along the boundary abutting the rail reserve is to be provided in accordance with VLine standard for fencing, unless an alternative treatment is appropriate to address acoustic requirements within the railway noise amenity area, to the satisfaction of Public Transport Victoria and VicTrack."

- c) Include a new Requirement to section 3.6.3 of the Precinct Structure Plan worded as follows:**

"Subdivision design must show the location of all bus stops to the satisfaction of Public Transport Victoria."

Appendix A Submitters to the Amendment

No.	Submitter
1	Mr Faredi Nuredini
2	Mr Vasko Trpceviski
3	Woodlea
4	APA Group
5	Catholic Education Office
6	Mr Saviour Haber
7	Oliver Hume Property Funds on behalf of Synergy
8	Verve Projects on behalf of Goldfields Living RB Pty Ltd
9	Mr Andrew Booth
10	Western Water
11	Bosco Jonson for Fouz Superannuation Pty Ltd
12	Peet Rockbank Pty Ltd
13	Let's Get Real Estate
14	VicRoads
15	Melbourne Water
16	Country Fire Authority
17	Department of Environment, Land, Water and Planning
18	Public Transport Victoria
19	Environment Protection Authority Victoria
20	City of Melton

Appendix B Tabled document list

No.	Date	Description	Presented by
1	29/03/2016	Draft noise attenuation clause	J. Lardner
2	29/03/2016	Submission on behalf of the MPA	A. Walker
3	29/03/2016	Submission on behalf of the Melton City Council	G. Tobin
4	30/03/2016	Submission on behalf of the Melton City Council (Hearing Folder)	G. Tobin
5	30/03/2016	Submission on behalf of Melbourne Water	A. Dowling
6	30/03/2016	Extract from Plan Melbourne	G. Tobin
7	31/03/2016	Submission on behalf of Peet	J. Lardner
8	31/03/2016	UFZ maps	J. Lardner
9	31/03/2016	Amended Appendix 1 of evidence	J. Black
10	31/03/2016	Development Levy comparisons	J. Black
11	31/03/2016	Constructed waterway interface options	J. Black
12	31/03/2016	Extract from Melbourne Water Principles for Provision of Waterway and Drainage Services for Urban Growth	J. Lardner
13	31/03/2016	Submission on behalf of Catholic Education Melbourne	C. Wren
14	31/03/2016	Precinct Structure Planning Guidelines - extract	C. Wren
15	04/04/2016	MPA letter to Melbourne Water concerning draft UGZ	A. Walker
16	04/04/2016	Original draft of the UGZ	A. Walker
17	04/04/2016	Modified draft of the UGZ	A. Walker
18	04/04/2016	Submission on behalf of Goldfields Living RB Pty Ltd	N. Sutton
19	04/04/2016	Modified version of DCP Table 9	A. Walker
20	04/04/2016	Submission on behalf of Woodlea	S. McQuillen
21	04/04/2016	Proposed modified version of UFZ	J. Lardner
22	04/04/2016	Proposed wording for Panel direction	J. Lardner
23	15/04/2016	Melbourne Water submission	M. Prior
24	15/04/2016	Melbourne Water amendments to the UGZ	M. Prior
25	15/04/2016	Email from PTV to MPA	A. Walker
26	15/04/2016	Supplementary submission on behalf of Goldfields	N. Sutton
27	15/04/2016	Closing submission on behalf of Melton City Council	G. Tobin
28	15/04/2016	Closing submission on behalf of the MPA	A. Walker
29	15/04/2016	Network Development Plan – Metropolitan Rail	A. Walker

No.	Date	Description	Presented by
30	15/04/2016	Proposed rewording of PSP: G50 (development staging)	A. Walker

Appendix C Panel recommended version of the Urban Growth Zone Schedule 7

SCHEDULE 7 TO THE URBAN GROWTH ZONE

DD/MM/YYYY
PROPOSED C145

Shown on the planning scheme map as **UGZ7**.

