

*Planning and Environment Act 1987*

**Interim Panel Report**

**Melton Planning Scheme Amendment C162**

**Mount Atkinson and Tarneit Plains Precinct Structure Plan**

Front page

**7 November 2016**

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Interim Panel Report pursuant to section 25 of the Act

Melton Planning Scheme Amendment C162

Mount Atkinson and Tarneit Plains Precinct Structure Plan

7 November 2016



Trevor McCullough, Chair



Sarah Carlisle, Member



Michael Kirsch, Member

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## List of Abbreviations

AS2885	Australian Standard 2885 Pipelines – Gas and Liquid Petroleum
DCP	Development Contributions Plan
DCPO9	Development Contributions Plan Overlay Schedule 9
GRZ	General Residential Zone
ICP	Infrastructure Contributions Plan
ICPO	Infrastructure Contributions Plan Overlay
MUZ	Mixed Use Zone
PPTN	Principal Public Transport Network
PSP	Precinct Structure Plan
RGZ	Residential Growth Zone
SMS	Safety Management Study
UGZ9	Urban Growth Zone Schedule 9
VPA	Victorian Planning Authority (formerly Metropolitan Planning Authority)

## Overview

### Amendment Summary

<b>The Amendment</b>	Melton Planning Scheme Amendment C162
<b>Common name</b>	Mount Atkinson and Tarneit Plains Precinct Structure Plan
<b>Subject site</b>	The land generally bounded by the Western Freeway, Hopkins Road, Middle Road and the future Outer Metropolitan Ring Road, as shown in Figures 1 and 2
<b>Planning Authority</b>	Metropolitan Planning Authority (now the Victorian Planning Authority)
<b>Exhibition</b>	22 April to 30 May 2016
<b>Submissions</b>	Number of Submissions: 34, (including 388 duplicates of the one submission)

### Panel Process

<b>The Panel</b>	Trevor McCullough (Chair), Sarah Carlisle and Michael Kirsch
<b>Directions Hearings</b>	15 July and 9 August 2016, Planning Panels Victoria
<b>Panel Hearing</b>	12 to 26 September 2016, Planning Panels Victoria
<b>Site Inspections</b>	Unaccompanied, 23 August 2016
<b>Date of this Interim Report</b>	7 November 2016

## Executive Summary

### (i) Summary

Melton Planning Scheme Amendment C162 (the Amendment) facilitates use and development of land in accordance with the *Mount Atkinson and Tarneit Plains Precinct Structure Plan*, April 2016 (PSP).

This interim report has been prepared in order that the Panel's recommendations regarding several 'overlap' issues with Melton Planning Scheme Amendments C146 and C147 (the Plumpton and Kororoit Precinct Structure Plans), can be made known before the hearings for those other matters are held.

The four 'overlap' issues covered in this report are:

- The Infrastructure Contributions Plan
- The most appropriate default applied residential zone in the Urban Growth Zone
- The high pressure gas transmission pipelines
- Road cross-section issues.

The Panel's final report in relation to the Amendment, which will cover all submissions and issues referred to the Panel, will be finalised in December 2016.

The Panel has considered submissions made in relation to the four overlap issues and makes the following recommendations.

### (ii) Recommendations

**The Panel makes the following recommendations in relation only to the four issues covered in this interim report. The Panel recommends that the relevant components of the Amendment be adopted as exhibited subject to the following changes:**

- 1. Delay approval of Amendment C162 and finalisation of the Mount Atkinson and Tarneit Plains Precinct Structure Plan until a fully costed Infrastructure Contributions Plan has been prepared and adopted for the Precinct.**
- 2. Make any consequential changes to the Precinct Structure Plan to reflect the final Infrastructure Contributions Plan once completed.**
- 3. Substitute the proposed Development Contributions Plan Overlay with an Infrastructure Contributions Plan Overlay.**
- 4. Review and update the contents of any Schedule to the Infrastructure Contributions Plan Overlay, including considering the deletion of the first dot point of Clause 4.0 of the former Development Contributions Overlay Schedule 9 as proposed by Council.**
- 5. Consider a supplementary item in the Infrastructure Contributions Plan for the additional cost of road works over the gas transmission pipeline if the additional costs are substantial.**

6. **Include a pedestrian bridge over the rail line (land and construction) in the Infrastructure Contributions Plan, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.**
7. **Apply the Residential Growth Zone to the 'residential' areas in the Urban Growth Zone Schedule 9 that are within:**
  - **400 metres of the Mount Atkinson Specialised Town Centre**
  - **200 metres of the Mount Atkinson Road and Greigs Road Principal Public Transport Network routes**
  - **100 metres of the co-located community hubs, sport reserves and local convenience centres.**
8. **Apply the General Residential Zone to the remaining 'residential' areas in the Urban Growth Zone Schedule 9.**
9. **Amend Clause 2.4 of the Urban Growth Zone Schedule 9, to include the following as uses which require a permit in the high pressure gas pipeline measurement length:**
  - **Child care centre**
  - **Cinema based entertainment facility**
  - **Corrective institution**
  - **Dependent persons unit**
  - **Education centre**
  - **Hospital**
  - **Place of assembly**
  - **Residential aged care facility**
  - **Retail premises**
  - **Retirement village**
  - **Service station**
10. **Amend Guideline G22 in the Precinct Structure Plan to add the following dot point:**
  - ***Not be located in the high pressure gas transmission pipeline measurement length identified on Plan 12 (Utilities).***
11. **Amend Clause 6.0 of the Urban Growth Zone Schedule 9 to require applications for use, subdivision or construction of a building for the following uses to be notified to APA VTS Australia (Operations) Pty Ltd:**
  - **Child care centre**
  - **Cinema based entertainment facility**
  - **Corrective institution**
  - **Dependent persons unit**
  - **Education centre**
  - **Hospital**
  - **Place of assembly**
  - **Residential aged care facility**
  - **Retail premises**

- Retirement village
- Service station

12. Amend Clause 2.7 of the Urban Growth Zone Schedule 9 to read as follows:

*Specific provision – gas pipeline construction management plan required whether or not a permit is required*

*Prior to the commencement of any works, including demolition, on land within, or within 50 metres of the boundary of, the high pressure gas pipeline easements shown on Plan 2 (Precinct Features) and Plan 12 (Utilities) in the Incorporated Mount Atkinson and Tarneit Plains Precinct Structure Plan, a construction management plan must be submitted to and approved by the responsible authority. The plan must:*

- *be endorsed by the pipeline owner and operator prior to being submitted to the responsible authority*
- *prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the pipeline owner and operator.*

*The gas pipeline construction management plan must be implemented to the satisfaction of the responsible authority.*

*The gas pipeline construction management plan may, with the prior approval of the pipeline owner and operator, be amended to the satisfaction of the responsible authority.*

13. Include the following additional guidelines in section 3.7.2 (Utilities) of the Precinct Structure Plan (and renumber the remaining guidelines accordingly):

*G79: Any road networks running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.*

*G80: Any drainage infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.*

*G81: Any utility infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90deg and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.'*

14. Amend Appendix G of the Precinct Structure Plan to relocate the shared path within the high pressure gas transmission pipeline easement over the Deer Park to Sunbury 150 millimetre pipeline.

15. Show the high pressure gas pipelines and their measurement length on:

- a) Map 1 in the Urban Growth Zone Schedule 9
- b) Plan 2 (Precinct Features) in the Precinct Structure Plan.



16. Provide a traffic lane of 3.5 metres in Road Section 17 local access level 2 Town Centre Main Street (page 109 of the Precinct Structure Plan).
17. Review Road Section 17 in conjunction with Public Transport Victoria to address the following points:
  - Whether a 3.5 metre traffic lane is preferable
  - Whether a semi mountable kerb is preferable, particularly on the median side
  - Whether ultra low floor buses are properly catered for
  - Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.
18. Modify Road Section 7 primary arterial 6 lane (page 99 of the exhibited Precinct Structure Plan) to separate the two way bicycle path and the pedestrian path as shown in Figure 2 of this report.

**(iii) Further recommendation**

The Panel makes the following further recommendation:

The Victorian Planning Authority should further develop the *PSP Planning Response to Applied Residential Zones Background Paper* in consultation with growth area Councils.

# 1 Background

## 1.1 Purpose of the Amendment

Amendment C162 to the Melton Planning Scheme (the Amendment) facilitates use and development of land in accordance with the *Mount Atkinson and Tarneit Plains Precinct Structure Plan*, April 2016 (PSP).

## 1.2 The reasons for preparing the interim report

This interim report has been prepared in order that the Panel's recommendations regarding several 'overlap' issues with Melton Planning Scheme Amendments C146 and C147, the Plumpton and Kororoit Precinct Structure Plans (PSPs), can be made known before the hearings for those matters are held.

The four 'overlap' issues covered in this report are:

- The Infrastructure Contributions Plan
- The most appropriate default applied residential zone in the Urban Growth Zone
- The high pressure gas transmission pipelines
- Road cross-section issues.

Planning Panels Victoria do not routinely prepare interim reports, but in this case an exception has been made for the following reasons:

- The Kororoit PSP (C147) directly adjoins the Mount Atkinson and Tarneit Plains PSP (C162).
- The discussion in regard to the four identified issues are similar across the three PSPs (C146, C147, C162).
- The same main parties are involved in all three PSPs i.e. the VPA and Melton City Council.
- One of the Panel members, the Chair, is involved in all three PSPs.
- The C162 report is due to be finalised and released to the VPA during the hearing dates set down for C146 and C147 i.e. early to mid-December 2016.
- The VPA's position in regard to the key identified matters has changed in the C162 PSP compared to previous PSP hearings and, in that respect, could be viewed as a setting a precedent for future panels on those issues.

