

# PSP 74 & 75 Sunbury South & Lancefield Road

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Amendments C207 and C208 to the Hume Planning Scheme  
Part B Submission – Response to Panel directions and key issues

August 2017



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# 1 INTRODUCTION

This submission is made on behalf of the Victorian Planning Authority (VPA) in respect of Amendments C207 and C208 (**Amendments**) to the Hume Planning Scheme (**Scheme**).

This Part B submission is to be read together with the Part A submission circulated on 7 August 2017.

It addresses the matters raised in direction 28 of the Panel's directions dated 12 July 2017, namely:

- a. *A summary of the key issues raised in submissions.*
- b. *Response to evidence tabled.*
- c. *Its [VPA's] final position on the Amendments.*
- d. *Provide an understanding of what is proposed with respect to progressing the Development Contributions Plan/Infrastructure Contributions Plan.*
- e. *Provide an update on the position to be adopted on using the RGZ as the applied zone for 'all other land' in the UGZ.*
- f. *Provide a summary of the culture heritage assessments (aboriginal and post-contact settlement) and how the requirements in the PSPs will provide protection for the identified sites and areas of cultural and environmental significance e.g. the Earth Rings, Cannon Gully and Zig Zag Track, Emu Bottom wetlands.*
- g. *Provide a map showing the location of the Earth Rings, Cannon Gully and Zig Zag Track, Emu Bottom wetlands.*
- h. *Provide confirmation of the alignment of the two proposed crossings of Jacksons Creek and an update on consultation with the Wurundjeri Council and the Hume City Council on the preferred alignments.*
- i. *Provide an explanation of the process to determine the Integrated Water Management requirements in the PSPs following the findings outlined in the Stormwater Management Strategy prepared by Alluvium (November 2014).*
- j. *Clarify the status of the Balbethan Residential Concept Plan.*
- k. *An assessment of the three s96A applications.*
- l. *An explanation of the deletion of HO358.*
- m. *A response to the submissions of Melbourne Water, Western Water and DELWP with respect to the integrated water network.*

Item (a) is addressed in section 3 of this submission, save for where the issues raised in submissions are also identified in items (d) to (m) above. Items (d) to (m) are addressed in section 2 below.

Item (b) is addressed on an issue-by-issue basis within sections 2 and 3.

Section 4 of this submission addresses the proposed removal of restrictive covenants in Stockwell Drive. This is not the subject of any unresolved submissions and has not been identified in the Panel's directions, but is included for completeness.<sup>1</sup>

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<sup>1</sup> Submission 22 to the Lancefield Road PSP expressed 'opposition to subdivision allowance contrary to covenants for land purchased in Rolling Meadows where no subdivision allowed and purchases made under existing conditions'. The covenants proposed to be removed are not in Rolling Meadows and the submitter would not be a beneficiary of the covenants.

With respect to item (c), this submission represents the VPA's position at this time. The VPA considers it inevitable, given the nature and duration of this hearing, that further matters will be resolved, including in response to the expert evidence called. The VPA will seek the opportunity to update the Panel in relation to the resolution of matters at appropriate junctures in the hearing.

In making this submission, the VPA relies on the expert evidence of:

- Patrick Clarke of Senversa in relation to landfill gas;
- Peter Ramsay of Peter Ramsay & Associates in relation to odour;
- Craig Czarny of Hansen Partnership in relation to urban design;
- Reece Humphreys of GTA Consultants in relation to traffic engineering;
- Dominic Blackham of Alluvium in relation to geomorphology;
- Daniel Gilmore of Biosis in relation to ecology; and
- Paul Clemson of Engeny Water Management in relation to drainage engineering.

## 2 RESPONSE TO PANEL DIRECTIONS

This section responds to matters (d) to (m) in the Panel's directions and issues raised by submitters that relate to those matters.

### 2.1 Infrastructure Contributions Plan

*Sunbury South PSP (C207) – Submissions 57 (Hume City Council); 71 (Villawood Properties); 75 (Capitol Property Group)*

*Lancefield Road PSP (C208) – Submission 54 (Hume City Council); 71 (Villawood Properties)*

The new infrastructure contributions plan (ICP) system came into operation on 1 June 2016, with the introduction of Part 3AB into the *Planning and Environment Act 1987* (P&E Act).

Much of the detail governing the ICP system is contained in the *Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans* (Ministerial Direction), which was released on 27 October 2016 together with the *Infrastructure Contributions Plan Guidelines* (ICP Guidelines).

The Amendments were exhibited shortly thereafter on 24 November 2016.