Rockbank Precinct Structure Plan

1.0 The plan

DD/MM/YYYY
PROPOSED C145

Map 1 below shows the future urban structure proposed for the *Rockbank Precinct Structure Plan* (PSP). It is a reproduction of Plan 3 in the *Rockbank Precinct Structure Plan*.

Map 1 to Schedule 7 to Clause 37.07



2.0 Use and development

DD/MM/YYYY
PROPOSED C145

2.1 The land

DD/MM/YYYY
PROPOSED C145

The use and development provisions specified in this schedule apply to the land shown within the 'precinct boundary' on Map 1 of this schedule and shown as UGZ7 on the planning scheme maps.

Note: If land shown on Map 1 is not zoned UGZ, the provisions of this zone do not apply.

2.2 Applied zone provisions

DD/MM/YYYY
PROPOSED C145

The use, subdivision, construction of a building and construction and carrying out of works provisions of the following zones in this scheme apply as set out in Table 1.

Table 1: Applied zone provisions

Land as shown on Map 1 of this Schedule	Applied Zone Provisions
arterial road	Clause 36.04- – Road Zone
commercial	Clause 34.02 – Commercial 2 Zone
connector street	Clause 36.04 – Road Zone
major town centre	Clause 34.01 – Commercial 1 Zone
local convenience centre	
mixed use	Clause 32.04 – Mixed Use Zone
high density residential	Clause 32.07 – Residential Growth Zone
all other land	Clause 32.08 – General Residential Zone

2.4 Reference to a planning scheme zone is a reference to an applied zone

DD/MM/YYYY
PROPOSED C145

A reference to a planning scheme zone in an applied zone must be read as if it were a reference to an applied zone under this schedule.

Note: e.g. The Residential Growth Zone specifies 'Car wash' as a Section 2 Use with the condition, 'The site must adjoin, or have access to, a road in a Road Zone.' In this instance the condition should be read as, 'The site must adjoin, or have access to, a road in a Road Zone or an applied Road Zone in the Urban Growth Zone schedule applying to the land'.

2.5 Specific provisions – Use of land

DD/MM/YYYY
PROPOSED C145

Table 2: Use

Use	Requirement
Dwelling where the applied zone is a Mixed Use Zone General Residential Zone 1	A permit is required to use land for a dwelling.
Office where the applied zone is Mixed Use Zone	A permit is not required to use land for an office.
Potential non-government school	A permit is not required to use land for a primary school or secondary school on land shown as 'potential non-government school' in the Rockbank Precinct Structure Plan.

Use	Requirement
Shop where the applied zone is Commercial 1 Zone	<p>A permit is required to use land for a shop if the combined leasable floor area of all shops exceeds:</p> <ul style="list-style-type: none"> • 30,000 square metres for land shown as a major town centre in the incorporated Rockbank Precinct Structure Plan • 1,000 square metres for land shown as a local convenience centre in the incorporated Rockbank Precinct Structure Plan.

2.6DD/MM/YYYY
PROPOSED C145**Specific provisions — Buildings and works for a school**

A permit is required to construct a building or construct or carry out works associated with a Primary School or Secondary School on land shown as 'potential non-government school' unless exempt under Clauses 62.02-1 and 62.02-2.

2.7DD/MM/YYYY
PROPOSED C145**Specific provisions — Dwellings on a lot less than 300 square metres**

A permit is not required to construct or extend one dwelling on a lot with an area less than 300 square metres where a site is identified as a lot to be assessed against the Small Lot Housing Code via a restriction on title, and it complies with the Small Lot Housing Code incorporated pursuant to Clause 81 of the Melton Planning Scheme.

2.8DD/MM/YYYY
PROPOSED C145**Specific provisions — Rockbank Major Town Centre and Westcott Parade Precinct - Urban Design Framework**

Except with the consent of the responsible authority and the Growth Areas Authority, a permit must not be granted to use or subdivide land, or construct a building and carry out works on land shown as Westcott Parade Precinct (Figure 1) or Rockbank Major Town Centre (Figure 2) in the incorporated *Rockbank Precinct Structure Plan* until an urban design framework has been prepared for the relevant land to the satisfaction of the responsible authority and the Growth Areas Authority.