The Panel believes that the early release of its findings and recommendations on the key 'overlap' issues will assist the panel and the parties to the C146 and C147, and avoid potential confusion if the full C162 report had been released during the hearings for C146 and C147.

Tabling the relevant findings and recommendations of the C162 report in an interim report does not provide an opportunity for parties to re-prosecute those issues as they relate to C162. It does, however, provide the parties to C146 and C147 to put their case on those amendments in the light of the C162 Interim Panel Report.

### **1.3 Limitations on the scope of this interim report**

This interim report is strictly limited to the four identified ‘overlap’ matters. The full panel report will address the broader background to the Amendment, the strategic background to the PSP and the broad range of issues raised in submissions, including: quarry buffers; potential landfill buffers; other land use constraints; infrastructure issues; and unresolved issues raised by Council and landowners in the Precinct.

The Panel’s findings and recommendations in relation to the four identified ‘overlap’ matters are independent of its findings and recommendations on other matters and should not be seen as pre-judging any other matters being considered by the Panel in the full report.

### **1.4 The ICP**

The PSP was exhibited with a Development Contributions Plan Overlay Schedule 9 (DCPO9) to apply to the entire PSP area. The PSP identifies, at Table 9, a list of infrastructure projects proposed to be included in an Infrastructure Contributions Plan (ICP) (formerly called a Development Contributions Plan (DCP)). The ICP (or DCP) has not yet been prepared and was not exhibited as part of this Amendment.

The Panel received submissions that the PSP should be deferred until an ICP is prepared. The Panel also received submissions that a number of projects should be included in an ICP as standard or supplementary items.

### **1.5 The proposed use of the RGZ as the default applied residential zone in the UGZ**

The proposed UGZ9 includes Table 1: Applied zone provisions, which sets out the applied zones within the UGZ for each land use. The exhibited version of the table lists ‘All other land’ as proposed to be zoned Residential Growth Zone (RGZ). During the course of the Hearing the VPA proposed that that the default applied zone be changed to the General Residential Zone (GRZ), and proposed guidelines for where the RGZ should be applied.

### **1.6 The high pressure gas transmission pipelines**

APA VTS Australia (Operations) Pty Ltd (APA) operates four high pressure gas transmission pipelines within the PSP area, located within two separate easements, one along the western side of Hopkins Road, the other along the southern side of Middle Road as shown in Figure 1. The Panel received submissions in relation to proposed land use and development controls within the ‘pipeline measurement length’.

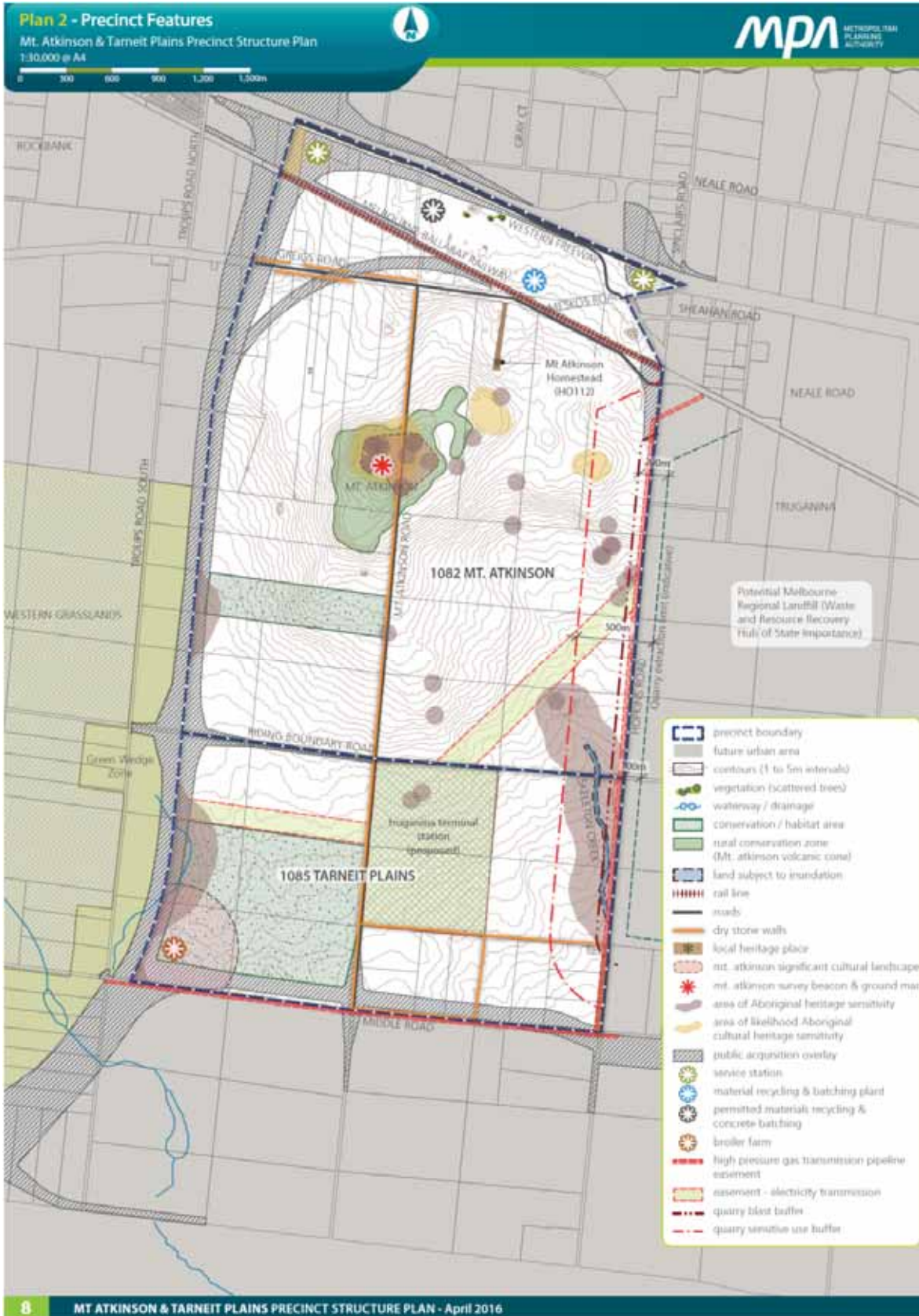


Figure 1 Precinct features showing the location of buffers and easements

## **1.7 Road cross sections**

The PSP includes a number of proposed road cross sections for various scenarios. The Panel received submissions in relation to some of the following design details:

- Carriageway widths in the town centre
- Bicycle paths on primary arterial roads
- Bicycle paths on secondary arterial roads.

## 2 Infrastructure Contributions Plan

### 2.1 The issues

The substantive unresolved ICP related issues include:

- The appropriateness of the proposed interim arrangements for collecting development/infrastructure contributions.
- Whether indicative costings for infrastructure items should be included in the PSP.

The Panel has also commented on how the PSP and ICP may be affected by the recent release of the ICP guidelines.

### 2.2 Timing of the Infrastructure Contributions Plan

#### (i) Background

The PSP was exhibited with a Development Contributions Plan Overlay Schedule 9 (DCPO9) to apply to the entire PSP area. The PSP identifies, at Table 9, a list of infrastructure projects proposed to be included in an Infrastructure Contributions Plan (ICP) (formerly called a Development Contributions Plan (DCP)). The items were not costed at the time of the Panel Hearing.

DCPO9 notes that no 'Summary of costs' nor 'Summary of contributions' are specified and that the preparation and incorporation of a plan is required.

The DCPO9 provides for a permit to be granted to subdivide land, construct a building or construct or carry out works before a precinct wide contributions plan has been prepared under certain circumstances, including if an agreement is entered into under section 173 of the *Planning and Environment Act 1987*.

The ICP (and DCP) have not yet been prepared and were not exhibited as part of this Amendment.

#### (ii) The issue

Should the PSP be delayed until the new ICP system is implemented?

#### (iii) Submissions

Council submitted that there is considerable uncertainty in relation to the cost of infrastructure items in the absence of a costed DCP. Mr Tobin submitted that this exposes Council to the risk of underfunded infrastructure. Council's position is that the ICP framework should be finalised before the gazettal of this PSP. Council noted that, while the *Planning and Environment Amendment (Infrastructure Contributions) Act 2015* (ICP Act) came into operation on 1 June 2016, much of the detail for the new ICP system has been left to a Ministerial Direction which had (at the time of the Hearing) not yet been finalised.

Council submitted<sup>1</sup>:

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<sup>1</sup> Council submission to the Hearing – document 16

*At present, before any Ministerial direction has been issued, there is no certainty in the public domain as to:*

- *what the 'allowable items' will include;*
- *the rate at which standard levies will be set;*
- *when supplementary levies may be used and the rate at which they will be set; or*
- *when this information and other important details will be made available.*

*This may have an impact on Council's service delivery and spending in the future. It casts uncertainty over the implementation of the PSP and may affect the appropriateness of the future urban structure.*

*The failure to identify project costs and contribution amounts raises issues for Council when implementing PSPs at the planning permit stage.*

It is Council's preference for an ICP (or DCP) to be prepared and exhibited as part of a planning scheme amendment process before this Amendment is finalised. Council submitted that it should be involved in the preparation of any ICP or DCP.