Section 1.3 in each PSP notes that development proponents within the precinct will be bound by the Sunbury South ICP or Lancefield Road ICP as relevant.<sup>2</sup> This section explains that the ICP will set out requirements for infrastructure funding across the precincts and will be a separate document incorporated in the Scheme.

Each PSP also includes Table 10 (Precinct Infrastructure Plan), which identifies which infrastructure projects are to be included in the ICP. The ICP items relate to land purchase and construction costs for a number of community centres, active recreation facilities, intersections, bridges, tunnels and roads. The ICP also contributes funds towards the purchase of land associated with local parks.

The VPA is satisfied that the items identified in Table 10 of each PSP for inclusion in the ICP are allowable items under the ICP Guidelines.

The VPA anticipates apportioning a percentage of costs associated with the Sunbury Ring Road into the Sunbury North and West PSPs, in particular, the two crossings of Jacksons Creek and two road underpasses beneath the railway line. Apportionment will be based on the percentage of growth that each of the four PSPs contribute towards the total population increase. The apportionment for these future PSPs towards the specific projects above has been determined at 26%.

The VPA has commissioned the technical work to inform the scope and design of these projects. The VPA has estimated project costs based on this technical work, and expects a standard levy ICP only to be incorporated for these PSPs.

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<sup>2</sup> Page 7.

Section 46GD in the P&E Act provides that the infrastructure levy may consist of a standard levy, a supplementary levy, or both. Section 48GF allows the Minister for Planning to set standard levy rates for different types of land and classes of development. These rates are set out in the Ministerial Direction.

Table 1 to Annexure 1 in Part A of the Ministerial Direction sets the standard levy rates for the North and West Growth Areas, which include the Hume municipality. These are as follows:

Residential development	\$87,500	\$112,500	\$128,500	\$328,500
Commercial and industrial development	\$0	\$112,500	\$42,500	\$155,000

Figure 1: extract from Table 1 (Standard levy rates) from page 7 in the Ministerial Direction

The PSPs as exhibited state that the ICP is supported by the *Sunbury Infrastructure Co-ordination and Delivery Strategy (SICADS)*,<sup>3</sup> and that SICADS will be a reference document within the PSPs.<sup>4</sup>

The references to SICADS are now proposed to be deleted, as shown in the change matrices at Appendices 3 and 4 to the VPA's Part A submission. SICADS is currently being reviewed and is now intended to form a background report to the PSPs only. This resolves a submission by Hume City Council (**Council**).

Council has additionally requested that:

- Council be provided with a copy of the ICP for review and comment when it is available; and
- the PSPs not be approved until such time that the ICP has been prepared, reviewed and agreed to by Council as the responsible authority, collection agency and development agency under the P&E Act.

The VPA has agreed to these requests.

View Grange Pastoral Pty Ltd (**Villawood**) has submitted that all connector road intersections with Sunbury Road should be included in the ICP. All signalised intersections with Sunbury Road will be included in the ICP. However, left-in/left-out intersections will not be included. These have a relatively limited cost and are largely associated with providing local access to new subdivisions.

Capitol Property Group has requested the opportunity to provide a more detailed response to the ICP when it is available. As the VPA expects the ICP will be based on a standard levy only, the opportunity is unlikely to be provided for public comment.

<sup>3</sup> Page 5.

<sup>4</sup> Page 7.



Capitol Property Group is calling economic evidence from Chris McNeill of Essential Economics. Mr McNeill's expert witness report considers the provision of infrastructure in the Sunbury South area and the submission by Council in response to exhibition of the Amendments.

Mr McNeill identifies that 'Sunbury differs from many greenfields growth areas in metropolitan Melbourne in that there is established infrastructure in reasonable proximity'.<sup>5</sup> The VPA agrees this is a distinctive feature of both PSPs.

Mr McNeill considers the submission by Council in response to exhibition of the Amendments and refers to a concern that community infrastructure in the Sunbury South PSP will be delayed as preference is given to providing the new southern crossing of Jacksons Creek. The VPA has provided further information to Council in relation to delivery of this crossing and is satisfied the standard levy will result in sufficient funds for all apportioned projects.

Mr McNeill further states that there is 'some suggestion' that development of the PSP areas 'should be capped, pending the provision of the Bulla Bypass'.<sup>6</sup> Mr McNeill recommends caution in relation to this suggestion. The VPA does not expect and would not support such a cap.