An urban design framework approved under this schedule must be generally in accordance with the precinct structure plan applying to the land.

An application for use and/or development on land shown as Westcott Parade Precinct or Rockbank Major Town Centre must be consistent with any urban design framework approved under this schedule.

A permit may be granted to subdivide land or to construct a building or construct and carry out works prior to the approval of an urban design framework in the Rockbank Town Centre (but not in the Westcott Parade precinct) if, in the opinion of the responsible authority, the permit is consistent with the requirements for the urban design framework and the permit implements the objectives for the Westcott Parade Precinct or Rockbank Major Town Centre as set out in the *Rockbank Precinct Structure Plan*.

The responsible authority may allow an urban design framework to be prepared in stages. An urban design framework may be amended to the satisfaction of the responsible authority and the Growth Areas Authority.

2.9DD/MM/YYYY
PROPOSED C145**Specific provisions — Referral of applications — Rockbank Major Town Centre**

An application to subdivide land, or construct a building or carry out works (where the value of those works is in excess of \$500,000) on land in the Rockbank Major Town Centre must be referred in accordance with section 55 of the *Planning and Environment Act 1987* to the Growth Areas Authority.

2.10 Specific provisions — Referral of applications to Melbourne Water Westcott Precinct

DD/MM/YYYY
PROPOSED C145

Any permit application for use or development on land in the Westcott Parade Precinct must be referred in accordance section 55 of the *Planning and Environment Act 1987* to Melbourne Water.

3.0 Application requirements

DD/MM/YYYY
PROPOSED C145

If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement.

3.1 Subdivision – Residential development

DD/MM/YYYY
PROPOSED C145

In addition to the requirements of Clause 56.01-2, a Subdivision Design Response for a residential subdivision of less than 60 lots must show the proposed use and development of each part of the land and the staging of the development for all land in contiguous ownership with the land under application.

An application for a residential subdivision of 10 lots or more must be accompanied by:

- A written statement that sets out how the subdivision implements the incorporated *Rockbank Precinct Structure Plan*;
- Subdivision and Housing Design Guidelines, prepared to the satisfaction of the responsible authority, in accordance with the incorporated *Rockbank Precinct Structure Plan*;
- A table setting out the amount of land allocated to the proposed uses and expected population, dwelling and employment yields;
- A Traffic Impact Assessment Report to the satisfaction of the relevant road management authority;
- A hydrogeological assessment of the groundwater conditions on the site and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater on the development and the impact of the development on groundwater; and
- A preliminary site assessment of the potential for contaminated land as a result of previous land uses, carried out by a suitably qualified person.

3.2 Public Infrastructure Plan

DD/MM/YYYY
PROPOSED C145

An application must be accompanied by a Public Infrastructure Plan which addresses the following:

- What land may be affected or required for the provision of infrastructure works;
- The provision, staging and timing of road works internal and external to the land consistent with any relevant traffic report or assessment;
- What, if any, infrastructure set out in the Toolern Park Development Contributions Plan is sought to be provided as "works in lieu" subject to the consent of the collecting agency;
- The provision of public open space and land for any community facilities; and
- Any other matter relevant to the provision of public infrastructure required by the responsible authority.

3.3 Traffic impact assessment

DD/MM/YYYY
PROPOSED C145

An application that proposes to create or change access to a primary or secondary arterial road must be accompanied by a Traffic Impact Assessment Report (TIAR). The TIAR, including functional layout plans and a feasibility/concept road safety audit, must be to the satisfaction of the relevant road management authority (Roads Corporation or City of Melton), as required.

3.4 Railway noise attenuation

DD/MM/YYYY
PROPOSED C145

An application for use or development within the 'railway noise amenity area' on Plan 9 of the Rockbank Precinct Structure Plan must be accompanied by an acoustic assessment report prepared by a qualified acoustic engineer or other suitably skilled person to the satisfaction of the responsible authority and Public Transport Victoria.