Council submitted that if the Panel agreed that the VPA's interim approach is appropriate, the DCPO9 should be reworded to delete the first dot point under Clause 4.0 (on the basis that it is unnecessary) and make provision for works in kind in the second dot point. The proposed changes were tabled as document 18.

Council referred the Panel to the Donnybrook/Woodstock PSP panel report (that recommended deferring the finalisation of the PSP until the ICP was finalised), arguing that the VPA has not demonstrated why this Amendment is any different.

In closing submissions, Mr Tobin submitted:

*This PSP confirms the infrastructure that will be funded and the methodology for funding that infrastructure. Reaching a conclusion on the funding mechanism with no costings (and various difficulties associated with the intersections as outlined above) is fiscally irresponsible.*

In response, the VPA did not consider it necessary to delay the gazettal of the PSP. The VPA submitted that the DCPO9 provided for an interim arrangement to allow an agreement with the responsible authority to be entered into prior to establishment of a precinct wide contributions plan. The VPA submitted that this is appropriate as the PSP establishes the strategic justification for the infrastructure items and the ICP is the mechanism for delivering the infrastructure. The VPA submitted that the fact that the majority of the precinct is in the control of one landholder will also minimise the risk of the responsible authority having to enter into agreements with multiple parties.

The VPA accepted the proposed drafting changes to the second dot point in Clause 4.0 of the DCPO9, but did not agree with the deletion of the first dot point. The proposed VPA preferred revised DCPO9 is attached as Appendix A to this report.

The VPA submitted that the funding of infrastructure in this instance is distinct from the situation at the Donnybrook/Woodstock PSP, where it was more difficult to administer

section 173 agreements for land development as the land was included in two municipalities.

The submission from Beacon Town Planning (submission 13) on behalf of the owners of 248 to 316 Troups Road raised concerns about the lack of certainty for developers resulting from an un-costed ICP. The submission noted:

*The lack of certainty and costing around the ICP items is unacceptable. The inability to scrutinise and cost the apportionment of standard and supplementary levy items is unacceptable from a position of equity and the principles of natural justice.*

At the Hearing Mr Hodge, appearing on behalf of Beacon Town Planning, clarified that his client wanted to see the PSP concluded but that the DCP/ICP should be transparent. He submitted that the ability to have a section 173 agreement should be retained and landowners ought to have the ability to input into the ICP quantum.

Mount Atkinson Holdings, the landowner with the biggest interest in the PSP, raised no concerns about the proposed VPA approach.

#### **(iv) Discussion**

The Panel agrees that it is appropriate to apply an ICPO over the whole area of the PSP. Note that the Panel recommends the substitution of the DCPO with the new ICPO as discussed in Section 2.3 below. The PSP itself provides the strategic justification for the application of an ICP. The PSP also defines the infrastructure proposed to be included in any ICP. This is largely uncontested, with the exception of a few infrastructure items discussed in the next section.

This PSP will apply a standard rate contribution under the new ICP system. The Panel expects that the PSP process will continue to be the mechanism for identifying the main infrastructure items in the PSP to be funded by the ICP, and it is also likely to be the mechanism for identifying potential supplementary ICP items.

The Panel agrees with Council that the Amendment should not be approved and the PSP should not be finalised before the ICP is prepared. The Panel agrees with Council that there is uncertainty with the approach proposed by the VPA. The Panel believes that it would be difficult to reach agreement on section 173 agreements in the context of the uncertainty about what would be in or out of the ICP, and this may well lead to delays in planning approvals sought through the Council. The Panel agrees with the submission of Beacon Town Planning that to approve the PSP in the absence of the ICP would be to deny the opportunity for scrutiny of the cost and apportionment of standard and supplementary levy items.

The Eddie Barron decision by VCAT in 1990<sup>2</sup> identified four criteria that must be met before a DCP levy could be validly imposed: Need, Equity, Accountability and Nexus. The Panel is comfortable that the PSP, in particular the Precinct Infrastructure list at Table 9, satisfies the nexus and probably the need criteria, but it is not possible to assess whether the equity

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<sup>2</sup> Eddie Barron Constructions Pty Ltd v Shire of Pakenham & Anor [1990] 6 AATR 10



criteria is satisfied in the absence of any costings or apportionment. The Panel considers it prudent to await the preparation of an ICP under the new system, including costing of all items and the identification of any supplementary items, before finalising the PSP. This will provide the opportunity to match any changes to the Precinct Infrastructure list in the PSP to the final form of the ICP and better enable Council to properly plan how they will implement infrastructure projects and fund any shortfall.

The Panel does not accept the VPA argument that this PSP is different to Donnybrook/Woodstock. From the Panel's reading of the panel report for the Donnybrook/Woodstock PSP, the difficulty of entering into a section 173 agreement over two municipalities did not figure in the Donnybrook/Woodstock Panel's reasons for recommending the PSP not be finalised. That Panel concluded "*in the absence of details of the legislation that will determine the contributions required for the stated infrastructure, it would be prudent to delay approval of the DWPSP*". The Panel believes that the same circumstances apply in the Mount Atkinson and Tarneit Plains PSP and that the same conclusion applies.

Deferral of the PSP until an ICP is in place will likely have implications for the wording of the Schedule to the ICPO. The Panel agrees that the first dot point in Clause 4.0 is likely to be redundant if the ICP is in place when the Amendment is finalised.

The Panel expects that, now that the new ICP guidelines have been released, deferring the approval of the PSP until the ICP is in place is unlikely to substantially delay the development of land in the PSP (depending on whether a supplementary levy is imposed as discussed below).

## **(v) Conclusions**

The Panel concludes:

- It is appropriate to apply an ICPO over the whole area of the PSP.
- The Amendment should not be approved and the PSP should not be finalised before an ICP is prepared.
- The proposed Schedule to the ICPO should be reviewed and updated once the ICP is finalised, including considering the deletion of the first dot point of Clause 4.0 as proposed by Council.

## **2.3 New ICP Guidelines**

On 27 October 2016 (post-hearing) the Minister for Planning released the new ICP Guidelines, along with a Ministerial Direction on the preparation and content of infrastructure contribution plans and Planning Advisory Note 64 'Transitional arrangements for metropolitan growth area infrastructure contributions'.

Planning Advisory Note 64 sets out circumstances that must be met for a DCP to be used instead of an ICP. Those circumstances do not apply to Amendment C162, so in the Panel's understanding, an ICP will be required for this precinct.

The Ministerial Direction sets out the requirements for imposing a supplementary levy, including allowable items, criteria for applying and requirements for estimating costs. Importantly, the ICP Guidelines, at page 34, state that "*a normal amendment process will*

*apply for an ICP where a supplementary levy is proposed*". This could potentially affect the time that may be needed to finalise the ICP in the event that a supplementary levy is required. Clearly if the ICP goes through a separate amendment process, it will take longer.

The Panel understands that, as part of the process to determine whether a supplementary levy is required, it must first be determined whether the cost of the supplementary item/s could be accommodated within the money collected from the standard levy. All items in the ICP (and any proposed supplementary items) will, therefore, need to be costed before a decision can be made about whether a supplementary levy is required.

The Amendment proposes the application of a DCPO over the entire area of the PSP. Given that the ISP Guidelines are now in place, this should be substituted with an ICPO. Planning Practice Note 64 (the transitional arrangements for metropolitan growth area infrastructure contributions) make it clear that a DCP can only be used if it has been placed on exhibition prior to the commencement of the ICP system. No DCP was placed on exhibition in this case, so an ICP and ICPO are the appropriate mechanisms.

## **2.4 Infrastructure items included in the ICP**

### **(i) The issue**

Should the additional items nominated by Council be included in the ICP standard levy, or as part of a supplementary levy in the ICP?

### **(ii) Submissions**

Council has identified a number of additional items for inclusion in the ICP that it submits should be specified in the PSP. These are addressed in turn, with the VPA response and Panel comments.

#### **Hopkins Road**

Council submitted that the construction of paths, including off-road bicycle paths, and nature strips for Hopkins Road will be located outside the carriageways, and although Hopkins Road is a declared state arterial road, it is not the responsibility of VicRoads to deliver infrastructure located outside the carriageways. Council sought for the costs of such infrastructure to be funded as an additional item in the ICP.

The VPA responded that *"as Hopkins road is a declared state arterial road and it is the responsibility of the state to fund any upgrades, funding for construction will not be an allowable item."*

The VPA provided the Panel with typical cross sections for Hopkins Road (Documents 80 to 83) which confirm that bicycle paths and footpaths on the west side of the carriageway cannot be accommodated within the 20.5 metre Hopkins Road reserve and would need to be in the gas pipeline easement or to the west of it.

The VPA submitted that the PSP requires developers to provide pedestrian paths, shared paths, landscaping and associated works on the west side of Hopkins Road (Plan 10 of the PSP). It further submitted that, as this land is within one ownership, it is reasonable to expect this to be funded by the developer and the PSP requires this.

The Panel notes the VPA's advice that the paths are developer funded items. This negates the need for them to be included in the ICP.

### **Road bridge over the Melton rail corridor, north of intersection IT05**

Council was concerned that the planned road network will not provide reliable connections to allow north-south movement across the rail corridor. Council submitted that a connector road, including road bridge over the Melton rail corridor, should be provided from intersection IT05 to the north of the rail corridor.