## 2.2 Applied residential zones

*Sunbury South PSP (C207) – Submissions 57 (Hume City Council); 71 (Villawood Properties); 75 (Capitol Property Group); 83 (T Dance)*

*Lancefield Road PSP (C208) – Submissions 54 (Hume City Council); 60 (potential developers of 280 Lancefield Road); 71 (Villawood Properties); 77 (M Gray); 84 (T Dance)*

### 2.2.1 Applied zones

The Amendments proposed to introduce two Schedules to the Urban Growth Zone (UGZ):

- Schedule 9 – Sunbury South Precinct Structure Plan; and
- Schedule 10 – Lancefield Road Precinct Structure Plan.

Both Schedules include 'Table 1: Applied zone provisions' at Clause 2.2. These propose the application of two residential zones as follows:

<b>Walkable Catchment Boundary</b>	Clause 32.07 – Residential Growth Zone
<b>All other land</b>	Clause 32.08 – General Residential Zone

Figure 2: extract Table 1 (Applied zone provisions) in proposed Schedules 9 and 10 to the UGZ

<sup>5</sup> Page 9.

<sup>6</sup> Page 10.

### 2.2.2 Application of RGZ

The VPA's position is to apply the Residential Growth Zone (**RGZ**) within 'walkable catchments', the boundaries of which are depicted on Plan 3 (Future Urban Structure) in the PSPs.

The application of walkable catchments is described in Requirement R9 in the Sunbury South PSP and Requirement R10 in the Lancefield Road PSP as follows:

*Subdivision of land within walkable catchments shown on Plan 3, which typically comprise residential land within:*

- 800m of major town centres
- 400m of local town centres
- 200m of community hubs
- 100m of local convenience centres
- 800m of train stations
- 600m of the Principal Public Transport Network

*Must create lots suitable for delivery of medium or high density housing as outlined in Table 2, and achieve a minimum average density of 17 dwellings per net developable hectare.*

*Applications for subdivision can demonstrate how target densities can be achieved over time, to the satisfaction of the Responsible Authority, shall be considered*

These are areas with good access to services, transport and infrastructure. The approach outlined above is subject to minor variations to achieve logical boundaries, such as ending the application of a zone at nearby precinct features including roads and waterways. The RGZ is not applied to areas subject to buffers.

The General Residential Zone (**GRZ**) is applied to the remainder of residential areas.

This application represents VPA policy, set out in its *PSP Planning Response to Applied Residential Zones: Background Paper*.<sup>7</sup>

The VPA considers the application of the RGZ to these locations to support policy in *Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Plan Melbourne)*, including:<sup>8</sup>

- direction 2.1 to 'manage the supply of new housing in the right locations to meet population growth and create a sustainable' city, including policy 2.1.1 to 'maintain a permanent urban growth boundary around Melbourne to create a more consolidated and sustainable city';<sup>9</sup>
- direction 2.2 to 'deliver more housing closer to jobs and transport';<sup>10</sup>
- direction 2.5 to 'provide greater choice and diversity of housing';<sup>11</sup> and

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<sup>7</sup> September 2016 (with minor edits in October 2016).

<sup>8</sup> Department of Environment, Land, Water and Planning (**DELWP**), 2017.

<sup>9</sup> Pages 46-47

<sup>10</sup> Page 50.

<sup>11</sup> Page 58.

- direction 5.1 to ‘create a city of 20-minute neighbourhoods’.<sup>12</sup>

The VPA further considers the RGZ appropriate to allow a range of desirable, small floor area, non-residential uses on land close to town centres and encourage flexibility in urban communities.

The VPA notes the application of the RGZ has been considered in a number of recent Panel hearings in relation to PSPs, including Rockbank PSP (Amendment C145 to the Melton Planning Scheme), Donnybrook/Woodstock PSP (Amendment GC28 to the Whittlesea and Mitchell Planning Schemes), Mt Atkinson and Tarneit Plains (Amendment C162 to the Melton Planning Scheme) and Plumpton PSP and Kororoit PSP (Amendments C146 and C147 to the Melton Planning Scheme).

The Panels appointed to consider these amendments have consistently recommended that the RGZ should not be applied as a blanket residential zone, and that a more nuanced approach including both RGZ and GRZ is required. The VPA considers its current policy to achieve the balanced approach sought.

The VPA further notes that there exists a considerable difference in topography between the current PSPs and the western growth area PSPs, and it is therefore anticipated that the yield in both the GRZ and RGZ areas will be more measured in these PSP areas.

The VPA acknowledges Council’s submission that areas of medium density housing should be identified within the PSPs in place of walkable catchments. The VPA’s preference is to identify walkable catchments for the application of the RGZ for the reasons identified above.