- The acoustic assessment report must demonstrate compliance with the 'Railway Street Interface' cross-section in the PSP where Plan 3 (Future Urban Structure) of the PSP shows a residential interface to the railway line.

The acoustic assessment report must also include (as appropriate to the particular use or development):

- An assessment of noise levels on the land taking into account the existing and likely future noise levels associated with the ongoing operation of the Melbourne-Ballarat rail line;
- Recommendations for noise attenuation measures designed to ensure internal bedroom noise levels will not exceed 65 dB LA_{max} and 40 dB LA_{eq,8h} for the night period from 10pm to 6am;
- Recommendations for limiting the impact of railway noise on future buildings within the proposed subdivision; and
- A design response that addresses the recommendations of the acoustic assessment including all necessary architectural noise attenuation treatments,

All to the satisfaction of the responsible authority and Public Transport Victoria.

3.5

DD/MM/YYYY
PROPOSED C145

Use or development of land for a sensitive purpose – Phase 2 Environmental Site Assessment – 1350-1360 Leakes Road, Rockbank and 520-556 Greigs Road, Rockbank

Prior to the intensification of an existing sensitive use, the introduction of a new sensitive use or the certification of a Plan of Subdivision, or a stage of subdivision, under the *Subdivision Act 1988*, the recommendations of the Phase 2 Environmental Site Assessment lodged with the application, must be carried out to the satisfaction of the responsible authority along with any further requirements made by the responsible authority after having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005* (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

4.0

DD/MM/YYYY
PROPOSED C145

Conditions and requirements for permits

4.1

Conditions for subdivision permits that allow the creation of a lot of less than 300 square metres

DD/MM/YYYY
PROPOSED C145

Any permit for subdivision that allows the creation of a lot less than 300 square metres must contain the following conditions:

- Prior to the certification of the Plan of Subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the responsible authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the Small Lot Housing Code incorporated pursuant to Clause 81 of the Melton Planning Scheme; and
- The plan of subdivision submitted for certification must identify whether type A or type B of the Small Lot Housing Code applies to each lot to the satisfaction of the responsible authority.

4.2

DD/MM/YYYY
PROPOSED C145

Conditions for subdivision or buildings and works permits where land is required for public open space

Land required for public open space as a local park as set out in the *Rockbank Precinct Structure Plan* or the development contributions plan applying to the Land, must be transferred to or vested

in Council at no cost to Council, unless the land is funded by the development contributions plan applying to the land.

4.3 Management of bushfire risk during subdivisional works

DD/MM/YYYY
PROPOSED C145

A permit for subdivision that contains a condition requiring a construction management or site management plan must ensure that the relevant plan addresses any potential bushfire risks arising from the land during construction, and must include a statement from a suitably qualified professional that the proposed bushfire risk management measures are appropriate.

4.4 Conditions for public transport

DD/MM/YYYY
PROPOSED C145

Unless otherwise agreed to by Public Transport Victoria, prior to the issue of a statement of compliance for any subdivision stage, bus stops must be constructed, at full cost to the permit holder as follows:

- Generally in the location identified by Public Transport Victoria;
- In accordance with the Public Transport Victoria *Guidelines for Land Use and Development* with a concrete hard stand area, and in activity centres a shelter must also be constructed;
- Be compliant with the *Disability Discrimination Act — Disability Standards for Accessible Public Transport 2002*; and
- Be provided with direct and safe pedestrian access to a pedestrian path,

All to the satisfaction of Public Transport Victoria and the responsible authority.

4.5 Railway noise attenuation area

DD/MM/YYYY
PROPOSED C145

Any permit for the use or development of land within the 'railway noise amenity area' on Plan 9 of the Rockbank Precinct Structure Plan must implement any recommendations of the acoustic assessment and include any conditions necessary, in the opinion of the responsible authority and Public Transport Victoria, to implement railway noise attenuation measures, to the satisfaction of the responsible authority and Public Transport Victoria.