Following the release of the further traffic modelling, Council confirmed its' agreement that there is now no requirement for a western bridge over the railway line. This matter is now resolved.

The Panel agrees that the suggested road bridge is not needed. The revised traffic modelling showed that IT01 and IT02 will function at reasonable operational levels in both the medium and long term, providing access to the north side of the PSP area.

### **Pedestrian bridge over the freeway**

Plan 13 and Table 9 in the PSP show this project (BR01) with Council as the lead agency, and with the purchase of land and 50 percent of the ultimate construction included in the ICP. Council now agrees it can be the lead agency, provided the construction of BR01 is included in the ICP or a supplementary ICP.

Council further submitted:

*If construction is not funded by either of those mechanisms, Council considered it would be appropriate for the pedestrian bridge to remain shown on the PSP plans, but be removed from the Precinct Infrastructure Plan.*

*Council notes that at the Panel hearing in relation to the Rockbank PSP (Amendment C145 to the Melton Planning Scheme), Council argued to include two pedestrian bridges over the Western Freeway. The Panel agreed the pedestrian bridges would be beneficial to connect the communities on either side of the freeway, but considered most of the movement would be from residents to the north, outside of the Rockbank PSP area (page 21)<sup>3</sup>. The Panel concluded the two pedestrian bridges 'should remain as potential projects in the PSP but not be included in the DCP' (page 22).*

The Panel agrees that the project should be included in the PSP and ICP as proposed. The Panel notes that pedestrian bridges are listed in the Ministerial Direction on the preparation and content of ICPs as an allowable item for a supplementary levy.

### **The additional cost of constructing road segments and intersections over the gas transmission pipeline**

Council submitted that intersections IT03, IT04, IT15 and IT17 include major gas pipelines within their extents. The SMS identifies the 'corrective actions' required to be undertaken for construction works in the vicinity of these pipelines. Council submitted that the

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<sup>3</sup> Panel report dated 27 May 2016.

corrective actions will increase the costs of construction beyond what would normally be expected for PSP intersections. Council submitted that the additional costs should be included as supplementary ICP items.

The VPA viewed this as developer works and submitted that the developer should be aware of the encumbrance at time of purchase. The VPA submitted that: *“As all of the roads to be constructed over high pressure gas transmission pipelines are within 1 land ownership, this strengthens the argument for this being developer works.”*

The Panel agrees with the VPA that developer funded works over the gas pipeline should allow for the additional cost of the works. Where the work is within the extent of an ICP funded project, however, responsibility for this additional cost is less clear. Under the old DCP system the full cost of the work would have been included in the intersection costing and funded through the DCP. Under the new system the Panel understands that there is allowance for significant variations to be included in a supplementary item, but that if the variation is small it would be expected to be borne within the standard levy. The Panel agrees that, if the cost differential is significant, a supplementary item could be considered in the ICP. The project would need to be assessed against the new criteria for supplementary levy items.

#### **The upgrade that will be required to the Hopkins Road level crossing**

Council submitted that it understands that the VPA has agreed the urbanisation of the Hopkins Road level crossing should be included as an additional ICP item.

The VPA confirmed this is correct.

#### **Pedestrian bridge over the rail line**

Council submitted that land for and construction of a pedestrian bridge over the railway line should be included in the ICP.

The VPA did not agree to include this as an ICP item. It submitted that *“the primary pedestrian access across the rail corridor in the town centre will be delivered through the construction of the potential future train station. PTV have provided support to the delivery of the station and have funded the required rail upgrades to facilitate the station”*. The VPA submitted that if the station is not delivered, it is questionable if a pedestrian crossing across the rail line will be required. The VPA submitted that it is also difficult to justify the nexus to the rest of the PSP for this infrastructure.

The Panel disagrees that there is not a nexus to the balance of the PSP area. It is likely that car parking will be on both sides of the rail line. Even without the train station it is desirable to link pedestrian and cycling paths from the south to the north and to the proposed pedestrian and cycle bridge across the Western Freeway, which is included in the ICP.

The Panel therefore concludes that the pedestrian bridge (land and construction) should be included in the ICP. The Panel believes that the timing of the need for the bridge is not necessarily dependent on the creation of the railway station, but is more dependent on when the pedestrian bridge over the Western Freeway is built and the need to connect communities as land is developed. The Ministerial Direction on the preparation and content of ICPs lists pedestrian bridges over a railway as an allowable item for a supplementary levy.

The Panel concludes that the pedestrian bridge over the rail line should be considered in the ICP as a potential supplementary levy item.

### **(iii) Summary of conclusions**

The Panel draws the following conclusions in relation to the additional ICP items raised by Council:

- The construction of footpaths and off-road bicycle paths for Hopkins Road located outside the carriageways are developer funded items and need not be included in the ICP.
- A road bridge over the Melton rail corridor, north of intersection IT05 is not required.
- The purchase of land and 50 percent of the ultimate construction cost of the pedestrian/cycle bridge over the Western Freeway should be included in the ICP, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.
- A supplementary item for the additional cost of constructing road works over the high pressure gas transmission pipelines should be considered for inclusion in the ICP, but only if the cost differential is significant.
- The urbanisation of the Hopkins Road level crossing should be included as an additional ICP item.
- The pedestrian bridge over the rail line (land and construction) should be included in the ICP, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.

Given that the Panel has recommended that the ICP be prepared before the PSP is finalised, the corresponding changes to the PSP should also be made to match the changes as listed above.

## **2.5 Recommendations**

The Panel makes the following recommendations in relation to changes to the Precinct Structure Plan and future Infrastructure Contributions Plan:

- 1. Delay approval of Amendment C162 and finalisation of the Mount Atkinson and Tarneit Plains Precinct Structure Plan until a fully costed Infrastructure Contributions Plan has been prepared and adopted for the Precinct.**
- 2. Make any consequential changes to the Precinct Structure Plan to reflect the final Infrastructure Contributions Plan once completed.**
- 3. Substitute the proposed Development Contributions Plan Overlay with an Infrastructure Contributions Plan Overlay.**
- 4. Review and update the contents of any Schedule to the Infrastructure Contributions Plan Overlay, including considering the deletion of the first dot point of Clause 4.0 of the former Development Contributions Overlay Schedule 9 as proposed by Council.**

- 5. Consider a supplementary item in the Infrastructure Contributions Plan for the additional cost of road works over the gas transmission pipeline if the additional costs are substantial.**
- 6. Include a pedestrian bridge over the rail line (land and construction) in the Infrastructure Contributions Plan, potentially as a supplementary levy item if it cannot be accommodated in the standard levy.**

## 3 The default applied residential zone in the UGZ

### 3.1 The issue

The issue is the proposed extent of the Residential Growth Zone (RGZ) as the ‘applied zone’ for residential areas in the Urban Growth Zone Schedule 9 (UGZ9).

The exhibited UGZ9 nominated the RGZ as the applied zone for all residential areas. The exhibited PSP also identifies ‘medium density residential areas’ (Plan 5) within the broader residential areas.

### 3.2 Submissions

Council’s initial submission on the exhibited Amendment opposed the blanket application of the RGZ as the ‘applied zone’ for residential areas, submitting that it was excessive and inconsistent with how the reformed residential zones had been applied elsewhere in the municipality.

The VPA subsequently reviewed its approach and proposed to reduce the extent of the RGZ, confining it to various ‘walkable catchments’:

- 800 metres from the Principal Public Transport Network (PPTN) railway stations
- 800 metres from Major and Specialised Town Centres
- 600 metres from PPTN bus routes
- 400 metres from Local Town Activity Centres
- 100 – 200 metres from Community Hubs and Local Convenience Centres.

The VPA proposed that the GRZ be the applied zone outside of these catchments, resulting in approximately 60 percent of the residential areas being subject to the RGZ and 40 percent being subject to the GRZ.

The VPA advised that this approach was consistent with its draft background paper: *PSP Planning Response to Applied Residential Zone*, September 2016 (Appendix 2 to Document 63).

Council supported the refinements proposed by the VPA, but argued that the proposed extent of the RGZ was still excessive. Council submitted that the 60/40 split between the RGZ and GRZ was “*out of step with the balance of Melbourne*” and noted that such extensive use of the RGZ was not necessary to achieve the minimum residential density sought in the PSP. Council submitted that the preferred residential density could be achieved under the GRZ and that the RGZ should be applied on a more targeted, rather than general, basis.

Council provided an overview of how the residential zones have been applied in the municipality (and other growth area municipalities), including the findings and recommendations of Council’s Housing Diversity Strategy.

In this context, Council submitted that the RGZ should be limited to residential areas within:

- 400 metres of the Specialised Town Centre (rather than 800 metres)
- 200 metres of the Mount Atkinson Road and Greigs Road PPTN routes
- 100 metres of the co-located community hubs, sport reserves and local convenience centres.

Council proposed that the GRZ be the applied zone in other residential areas.

### 3.3 Discussion

The Panel does not support the blanket application of the RGZ as the 'default' applied zone for residential areas as proposed in the exhibited Amendment. As discussed in the Panel report for Amendment C145 to the Melton Planning Scheme (Rockbank PSP), Planning Practice Note 47 (Urban Growth Zone) notes that once development within a precinct is underway, it should be a straightforward task to translate the UGZ to a suitable suite of zones. In that context, the selection of applied zones should reflect the long-term strategic outcomes that are sought for an area and assist the future zone translation process. The Panel was not provided with any justification for the blanket application of the RGZ within the residential areas or the density and scale of development associated with that zone. The Panel notes that recent panel reports for Rockbank, Brompton Lodge and Donnybrook/Woodstock PSPs all recommended that the RGZ should not be the default applied zone in the UGZ.