Villawood has submitted that Requirement R9 in the Sunbury South PSP should be a guideline rather than a requirement and that the reference to 800 metres should be removed. The VPA does not propose to make changes to Requirement R9 but will consider specific exclusions where particular site constraints make higher densities unfeasible or inappropriate.

### 2.2.3 Densities

With regard to dwelling densities, the PSPs:

- seek to achieve a residential development yield average of 15 dwellings per net developable hectare;<sup>13</sup> and
- mandate a minimum average density of 17 dwellings per net developable hectare within walkable catchments, where the RGZ is applied.<sup>14</sup>

Accounting for proposed changes resulting from review of:

- the land identified as having ‘regionally significant landscape values’ in the exhibited PSPs;<sup>15</sup> and
- the drainage infrastructure requirements in the draft Drainage Services Schemes (DSS),<sup>16</sup>

<sup>12</sup> Page 98.

<sup>13</sup> Section 2.3 (Land budget) on page 13 in each PSP.

<sup>14</sup> Requirement R9 in the Sunbury South PSP and R10 in the Lancefield Road PSP.

<sup>15</sup> See correspondence and attachments to all parties dated 31 July 2017.

<sup>16</sup> See correspondence and attachments to affected submitters dated 27 June 2017.

the PSP areas combined have a total 1,538 hectares of net developable area in residential zones.

Of this total:

- the RGZ is proposed to be applied to 568 hectares, being 37%; and
- the GRZ is proposed to be applied to 970 hectares, being 63%.

An average of 15 dwellings per hectare across the two precincts would result in 23,055 dwellings new dwellings. The delivery of 17 dwellings per hectare in the 568ha of RGZ land (totalling 9,656 dwellings) would result in the remainder of the land requiring a density of 13.8 dwellings per hectare.

The potential purchasers of 280 Lancefield Road have submitted that the density requirement within walkable catchments should be reduced from 17 to 16.5 dwellings per net developable area. The VPA does not support this change and considers there will be sufficient capacity to provide for a range of densities across the broader walkable catchment area.

The Villawood submission seeks acknowledgement that 15 dwellings per net developable area will not be achievable across the entire PSP area. The VPA considers this to be an appropriate average density target for the PSPs and acknowledges there will be higher and lower density outcomes across various parts of the precincts.

Mr Dance's submission expresses concern regarding the visual impact associated with housing density. The VPA notes the PSPs seek lower densities than what is typical sought in Melbourne's growth areas and have been tailored to respond to the unique landscape features and township character in Sunbury.

## 2.3 Cultural heritage assessments

*Sunbury South PSP (C207) – Submissions 24 (E Brogan); 57 (Hume City Council)*

*Lancefield Road PSP (C208) – Submissions 17 (E Brogan); 20 (D Manning); 67 (A Menhennit); 54 (Hume City Council); 84 (T Dance)*

The submissions received in response to exhibition of the Amendments refer to a number of heritage sites in the precincts, in particular:

- the Former Constitution Hotel, 675 Sunbury Road, Sunbury (HO358), discussed further below;
- Cannon Gully, eastern escarpment of Jacksons Creek near Rupertswood, Sunbury (HO366);
- Emu Bottom, 410 Racecourse Road, Sunbury (HO53); and
- the Sunbury Earth Rings (HO200, HO201 and HO202).

The response in the Amendments to heritage matters has been informed by the following reports undertaken in respect of each PSP by heritage consultants on behalf of the VPA:

- *Post-Contact Heritage Assessment* (Context, December 2014); and
- *Aboriginal Heritage Impact Assessment* (Heritage Insight, August 2015).

The VPA notes that a number of heritage sites were shown in incorrect locations on plans in the exhibited PSPs, which will be corrected.

The VPA further notes that Council is currently undertaking an assessment of heritage sites subject to the Heritage Overlay in its municipality. The VPA understands the purpose of this assessment is to more accurately map and apply the curtilage to heritage sites, in recognition that many of the sites are currently protected by relatively large circles, which do not accurately reflect the heritage features or values. The VPA acknowledges that this work may result in changes to the extent of the Heritage Overlays within the precincts, but this will not be reflected in these Amendments.

### **2.3.1 Post-contact cultural heritage**

The *Post-Contact Heritage Assessments* were prepared by Context based on desktop and field assessments, and consultation with Heritage Victoria and Council. The purpose of the assessments was to identify any post-contact (non-indigenous) cultural heritage sites within the precincts to inform land use planning for the PSPs.

The recommendations in the resulting reports related to the settings of heritage properties, the construction of the northern crossing of Jacksons Creek, and development within cultural landscapes.

The Amendments address sites subject to the Heritage Overlay, sites of potential heritage value and the northern crossing in the manner described below.