4.6 Conditions for subdivision or buildings and works permits where land is required for road widening

DD/MM/YYYY
PROPOSED C145

Land required for road widening including right of way flaring for the ultimate design of any intersection within an existing or proposed local road must be transferred to or vested in Council or the Roads Corporation at no cost to the acquiring agency, unless funded by the development contributions plan applying to the land.

4.7 Kangaroo Management Plan

DD/MM/YYYY
PROPOSED C145

A permit granted for subdivision of land must include the following conditions:

- Before the certification of the Plan of Subdivision, a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment, Land, Water and Planning. Once approved the plan will be endorsed by the responsible authority and form part of the permit
- The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the responsible authority.

4.8 Salvage and translocation

DD/MM/YYYY
PROPOSED C145

Salvage and translocation of threatened flora and fauna species and ecological communities must be undertaken in the carrying out of development to the satisfaction of the Secretary to the Department of Environment, Land, Water and Planning.

4.9 Conditions - Protection of conservation areas and native vegetation during construction

A permit granted to subdivide land where construction or works are required to carry out the subdivision, or a permit granted to construct a building or carry out works, on land including or abutting a conservation area or patch of native vegetation or scattered tree identified for retention in the incorporated *Rockbank Precinct Structure Plan* must ensure that:

- Before the start of construction or carrying out of works, the developer of the land must erect a vegetation protection fence that is:
 - Highly visible;
 - At least 2 metres in height;
 - Sturdy and strong enough to withstand knocks from construction vehicles;
 - In place for the whole period of construction; and
 - Located the following minimum distance from the element to be protected:

Element	Minimal Distance from Element
Conservation area	2 metres
Scattered tree	twice the distance between the tree trunk and the edge of the tree canopy
Patch of native vegetation	2 metres

- Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:
 - Be located more than 15 metres from a waterway;
 - Be located outside the vegetation protection fence;
 - Be constructed and designed to ensure that the conservation area or scattered trees or patches of native vegetation identified for retention in the Precinct Structure Plan, and any located trees identified in the Planning Scheme Provisions to be retained are protected from adverse impacts during construction;
 - Not be undertaken if it presents a risk to any vegetation within a conservation area; and
 - Be carried out under the supervision of a suitable qualified ecologist or arborist.

4.10 Conditions — Environmental Site Assessment

DD/MM/YYYY
PROPOSED C145

1350-1360 Leakes Road, Rockbank and 520-556 Greigs Road, Rockbank

Prior to the certification of a Plan of Subdivision, or a stage of subdivision, under the *Subdivision Act 1988*, the recommendations of the Phase 2 Environmental Site Assessment lodged with the application must be carried out to the satisfaction of the responsible authority, along with any further requirements made by the responsible authority after the responsible authority is satisfied that the land is suitable for the intended use, having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005* (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

1195 Leakes Road, Rockbank

Prior to the certification of a Plan of Subdivision, or a stage of subdivision, under the *Subdivision Act 1988*, the recommendations of the report *Rockbank PSP Additional Investigations - Property 24*, March 2014 (Sinclair Knight Merz), must be carried out to the satisfaction of the responsible authority along with any further requirements made by the responsible authority after having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005* (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

22 Troups Road, Rockbank and 104 Troups Road, Rockbank

Prior to the certification of a Plan of Subdivision, or a stage of subdivision, under the *Subdivision Act 1988*, the recommendations of the Phase 2 (site sampling) report, March 2010 (Atma Environmental), must be carried out to the satisfaction of the responsible authority along with any further requirements made by the responsible authority after having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005* (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

4.11DD/MM/YYYY
PROPOSED C145**Conditions for subdivision or buildings and works permits where land is required for road widening**

Land required for road widening including right of way flaring for the ultimate design of any intersection within an existing or proposed local road must be transferred to or vested in Council or the Roads Corporation at no cost to the acquiring agency unless funded by the development contributions plan applying to the land.