In contrast to the default application of the RGZ in the UGZ9, the exhibited PSP identifies more limited areas for higher density residential development, including:

- the 'medium density residential areas' in Plan 5 (R17)
- land within a 400 metre walkable distance of the Mount Atkinson Specialised Town Centre and the PPTN (R18).

It is not clear why the RGZ was applied beyond these areas in the exhibited UGZ9.

The Panel believes that a more nuanced approach to applying the RGZ is necessary and notes that this was reflected in the submissions from the VPA and Council at the Hearing. In terms of the differing approaches to applying the RGZ that were proposed, the Panel supports Council's approach on the basis that it is consistent with the *Melton Housing Diversity Strategy 2014* implemented by Amendment C157. That Amendment was approved under section 20(4) of the Act in July 2014 and introduced the suite of new residential zones into the Melton Planning Scheme. It applied the RGZ around major activity centres and PPTN nodes "*generally but not exclusively on a 400-metre radius walking distance*".

Council's approach is also consistent with the exhibited PSP Requirement R18 that identifies land within a 400 metre walkable catchment of the Mount Atkinson Specialised Town Centre and PPTN as suitable for 'medium or higher density housing'.

In contrast, the VPA's broader application of the RGZ, particularly the extensive walkable catchment associated with the PPTN, would be excessive given the characteristics of the precinct, including the distribution of activity centres and the extensive PPTN interfaces. Although the VPA did not map the revised extent of the RGZ, it would apply to a significant proportion of the precinct's residential areas (at least 60 percent) and it is not clear that this would be a sensible or appropriate outcome.

Although the Panel agrees that residential areas in PSPs should provide diversity in dwelling density and form, it also agrees with Council that the GRZ enables this, without the need for applying the RGZ as extensively as proposed by the VPA. The Panel is cautious about applying the RGZ as a default residential zone given that it provides a broader range of



permissible commercial uses that may have implications for residential amenity and commercial activity in planned activity centres.

In reaching this position about the RGZ, the Panel has not formed any firm views about the broader merits or application of the VPA's draft background paper<sup>4</sup> and the proposed standards for applying the RGZ. The draft paper was tabled for the first time during the Hearing. The Panel does not believe the paper has yet been thoroughly tested and therefore affords it little weight at this time. The Panel does, however, believe that the further development of the draft paper (in conjunction with growth area Councils) is to be encouraged so that it can be properly reviewed and tested in future, and ultimately be adopted as a more formal guideline.

The Panel accepts that local circumstances might warrant differing approaches and a broader or more confined application of the RGZ in other locations. In the case of this precinct, the Panel is satisfied that the approach sought by Council is preferred and supported by local policy.

### **3.4 Conclusions**

The Panel concludes:

- The RGZ should not be used as the default 'applied zone' for residential areas in the UGZ9.
- The use of the RGZ as an applied residential zone in the UGZ9 should be consistent with the approach sought by Council.
- The PSP Planning Response to Applied Residential Zones Background Paper should be further developed in consultation with growth area Councils.

### **3.5 Recommendations**

The Panel makes the following recommendations:

- 7. Apply the Residential Growth Zone to the 'residential' areas in the Urban Growth Zone Schedule 9 that are within:**
  - **400 metres of the Mount Atkinson Specialised Town Centre**
  - **200 metres of the Mount Atkinson Road and Greigs Road Principal Public Transport Network routes**
  - **100 metres of the co-located community hubs, sport reserves and local convenience centres.**
- 8. Apply the General Residential Zone to the remaining 'residential' areas in the Urban Growth Zone Schedule 9.**

The Panel makes the following recommendation for further action:

***The Victorian Planning Authority should further develop the PSP Planning Response to Applied Residential Zones Background Paper in consultation with growth area Councils.***

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<sup>4</sup> PSP Planning Response to Applied Residential Zones Background Paper, VPA September 2016

## 4 High pressure gas pipeline

APA VTS Australia (Operations) Pty Ltd (APA) operates four high pressure gas transmission pipelines within the PSP area, located within two separate easements, one along the western side of Hopkins Road, the other along the southern side of Middle Road. These pipelines make up an integral section of the Victorian gas transmission system.

### 4.1 The issues

The pipeline easements, along with their measurement length, are identified on Plan 12 (Utilities) of the PSP (reproduced as Figure 2 below).

The issues are:

- Whether sensitive uses should be prohibited within the measurement length of the pipelines.
- Whether additional permit triggers should apply for sensitive uses within the measurement length.
- Whether the proposed application of the Mixed Use Zone (MUZ) is appropriate in the measurement length.
- Whether the Safety Management Study (SMS) undertaken by APA in respect of the PSP needs to be updated in light of the proposed application of the MUZ.
- What notice or referral requirements should apply within the measurement length.
- The proposed requirements for a construction management plan for works within the measurement length.
- Requirements and guidelines in the PSP around construction of infrastructure within the pipeline measurement length.

Issues relating to the proximity of the pipelines to the proposed landfill extension will be addressed in the Panel's main report.

### 4.2 Sensitive uses within the measurement length

#### (i) Submissions

APA (Submission 10) submitted that sensitive uses should require a permit within the measurement length of the pipelines, including:

- uses involving congregations of people (such as place of assembly and retail), given the difficulties in evacuating large numbers of people in the event of an incident
- uses involving vulnerable people who may not be able to escape effectively in case of an incident (for example, accommodation, aged care facilities and dependent persons unit).

The exhibited Amendment already included a permit trigger for a number of sensitive uses in the measurement length, and the VPA agreed to add service station in response to APA's submission. The sensitive uses that remained in dispute were retail premises and accommodation.

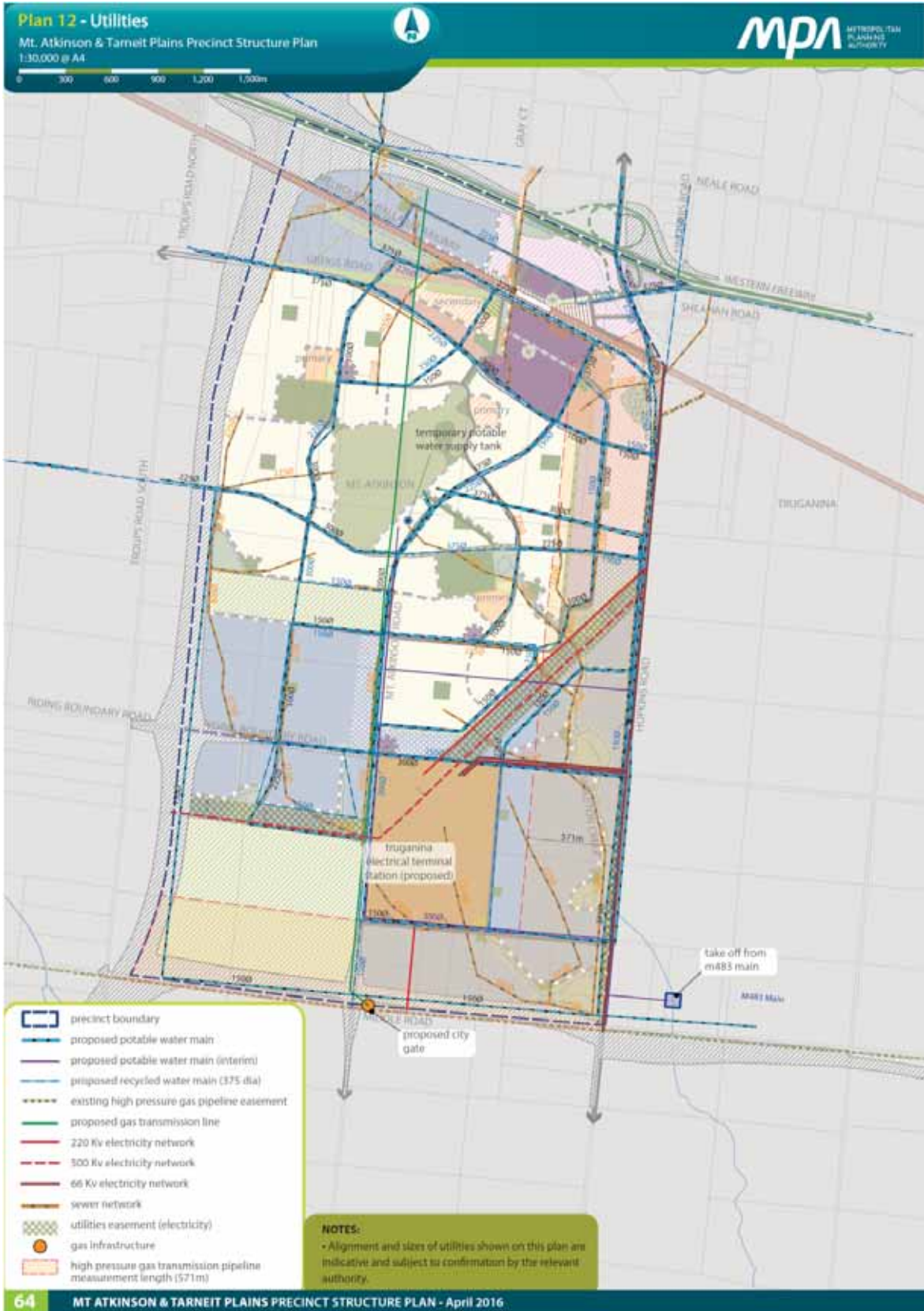


Figure 2 Plan 12 (Utilities) from the PSP

APA submitted that retail premises are commonly identified as a sensitive use, as they include a wide range of uses involving persons who have different ability to manage and respond to risk events. APA indicated that including retail as a sensitive use was 'standard' within the planning system, and submitted that the Panel for the Donnybrook/Woodstock PSP had included retail as a sensitive use. The VPA did not agree. It submitted that retail, particularly large format retail, does not generally involve large congregations of people, and restricting otherwise as of right uses in a business/large format retail area would be counterproductive to facilitating development. Mount Atkinson Holdings (Submission 22) supported the VPA's position.