#### ***Sites within a Heritage Overlay***

The Amendments addresses sites subject to a Heritage Overlay in developable areas as follows:

- Requirements R7 and R8 in the Sunbury South PSP and R8 and R9 in the Lancefield Road PSP require the development of land adjoining a heritage site to have regard to the heritage significance of the site and provide a sensitive interface.
- Schedules 9 and 10 to the UGZ require applications for land that contains a confirmed or possible heritage site to be accompanied by an assessment by a qualified heritage consultant, which describes any heritage features on the site and provides recommendations regarding the protection of heritage features or, where appropriate, integration of heritage in to the broader subdivision.

A number of identified heritage sites within the precincts are located on land identified in the PSP for conservation areas or as land with regionally significant landscape values. The VPA considers these designations will protect the sites from future development.

#### ***Sites of potential heritage value***

The assessments identify three sites in the Sunbury South PSP and two sites in the Lancefield Road PSP that have potential heritage value but are not subject to a Heritage Overlay.

These sites will require further investigation and be protected as appropriate through:

- Requirements R6 in the Sunbury South PSP and R7 in the Lancefield Road PSP;
- Guidelines G8 and G9 in both PSPs as well as G10 in the Sunbury South PSP;
- the application requirements in Schedules 9 and 10 to the UGZ described above in relation to sites within a Heritage Overlay.

### ***Northern crossing***

The proposed alignment of the northern crossing of Jacksons Creek has been revised to avoid the Heritage Overlay that applies to Canons Gully. The VPA notes the design for the alignment currently shows a small area of earthworks within the overlay. However, the VPA has been advised that this can be avoided in the detailed design.

There are no sites on the Victorian Heritage Register within the vicinity of the proposed alignment.

A Victorian Heritage Inventory listing (VHI 7822-2291) has been applied to protect potential archaeological values, such as military remains. The VPA understands the extent of the VHI applied has not been the subject of an assessment. That is, the likelihood of archaeological remains has not yet been tested or proven.

The proposed bridge design minimises earth disturbance through the use of pylons. When the locations of earth disturbance are identified (for example, for the bridge pylons), a consent to disturb can be requested from Heritage Victoria for any works required within the VHI area.

### **2.3.2 Aboriginal Cultural Heritage**

The *Aboriginal Heritage Impact Assessments* were prepared by Heritage Insight to identify the Aboriginal archaeological and cultural heritage values within the precincts and to ensure compliance with obligations under the *Aboriginal Heritage Act 2006*.

The assessments involved desktop assessments and a field survey of an approximately 80 hectare area. The field survey resulted in the registration of 15 Aboriginal cultural heritage places across the precincts: 14 in the Sunbury South PSP and one in the Lancefield Road PSP. Of these, eight are considered to be of moderate scientific significance and seven of low scientific significance. The recommendations in the assessments were adopted in the preparations of the PSPs.

In 2014, the VPA commissioned the Wurundjeri Tribe Land and Compensation Cultural Heritage Council (**Wurundjeri Council**) to undertake a targeted cultural values inspection, to research and document indigenous cultural values within the two precincts and to seek endorsement of the two Future Urban Structure plans. This included VPA officers undertaking site visits over two days to walk country with Wurundjeri Elders and staff to view potentially sensitive locations across both precincts.

Through the targeted cultural values inspection, the Wurundjeri Council endorsed the majority of the components of the Future Urban Structure plans, on the condition that the Wurundjeri be appropriately consulted and engaged during the Cultural Heritage Management Plan (**CHMP**) assessment process, to precede any development of the land in culturally sensitive parts of the precinct.

The VPA understands that a CHMP has now been approved in support of the development proposed under the section 96A permit applications.

### ***Northern crossing***

The Wurundjeri Council did not endorse the then-proposed northern crossing of Jacksons Creek, because it travelled down a gully containing Bunjil's nest and an associated platform.

The VPA has been in subsequent correspondence with the Wurundjeri Council, including undertaking further site visits, to identify an appropriate road crossing alignment.

The Wurundjeri Council has since endorsed the revised alignment as having satisfactorily responded to its cultural heritage concerns. A copy of the letter dated 3 July 2017 confirming that endorsement is at Appendix 10 to the VPA's Part A submission.

### ***Sites within a Heritage Overlay***

The heritage places identified in the Schedule to the Heritage Overlay as an Aboriginal heritage place are also subject to the requirements of the *Aboriginal Heritage Act 2006*.

### ***Submissions***

A number of submitters requested that a CHMP be prepared for the land to be subject to the Jacksons Creek crossing.