4.12DD/MM/YYYY
PROPOSED C145**Melbourne Water Westcott Parade Conditions.**

Any permit issued for use or development in the Westcott Parade Precinct, must, if required by Melbourne Water, include conditions addressing the following:

- i. Where Melbourne Water does not have an interim or established Development Services Scheme for the Westcott Parade Precinct:
 1. Conditions requiring the owner to manage water retention on site, or to undertake water retention measures off site, at the owner's cost as an interim measure;
 2. A requirement that the owner enter into a section 173 agreement with Melbourne Water and Council at the owner's cost to secure the future payment of its contribution to the Development Services Scheme to be established by Melbourne Water; and
 3. A requirement that the use and/or development will not prejudice or delay the future approval, delivery and/or works of the Development Services Scheme to be established by Melbourne Water.
- ii. Where Melbourne Water has an interim or established Development Services Scheme for the Westcott Parade Precinct:
 1. If the permit application is to subdivide land:
 - a. a condition that the owner must make a contribution to the said Development Services Scheme before a certificate of compliance issues for the subdivision; and
 - b. a requirement that the use and/or development will not prejudice or delay the future approval, delivery and/or works of the said Development Services Scheme.
 2. If the permit application is for any other use or development:
 - a. a condition that the contribution to the said Development Services Scheme must be made before the earliest of the following occurs:
 - i. The certificate of occupancy is issued;
 - ii. The use authorised under the permit commences;
 - iii. The development authorised under the permit is complete; and
 - b. A requirement that the owner enter into a section 173 agreement with Melbourne Water and Council at the owner's cost to secure the performance of its obligations set out in clause 2a above; and
 - c. A requirement that the use and/or development will not prejudice or delay the delivery and/or works of the said Development Services Scheme.

5.0 Advertising signs

DD/MM/YYYY
PROPOSED C145

Land is in the category specified in the applied zone.

5.1 Land and home sales signs

DD/MM/YYYY
PROPOSED C145

Despite the provisions of Clause 52.05, signs promoting the sale of land or homes on the land (or on adjoining land in the same ownership) may be displayed without a permit provided:

- The advertisement area for each sign does not exceed 10 square metres;
- Only one sign is displayed per road frontage. Where the property has a road frontage of more than 150 metres multiple signs may be erected provided there is a minimum of 150 metres distance between each sign, with a total of not more than 4 signs per frontage;
- The sign is not animated, scrolling, electronic or internally illuminated sign;
- The sign is not displayed longer than 21 days after the sale (not settlement) of the last lot; and
- The sign is setback a minimum of 750mm from the property boundary.

A permit may be granted to display a sign promoting the sale of land or homes on the land (or on adjoining land in the same ownership) with an area greater than 10 square metres.

6.0 Exemption from notice and review not to apply to certain applications

DD/MM/YYYY
PROPOSED C145

An application to use land for a use listed in Section 2 of the Residential Growth Zone on land where the applied zone listed at Table 1 of this schedule is Residential Growth Zone is not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

7.0 Decision Guidelines

DD/MM/YYYY
PROPOSED C145

Before deciding on an application to use land for a shop in a town centre, in addition to the decision guidelines at Clause 37.07-14, the responsible authority must consider, as appropriate:

- The local catchment and PSP catchment demand for the additional floor area; and
- The effect on existing and future major town centres within the City of Melton.
- Before determining an application for a permit in the Westcott Parade Precinct the responsible authority must consider the following factors:
 - Where Melbourne Water does not have an interim or established Development Services Scheme for the Westcott Parade Precinct whether:
 - water retention can be achieved on site, and if it cannot be achieved on site, whether any necessary works off site will be undertaken by the owner at the owner's cost; and
 - Where Melbourne Water either does or does not have an interim or established Development Services Scheme for the Westcott Parade Precinct whether the approval of a permit would not prejudice or delay the future approval, delivery and/or works of the existing Development Services Scheme or the Development Services Scheme to be established by Melbourne Water (as the case may be).