APA submitted that a permit trigger should be introduced for accommodation in the measurement length. The VPA considered that this was "*overly onerous*", and that the requirement to notify APA of applications for residential development of four or more storeys was adequate.

Council (Submission 33) submitted that sensitive uses (as defined in AS2885) should be prohibited in the measurement length, unless APA is made a determining referral authority for such applications. It submitted that Council does not have the requisite technical expertise to determine whether a particular sensitive use might be appropriate within the measurement length. Council also supported a permit trigger for retail within the measurement length.

Council submitted that aged care facilities and the like should not be located within the measurement length, and that Guideline 22 in the PSP should be amended accordingly, and made into a Requirement. Council also expressed concerns about higher density housing being located in the measurement length, noting that the purposes of the MUZ encourage higher density housing.

## **(ii) Discussion**

The Panel considers that the preferable way to manage sensitive uses within the measurement lengths is to introduce permit triggers for appropriate sensitive uses, rather than prohibiting sensitive uses. This approach is consistent with recent PSP panels, including Wollert and Donnybrook/Woodstock.

The Panel agrees with APA that a permit should be required for retail premises within the measurement length. Retail, including large format retail such as an Ikea or a Bunnings, can attract significant numbers of people. In the Panel's view, it is appropriate to exercise a degree of caution before allowing such uses within the measurement length of the pipelines.

The Panel does not agree that a permit should be required for accommodation. The only applied zone within the measurement length in which accommodation would be permissible is the MUZ. This is confined to a relatively small area, located at the outer edge of the measurement length at some distance from the pipelines. The Panel supports the proposed permit triggers for some of the uses nested within accommodation (namely corrective institution, dependent person's unit and residential aged care facility), although the Panel considers that retirement village should also require a permit (on the basis that retirement villages will accommodate potentially significant numbers of vulnerable people).

The Panel does not consider that any additional restrictions are required in respect of higher density housing. A permit is required in the MUZ for more than one dwelling on a lot, so applications for higher density housing can be considered through the permit application process. APA did not express any in principle concerns over higher density residential development within the measurement length, provided it was a permit required use and referral requirements applied.

The Panel's findings in relation to permit triggers for retail premises and accommodation are consistent with recent PSP panels, including Wollert and Donnybrook/Woodstock, and the Panel sees no compelling reason to depart from that position.

The Panel considers that the PSP should be consistent with the UGZ9 controls, and that Guideline G22 should be amended to make it clear that lifestyle communities, retirement living and aged care facilities should not be located in the measurement length.

### **(iii) Conclusions**

The Panel concludes:

- Retail premises should require a permit within the measurement length.
- Accommodation should not require a permit within the measurement length, although certain land uses nested within accommodation (namely corrective institution, dependent person's unit, residential aged care facility and retirement village) should require a permit.
- No additional restrictions are required in relation to higher density housing in the measurement length, beyond those already provided.

## **4.3 The appropriateness of the Mixed Use Zone**

### **(i) Submissions**

Council submitted that the MUZ is inappropriate in the measurement length, as it allows certain sensitive uses as of right, and encourages higher density residential development. Council also queried whether the conclusion of the SMS that risks are 'low' would have been reached if the SMS had been prepared on the basis that the MUZ would be applied (the MUZ was introduced into the PSP after the SMS was completed).

APA submitted that it was comfortable with the MUZ applying within the measurement length. It submitted that the larger of the pipelines along Hopkins Rd was built recently (in 2012), to a higher standard, and is therefore considered a lower risk profile. APA also considered other changes to the PSP since the SMS, including that sections of the pipeline are now proposed to be covered by concrete structures such as shared paths that will provide an additional level of protection. APA's position was subject to the proviso that the changes requested in its original submission will be made.

APA did not consider that the SMS needed updating to reflect the MUZ prior to gazettal of the Amendment, but noted that the SMS would be reviewed in light of the land use or development that may occur in future, in accordance with AS2885. The VPA supported this position.

The VPA submitted that the issue is the uses, not the applied zone, and that Council's concerns should be addressed by requiring a permit for the potentially sensitive uses that would otherwise be as of right under the MUZ. It submitted that Council's concerns about the MUZ encouraging higher density residential development should be addressed by the requirement to notify APA of permit applications for residential development of four or more storeys.

## **(ii) Discussion**

The Panel considers that the position adopted by APA and the VPA in relation to the MUZ is reasonable. APA has specifically considered the application of the MUZ in light of the risk posed by the pipeline along Hopkins Rd, and has indicated it is comfortable due to (among other things) the higher construction standards of that pipeline. The Panel agrees that there is no need to update the SMS at this stage. Specific concerns about sensitive uses and higher density residential development allowed or encouraged under the MUZ can be appropriately addressed by specific controls in the UGZ9.

## **(iii) Conclusion**

The Panel concludes:

- It is appropriate for the MUZ to apply within the measurement length, as shown in the PSP.
- There is no need to update the SMS at this stage to reflect the application of the MUZ.

## **4.4 Referral and notice requirements**

### **(i) Submissions**

APA's original submission (Submission 10) argued that either Energy Safe Victoria or the Secretary or Minister to the Department administering the *Pipelines Act 2005* should be a determining referral authority for permit applications for subdivision and construction of a building to be used for sensitive purposes within the measurement length of the pipelines. APA clarified at the Hearing that its preference is for APA to be a referral authority, as it has the most detailed knowledge and understanding of the pipelines.

APA also submitted that referral was preferable to notification. While notification was useful, and would give APA an understanding of land use and development patterns around its pipelines, APA submitted that it has industry knowledge that could be useful to feed into the planning process more formally. It submitted that best practice involves decision makers taking into account the comments of the regulators or industry participants about these matters. Council supported APA's position.

The VPA submitted that notice to APA was more appropriate than referral. It submitted that notice provides APA with the ability to comment on the proposal if there are concerns regarding the proposed use. It submitted that notice reduces the administrative burden that referral would otherwise impose on all parties, without reducing the degree to which Council takes APA's comments into account.

**(ii) Discussion**

The Panel agrees with the VPA that notice is preferable to referral. The rationale for submissions in support of referral was that APA has the technical expertise and industry knowledge necessary to properly inform a decision on a permit application. The Panel considers that notice provides APA with the opportunity to input its technical expertise into permit decisions (without determining their outcome), and that APA would have appeal rights at VCAT if it was not satisfied with a particular permit decision. This approach is consistent with recent PSP panels, including Wollert and Donnybrook/Woodstock.

**(iii) Conclusion**

The Panel concludes:

- Permit applications for the listed sensitive uses (and applications for subdivision or the construction of a building for a listed sensitive use) within the measurement length should be notified to the pipeline owner/operator.
- No additional referral requirements are required in respect of applications within the measurement length.

**4.5 Construction management plans****(i) Submissions**

Council expressed concerns in relation to the proposed requirements in Clause 2.7 of the exhibited UGZ9 for a construction management plan for works within the measurement length. Council submitted that it was not the right body to assess such a plan. Council's preferred approach was for APA to craft a model construction management plan which could be included in the PSP, along with a requirement that all works comply with the model plan unless APA consented otherwise.

APA submitted that construction management plans should be required for all works within the measurement length, but it only needs to approve plans for works that are 'within, crossing or in close proximity to' the gas transmission easements. It submitted that although a standard form construction management plan could potentially be developed as a base requirement, plans need to be tailored to a particular site and a particular type of works.

In its closing submission (Document 64), Council confirmed that it was satisfied with APA pre-approving construction management plans, and acknowledged APA's advice that plans need to be tailored to specific circumstances.

Council submitted that the reference to 'close proximity' was unhelpful, and more specificity was required. The VPA agreed. APA responded that it is not practical to specify a precise distance, as it depends on a number of variables including easement area, pipeline pressure, diameter and wall thickness, and soil types. Having said that, it submitted that *"For the purposes of this exercise we consider that the following values for 'close proximity' should be adopted:*

- *Derrimut to Sunbury Pipeline PL 122 (T62): 40m*
- *Truganina to Plumpton Pipeline PL 122 (T118): 50m*
- *Brooklyn to Ballan Pipeline PL78 (T56): 40m*

- *Brooklyn to Lara Pipeline PL226 (T112): 50m*

**(ii) Discussion**

The Panel agrees that construction management plans should be endorsed by the pipeline owner/operator. The pipeline owner/operator has the relevant technical expertise to best assess the potential risks. The Panel also accepts APA's advice that a standard form construction management plan is not viable, and that tailored plans are required to address the specific circumstances.