The Council submission additionally sought the rejection of the section 96A planning permit application for the Sherwood Heights / Racecourse Road site,<sup>17</sup> on the basis that a CHMP had not yet been approved for the land.

The VPA does not consider a CHMP to be required through the PSP process. The VPA understands its position to be consistent with the approach of previous Panels considering Amendment C183 to the Whittlesea Planning Scheme (English Street PSP) and Amendment C198 to the Hume Planning Scheme (Craigieburn North Employment Area PSP).

Those Panels considered submissions in relation to a proposed Merri Creek road bridge crossing and rail bridge crossing respectively. In each, the Panel concluded there was no reason to delay gazettal of the Amendments pending approval of CHMPs.

## **2.4 Earth Rings, Cannon Gully and Zig Zag Track, Emu Bottom wetlands locations**

The VPA has prepared maps showing the sites and areas of heritage significance in each precinct.

## **2.5 Jacksons Creek crossing alignments**

The proposed alignments of both the northern and southern crossings of Jacksons Creek have been confirmed.

In 2011, the VPA commissioned GHD to undertake a study of potential crossing alignments to inform the preparation of the Diggers Rest / Sunbury Growth Corridor Plan.

In 2014, the VPA engaged GTA Consultants to review GHD's study, evaluate the alignment options and advise as to the preferred crossings. The evaluation considered engineering feasibility, cultural heritage, ecology, amenity, transport network and development considerations. GTA identified and evaluated six options for the southern crossing and two options for the northern crossing.

The VPA also consulted on the alignment options with:

- Parks Victoria in relation to potential impacts on biodiversity values; and
- the Wurundjeri Council as described above; and

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<sup>17</sup> Planning permit application no. P18854.



- Council.

The Wurundjeri Council endorsed the alignment of the southern crossing in March 2015, as part of the preparation of the cultural values assessment for both precincts. The alignment of the southern crossing has not changed since the Amendments were exhibited.

The VPA received confirmation of Wurundjeri Council endorsement of the northern crossing on 3 July 2017. The proposed alignment of the northern crossing was circulated to the Panel and parties on 24 July 2017. A copy of the Wurundjeri endorsement of that alignment is at Appendix 10 to the VPA's Part A submission.

## **2.6 Integrated water management requirements process**

The PSP areas involve challenging land forms for drainage and, more particularly, for the equitable preparation of DSSs. Work commenced on integrated water management requirements and DSSs for the Sunbury area in 2014.

Numerous background reports and studies have since been prepared by consultants on behalf of Melbourne Water and other authorities, including Western Water. These consider opportunities and constraints for alternative water, stormwater treatment assets, waterway values and future risks in the catchment.

The reports include information and analysis of riparian vegetation and geomorphology, erosion potential, conceptual and selected functional design of assets based on hydrological, hydraulic, stormwater treatment and alternative water supply functions.

Many of these reports remain working documents, with the DSSs still to be finalised. The VPA is advised that these reports can be made available to the Panel if further background information is required for the purposes of considered the Amendments.

The conceptual design of the integrated water management assets and DSS layouts have been refined over the years with the completion of the background reports, which have clarified the opportunities and constraints for the landscape and stakeholders.

The VPA and Melbourne Water have engaged in consultation with landowners and stakeholders during this process. This has included updates to plans in response to alternative water designs, feedback and drainage designs submitted by landowners. The results of the background studies, consultation and functional design reports have shaped the integrated water management requirements in the PSPs.

The exhibited PSPs reflect a working version of the DSSs, which indicated the conceptual locations of waterways and drainage infrastructure within the precincts.

On 27 June 2017, the VPA wrote to affected landowners and submitters to advise that Melbourne Water had completed a review of the drainage infrastructure required to service the PSP areas, which will form the basis of the draft DSSs. Attached to this letter were:

- a map showing the draft DSS water quality assets and waterway corridors laid over the exhibited Future Urban Structure; and



- a comparison between the exhibited and revised draft DSS water quality assets land take for each property within the PSPs.

The VPA understands the DSSs to offer flexibility in drainage design, typically at the time of subdivision, provided the objectives of the DSS are met.

The VPA relies on the following expert witness reports that provide further information and opinions in relation to the preparation of the DSSs:

- Mr Blackham of Alluvium in relation to geomorphology;
- Mr Gilmore of Biosis in relation to ecology; and
- Mr Clemson of Engeny Water Management in relation to drainage engineering.

These describe the involvement of the authors and their colleagues in preparing the various background reports.