The Panel agrees that it is preferable to specify the precise distance at which APA's approval is required for a construction management plan. No consensus was reached at the Hearing on what that distance should be. The SMS recommends that APA approve construction methodology "*in areas of the easement and over the pipeline*"<sup>5</sup>, which are 20 metres wide. Both Council and the VPA suggested a distance of 50 metres from the easements in their preferred versions of the UGZ9. In light of APA's submissions, the Panel considers that it is appropriate to take a conservative approach, and adopt the greatest distance suggested in submissions – namely within 50 metres from the boundary of the pipeline easements.

APA submitted that a construction management plan should be required outside this distance but within the measurement length, but that APA would not need to approve or endorse any such plan. The measurement length is 571 metres from the pipelines, and covers a substantial portion of the PSP area. The Panel considers that this requirement is potentially onerous, and could place a significant administrative burden on Council. The Panel does not see any utility in requiring a plan if APA does not consider it needs to endorse the plan. The Panel therefore considers that the requirement for a construction management plan should be limited to the area within which APA endorsement of plans is required.

As exhibited, the requirement for a construction management plan in Clause 2.7 of the UGZ9 applies whether or not a permit is required. Council raised concerns that the requirement could be difficult to enforce when it does not attach to a permit application, as there is no statutory process to support the requirement. Council submitted that Clause 2.7 should be amended so that it only applies where a permit is required.

The Panel does not agree with this approach. There may be circumstances where works are undertaken within 50 metres of the pipeline easements that do not require a permit. These works have the potential to affect the pipelines, and should be subject to a construction management plan. The Panel acknowledges that enforcing the requirement may be more difficult in situations where there is no permit application, but restricting the requirement to situations where a permit is required is not, in the Panel's view, an appropriate response.

The Panel notes that it will be important to ensure that the requirement in Clause 2.7 is translated into an appropriate planning control (such as a design and development overlay) when the land in the PSP is eventually translated from the UGZ into the relevant applied zones.

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<sup>5</sup> Refer to pages 26 and 27 of the SMS - Document 17 Tab 1.



### **(iii) Conclusions**

The Panel concludes:

- Construction management plans should be pre-endorsed by the pipeline owner/operator, and approved by the responsible authority.
- Construction management plans should be required for works undertaken within 50 metres of the boundary of the pipeline easements. They should not be required beyond that distance, even if they are undertaken within the measurement length.
- The requirement for a construction management plan should apply for all works within the 50 metre distance, whether or not those works require a permit.

## **4.6 Minor drafting matters**

Council submitted that:

- the gas pipelines and their measurement length constitute a “*barrier to development*”, and as such should be shown on Map 1 in the UGZ9
- the measurement length should be shown on Plan 2 (Precinct Features) in the PSP, as well as Plan 12 (Utilities).

The Panel agrees that it will improve the transparency of the controls to include the measurement length on Map 1 in the UGZ9, as the UGZ9 controls directly reference the measurement length. The Panel also considers that the measurement length, like the quarry buffers, responds to an existing feature of the precinct, and should be identified on Plan 2 in the PSP.

APA requested that additional objectives and requirements be included in the PSP to ensure that infrastructure adjacent to or crossing the pipelines was appropriately sited, designed and constructed. It also requested that the shared path along Hopkins Road be relocated over the pipeline, to provide additional protection. The VPA agreed to these requests, which the Panel considers appropriate. They are included in the Panel’s recommendations set out below.

## **4.7 Recommendations**

**The Panel makes the following recommendations in relation to the high pressure gas pipelines:**

- 9. Amend Clause 2.4 of the Urban Growth Zone Schedule 9, to include the following as uses which require a permit in the high pressure gas pipeline measurement length:**
  - **Child care centre**
  - **Cinema based entertainment facility**
  - **Corrective institution**
  - **Dependent persons unit**
  - **Education centre**
  - **Hospital**
  - **Place of assembly**
  - **Residential aged care facility**
  - **Retail premises**
  - **Retirement village**

- Service station

10. Amend Guideline G22 in the Precinct Structure Plan to add the following dot point:

- *Not be located in the high pressure gas transmission pipeline measurement length identified on Plan 12 (Utilities).*

11. Amend Clause 6.0 of the Urban Growth Zone Schedule 9 to require applications for use, subdivision or construction of a building for the following uses to be notified to APA VTS Australia (Operations) Pty Ltd:

- Child care centre
- Cinema based entertainment facility
- Corrective institution
- Dependent persons unit
- Education centre
- Hospital
- Place of assembly
- Residential aged care facility
- Retail premises
- Retirement village
- Service station

12. Amend Clause 2.7 of the Urban Growth Zone Schedule 9 to read as follows:

*Specific provision – gas pipeline construction management plan required whether or not a permit is required*

*Prior to the commencement of any works, including demolition, on land within, or within 50 metres of the boundary of, the high pressure gas pipeline easements shown on Plan 2 (Precinct Features) and Plan 12 (Utilities) in the Incorporated Mount Atkinson and Tarneit Plains Precinct Structure Plan, a construction management plan must be submitted to and approved by the responsible authority. The plan must:*

- *be endorsed by the pipeline owner and operator prior to being submitted to the responsible authority*
- *prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the pipeline owner and operator.*

*The gas pipeline construction management plan must be implemented to the satisfaction of the responsible authority.*

*The gas pipeline construction management plan may, with the prior approval of the pipeline owner and operator, be amended to the satisfaction of the responsible authority.*

13. Include the following additional guidelines in section 3.7.2 (Utilities) of the Precinct Structure Plan (and renumber the remaining guidelines accordingly):

*G79: Any road networks running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.*

***G80: Any drainage infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90 degrees and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.***

***G81: Any utility infrastructure running adjacent to or crossing the high pressure gas transmission pipeline assets should cross at 90deg and be engineered to protect the integrity of the asset to the satisfaction of the responsible authority and gas pipeline owner.'***

14. Amend Appendix G of the Precinct Structure Plan to relocate the shared path within the high pressure gas transmission pipeline easement over the Deer Park to Sunbury 150 millimetre pipeline.
15. Show the high pressure gas pipelines and their measurement length on:
  - a) Map 1 in the Urban Growth Zone Schedule 9
  - b) Plan 2 (Precinct Features) in the Precinct Structure Plan.

## 5 Road cross section issues

### 5.1 The issues

The Panel received submissions in relation to a number of road cross sections included in the PSP. Three of these issues are more general in nature rather than site specific:

- Carriageway widths in the town centre
- Bicycle paths on primary arterial roads
- Bicycle paths on secondary arterial roads.

The Panel believes that it may be of benefit to include its discussion of these issues in this Interim Report as the issues may well flow on to subsequent PSPs.

### 5.2 Carriageway widths in town centre

#### (i) Submissions

Council submitted that road Section 17 (cross-section for Local Access Level 2) carriageway widths should be widened from 3.0 metres to 3.5 metres.

Council submitted that the additional space would reduce the potential for conflict with on-road bicycles. Council further submitted that the 3.5 metre carriageway widths would not facilitate significantly different speeds within the town centre. Council's previous experience relating to a 3 metre wide carriageway in Toolern has resulted in advice from PTV seeking a wider carriageway width.

The VPA support the use of narrower carriageways to create a low speed environment in town centres. The VPA submitted that drivers might slow down when they feel the space they are travelling in is narrow or its width changes. The VPA consider that carriageways should be 3.0 metres wide or less to prevent traffic 'squeezing past' cyclists. 3.0m would allow for cyclists to retain priority on the carriageway, provide enough width for buses to use if required and would contribute towards the creation of a safe, low speed environment.

No expert evidence was presented on this issue.

#### (ii) Discussion

The proposed road Section 17 seems to assume that cyclists will 'take the lane' for the entire length of the main street. A cyclist allowing 1 metre clearance from parked cars to avoid dooring would be near the middle of the traffic lane. It is the Panel's view that allowing an extra 0.5 metres traffic lane width would not substantially change this situation, but agrees with the VPA that it is more likely to encourage motorists to try to squeeze past a cyclist. It is not clear to the Panel whether this is safer or not. The Council and VPA seem to differ on this and no expert evidence was provided. The Panel is therefore not in a position to make a recommendation based solely on the impact on cyclists.

The Panel is, however, concerned that 3.0 metres is an insufficient traffic lane width to allow sufficient clearance for buses and larger service vehicles to use the road.

The *Public Transport Guidelines for Land Use and Development 2008* do not show this exact scenario, but does seem to imply in a number of the cross sections that are shown in the bus

section of the Guidelines that a 3.5 metre lane is more appropriate to allow sufficient clearance for buses. The Guidelines also show a preference for semi mountable kerbs and clear zones on medians for bus routes. The PTV submission (submission 19) stresses that all future bus capable routes should cater for ultra low floor buses.

The Panel notes that similar road cross sections in earlier PSPs (Truganina and Riverdale for example) had a 3.5 metre traffic lane and 2.3 metre parking lane. The reasons for the change in the current PSP have not been explained. The Panel also notes Council's comment that PTV may have had difficulty with narrower lane widths in Toolern. This was not, however, elaborated on by Council.

On balance, the Panel thinks it is prudent to provide a traffic lane of 3.5 metres for Section 17 and encourages the VPA to review Section 17 in conjunction with PTV and in particular address the following points:

- Whether a 3.5 metre traffic lane is preferable
- Whether a semi mountable kerb is preferable, particularly on the median side
- Whether ultra low floor buses are properly catered for
- Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.