## 2.7 Balbethan Residential Concept Plan status

*Lancefield Road PSP (C208) – Submission 77 (M Gray) and others in relation to the same matters*

The Balbethan Residential Concept Plan is at Figure 1 in the Lancefield Road PSP.<sup>18</sup> It includes a note stating:

*Plan is for illustrative purposes and is indicative only. It is subject to further development to determine viability of/compatibility with existing dwellings.*

Each of the concept plans exhibited with the PSPs were considered draft versions, to be refined following receipt of submissions. A revised Balbethan Residential Concept Plan has since been prepared.

The Balbethan area is subject to a greater degree of land fragmentation and more existing development than other areas within the precincts. The VPA considers that staging development and infrastructure will therefore be more challenging in this area.

In response to those challenges, the VPA has included the upgrades of key access roads through the area as ICP-funded items. This is to ensure that the core infrastructure for the area can be delivered in a cohesive manner.

In addition, the VPA has prepared a set of ‘development principles’ and additional requirements and guidelines for the area.

The new requirements will:

- ensure that all lots have access to a connected pedestrian path network extending beyond the concept plan area;
- provide for the orderly upgrade of the existing connector road network to support development of fragmented parcels;

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<sup>18</sup> Page 19.

- ensure that street layouts of individual subdivisions integrate to form a coherent movement network across the wider precinct and ensure no dwelling is disadvantaged by poor access to open space or community facilities;
- provide for the timely connection of road links between properties, as well as to the connector street, arterial road and off-road pedestrian and bicycle networks; and
- ensure that any local street connections to the south of the concept plan area are consistent with the local access street functions of this road network, and not place unnecessary burden on the capacity of these roads.

These requirements will be supported by development principles and guidelines that seek to maintain the amenity of existing residents and ensure a sensitive response to the existing low-density residential development to the south.

The Balbethan area is identified as a 'sensitive residential area' on Plan 5 (Image, Character, Housing and Heritage) in the Lancefield Road PSP. Clause 3.4 in Schedule 10 to the UGZ applies to subdivision applications within sensitive residential areas.

The post-exhibition version of Schedule 10 at Appendix 6 to the VPA's Part A submission has been amended to respond more appropriately to the Balbethan area context. The exhibition version of this clause required applications to be accompanied by an 'indicative subdivision concept design for the entire area, including an indicative lot layout'.

The VPA acknowledges that this requirement would be difficult for applicants in the Balbethan area due to the land fragmentation. The post-exhibition version accordingly requires applications to be accompanied by 'an indicative subdivision concept design which demonstrates consistency with the relevant concept plan in the *Lancefield Road Precinct Structure Plan*'. The reference to 'opportunities for higher density housing' has also been removed in the post-exhibition version.

The VPA considers the matters above to address the issues raised in Ms Gray's submission.

## 2.8 Section 96A application assessments

*Sunbury South PSP (C207) – Submissions 57 (Hume City Council); 71 (Villawood Properties)*

*Lancefield Road PSP (C208) – Submissions 46 (Wincity Pty Ltd); 54 (Hume City Council); 71 (Villawood Properties)*

Three planning permit applications under section 96A of the P&E Act were exhibited with the Amendments:

No.	Applicant	Address	PSP / Amendment	PSP property
P18854	Villawood	'Sherwood Heights', 3-5 Macedon Road, Sunbury	Lancefield Road PSP / C208	2
P18855	Wincity Pty Ltd ( <b>Wincity</b> )	'Kingfisher Estate', 170 Lancefield Road, Sunbury	Lancefield Road PSP / C208	19 & 23
P18858	Villawood	'Redstone Hill', 675 Sunbury Road and 80 Redstone Hill Road, Sunbury	Sunbury South PSP / C207	61, 68 & 69

These applications are summarised in the VPA's Part A submission. The VPA has also circulated officer reports assessing each application.<sup>19</sup> Since the officer reports were circulated:

- the VPA has circulated:
  - design controls proposed for inclusion in Amendment C208 relating specifically to the Sherwood Heights / Racecourse Road site; and
  - a proposed revision to the development area within the Sherwood Heights / Racecourse Road site;
- expert evidence has been circulated in respect of the three applications;
- the expert evidence for Wincity includes an amended plan of subdivision;
- Melbourne Water has reviewed the Wincity amended plan of subdivision and withdrawn its objection; and
- Melbourne Water has provided comments on the functional designs submitted by Villawood in respect of the Sherwood Heights and Redstone Hill applications.

The VPA has now updated its officer report assessing the Wincity application in response to the amended plan of subdivision. The differences between the previously provided and current officer report are shown in tracked changes.

The VPA also provides the following responses to the above matters.