Even if the town centre main streets are not regular bus routes, the Panel believes the issues of adequate clearance remain as the roads are likely to be used by trucks servicing businesses in the main street.

The Panel does not have the same concerns about any of the other connector street Sections proposed in the PSP, as either 3.5 metre lanes are provided or two traffic lanes are provided, allowing sufficient manoeuvring space.

### **(iii) Conclusion**

The Panel concludes that:

- A traffic lane of 3.5 metres should be provided for in Road Section 17 (page 109 of the PSP)
- The VPA should review Road Section 17 in conjunction with PTV to address the following points:
  - Whether a 3.5 metre traffic lane is preferable
  - Whether a semi mountable kerb is preferable, particularly on the median side
  - Whether ultra low floor buses are properly catered for
  - Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.

## **5.3 Bicycle paths on primary arterial roads**

### **(i) Submissions**

Council proposed a modified cross section for primary arterial roads which separates the two way bicycle path and the pedestrian path. The Council proposal is as shown in Figure 8 of Mr Pelosi's evidence and reproduced as Figure 3 below.

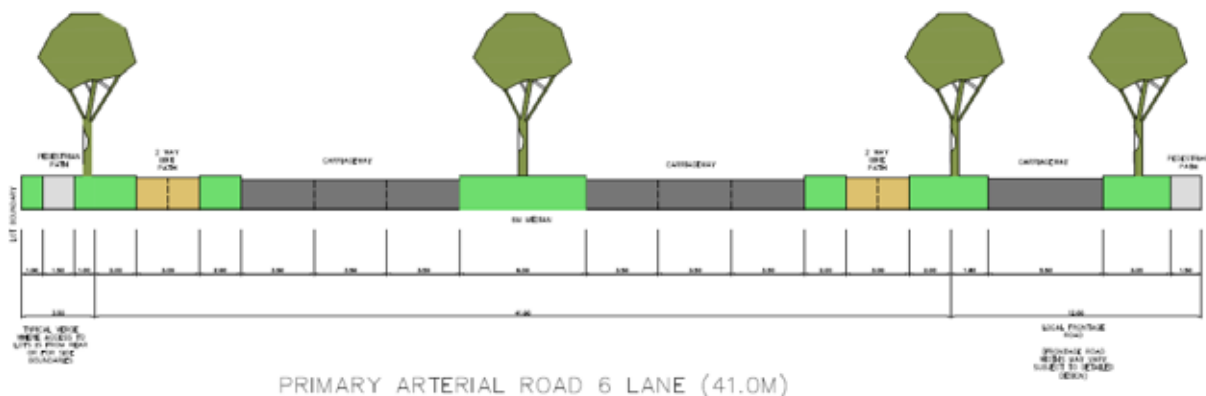


Figure 3 Council preferred primary arterial cross section

The VPA agreed with Council's proposal.

## (ii) Conclusion

The Panel accepts that the agreed modified primary arterial 6 lane cross section is an improvement and should be adopted. This should apply to Road Section 7 in the PSP.

## 5.4 Bicycle paths on secondary arterial roads

### (i) Submissions

Council did not support on road bicycle paths on secondary arterial roads. Council's preference was to provide two-way off-road bicycle paths on either side of the road reserve (in addition to a pedestrian path on each side of the road). Council provided an alternative secondary arterial road cross-section, which is shown at Figure 9 in Mr Pelosi's expert witness report (page 15), and reproduced as Figure 4 in this report. Council submitted that "this is caveated by agreement with the VPA that the on-road bike paths forming the western end of Greigs Road in the Rockbank PSP need to be continued for that road formation." The secondary arterials therefore still in dispute with regard to on-road bicycle lanes are Riding Boundary Road and Mount Atkinson Road.



Figure 4 Council preferred secondary arterial cross sections

Mr Pelosi gave evidence that the VPA proposal to have on-road bicycle paths on secondary arterials represents an inconsistency in the treatment of cyclists with an undesirable practical consequence. He gave evidence that this means that cyclists would experience a reduction in the level of protection when travelling from a fully separated off-road bicycle facility on a connector street to a more exposed on-road facility on a secondary arterial road and finally back to full protection in the off-road bicycle path context found on primary arterial roads.

Mr Pelosi gave a number of examples of where he thought off-road bicycle paths worked better, including Footscray Road.

The Traffic Conclave did not reach agreement on this point.

Council submitted that it is not sensible to have off-road bicycle paths on connector streets, on-road bicycle paths on secondary arterials and off-road bicycle paths on primary arterials.

The VPA submitted that Council had agreed to use the cross section agreed for secondary arterial roads in the Rockbank PSP. VPA considers that on-road bicycle lanes are appropriate for secondary arterial roads with a 60 km/hr speed limit.

The VPA submitted that a proportion of cyclists will generally (legally) ride on the road whether or not there are on-road lanes to avoid negotiating slow-speed off-road intersection treatments and the much shorter green traffic signal phases allowed for off-road cyclists. It submitted that there are many real-world demonstrations of this behaviour where on-road cycling is common despite the presence of off-road paths. VPA submitted that *"it is safer to provide a network of on road bicycle lanes for on road cyclists (and shared off-road facilities for other cyclists) in appropriate locations than to assume that on road cyclists can take care of themselves."*

The VPA submitted that constructing on-road bicycle lanes on all secondary arterial roads will provide a network for cyclists to use along preferred routes.

The VPA's proposed secondary arterial road cross section includes 2.0 metre on-road bicycle lanes for use by road bicycle riders, more confident cyclists and intermediate riders wishing to learn road riding skills. The 2.0 metre bicycle lane includes an allowance of 0.5 metres for chevron line marking to separate the bicycle lane from the adjacent traffic lane. The cross section also includes a 3.0 metre shared path on both sides of the road for less experienced riders.

## **(ii) Discussion**

The Panel agrees with the VPA that providing for on road bicycle lanes on secondary arterial roads is a more practical response that provides more appropriately for actual rider behaviour. It makes sense to the Panel to provide for:

- Separated off-road bicycle only paths on primary arterials where vehicle speeds are higher and traffic volumes higher
- Off road shared paths and space on-road for bicycles on secondary arterials where both 'commuter' and less skilled cyclists need to use the route, vehicle speeds are slower and traffic volumes are moderate

- A combination of off-road shared paths and space on-road for bicycles on connector streets, depending on the setting.

The Panel does not agree with Mr Pelosi and Council that inconsistency between types of roads is an issue. The Panel was not persuaded by Mr Pelosi's example of the 'ideal' off-road path, Footscray Road. Footscray Road is in fact a primary arterial, and in a much different setting than an outer growth area.

The Panel believes that cyclists will ride where they feel comfortable, and under what is proposed in the PSP, all riders would have the option of riding off-road for all road types. The more experienced riders would, however, have the option of staying on-road on secondary arterials, and the Panel believes this more accurately reflects rider behaviour.

The Panel was not persuaded that this would be inherently unsafe due to the higher than average proportion of heavy vehicles that are expected on the secondary arterial roads in this PSP. The 2 metre bicycle lane should allow ample clearance for cyclists, even with heavy vehicles.

### **(iii) Conclusion**

The Panel concludes that there should be provision for on-road bicycle lanes on secondary arterials as shown in Road Sections 1 to 6 in the PSP.

## **5.5 Recommendations**

The Panel makes the following recommendations in relation to changes to the exhibited PSP road cross sections:

- 16. Provide a traffic lane of 3.5 metres in Road Section 17 local access level 2 Town Centre Main Street (page 109 of the Precinct Structure Plan).**
- 17. Review Road Section 17 in conjunction with Public Transport Victoria to address the following points:**
  - **Whether a 3.5 metre traffic lane is preferable**
  - **Whether a semi mountable kerb is preferable, particularly on the median side**
  - **Whether ultra low floor buses are properly catered for**
  - **Whether the width of kerb outstands should be limited to ensure adequate kerb to kerb widths at these 'pinch points'.**
- 18. Modify Road Section 7 primary arterial 6 lane (page 99 of the exhibited Precinct Structure Plan) to separate the two way bicycle path and the pedestrian path as shown in Figure 2 of this report.**



## Appendix A Proposed changes to Clause 4.0 of DCPO9 – VPA preferred version

### Schedule 9 to the DCPO – proposed drafting changes to clause 4.0

A permit may be granted to subdivide land, construct a building or construct or carry out works before a precinct wide contributions plan has been prepared to the satisfaction of the responsible authority if any of the following apply:

- An agreement under section 173 of the *Planning and Environment Act 1987* has been entered into with the responsible authority that makes provision for the delivery of items listed in the Precinct Infrastructure Plan within the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*, incorporated document.
- The permit contains a condition requiring an agreement under section 173 of the *Planning and Environment Act 1987* that makes provision for contributions to items listed in the Precinct Infrastructure Plan within the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*, incorporated document with the agreement being required to be entered into before the issue of any Statement of Compliance. At the discretion of the responsible authority, the agreement may make provision for works in kind to be carried out having regard to the infrastructure projects set out in the Precinct Infrastructure Plan contained in the *Mt Atkinson & Tarneit Plains Precinct Structure Plan*.
- The responsible authority considers that the permit does not compromise the orderly planning of the precinct for the construction of a building or construction or carrying out of works associated with:
  - Additions or alterations to a single dwelling or development ancillary to the use of land for a single dwelling.
  - An existing use of land provided the gross floor area of the existing use is not increased by more than 1000 square metres.
  - A sign.
  - A permit that only allows the consolidation of land or a boundary realignment.