### 2.8.1 Sherwood Heights / Racecourse Road – Villawood (P18854)

The additional design controls and revision to the development area proposed by the VPA and circulated to the Panel and parties are included at Appendix 9 to the VPA's Part A submission.

#### ***Expert evidence***

Villawood relies on the following expert witness reports in support of its application and submission:

- Mark Woodland of Echelon Planning in relation to planning;
- Barry Murphy of MDG Landscape Architects in relation to landscape;
- Steven Hunt of Ratio Consultants in relation to traffic engineering; and
- Jonathon McLean of Alluvium in relation to drainage.

The expert evidence circulated by the permit applicant, Villawood, did not contain an amended plan of subdivision or material otherwise purporting to amend the permit application.

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<sup>19</sup> P18855 (Lancefield Road) on 24 July 2017; P18854 (Sherwood Heights) and P18858 (Redstone Hill) on 31 July 2017.

Overall, the VPA considers the proposed layout and landscape elements of the subdivision application to be progressing, but notes the application has not yet addressed concerns raised by Melbourne Water, particularly in relation to the treatment of the internal waterway.

While materials have been passed between the permit applicant and the VPA, the VPA does not consider itself to be in receipt of materials that would constitute an amended permit application.

#### *Planning evidence*

Mr Woodland's planning evidence:

- supports the inclusion of additional controls and guidance relating to this site in Amendment C208, and elements of the particular controls circulated by the VPA (including the 50% site coverage and 8 metre height limit), but considers other elements need further consideration (including the practicality of limiting cut or fill to 1 metre whilst still achieving the 4 metre and 8 metre side and front/rear boundary setbacks on the site);<sup>20</sup>
- considers the reduction of the development area proposed by the VPA will 'significantly reduce the visual impact of urban development' on the adjoining parkland;<sup>21</sup> and
- recommends the controls be subject to further testing and consultation with the applicant and Council.<sup>22</sup>

The VPA notes the controls proposed for inclusion in Schedule 10 of the UGZ relating to this site include that 'A permit may be granted to vary a residential design control' and, as such, the proposed cut or fill requirement is discretionary and could be varied on the basis of appropriate justification within the application.

The VPA considers that because the planning controls for this site otherwise allow for as-of-right development within parameters, it is appropriate for the design controls to be relatively conservative, but allow applicants the opportunity to justify variations.

#### *Landscape evidence*

Mr Murphy's landscape evidence:

- considers the revised extent of development area proposed by the VPA and finds the revised Villawood proposal (shown in Figure 4.10 of his report) to be generally in accordance with this;<sup>23</sup> and
- highlights visual issues to be addressed through the application and the importance of landscaping to the successful integration of development on the site.<sup>24</sup>

The VPA notes the visual matters identified by Mr Murphy, including the sensitivity of interface streets with the creek. The VPA observes that the street proposed to front the creek valley is on the flatter area rather than the hill. The VPA broadly considers this to be a practical response to

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<sup>20</sup> Pages 11 and 46.

<sup>21</sup> Page 47.

<sup>22</sup> Pages 11 and 47.

<sup>23</sup> Page 14.

<sup>24</sup> Page 14.

minimise the engineering and cut and fill associated with the road, and allow for associated paths and recreation facilities to be provided within the valley itself.

The VPA agrees with Mr Murphy's comments in relation to the importance of landscaping and confirms this would be addressed through landscape implementation conditions on any permit issued for the site.

#### *Traffic evidence*

Mr Hunt's traffic evidence:

- reviews the traffic and transport assessment report prepared by Cardno that accompanied the application and the GTA modelling of interim conditions in the vicinity of Racecourse Road and Elizabeth Drive and within Sherwood Heights;<sup>25</sup> and concludes that:<sup>26</sup>
  - traffic generated by the development of Sherwood Heights will be able to be absorbed; and
  - the upgrade of the intersection and construction of Elizabeth Drive east of Racecourse Road provides an appropriate contribution towards regional transport infrastructure.

#### *Drainage evidence*

Mr McLean's drainage evidence refers to the functional design submitted to Melbourne Water responding to Melbourne Water's objection to the permit application.<sup>27</sup>

#### **Melbourne Water review**

Melbourne Water has reviewed the further functional design prepared by Mr McLean on behalf of Villawood and provided comments and requests for further information.

The VPA understands the outstanding matter for resolution relates to the treatment of the internal waterway near the southern end of the development area. The Lancefield Road PSP reflects Melbourne Water's position on this matter (as does the new residential concept plan for the Racecourse Road site) and shows the relevant land as allowing for an open drainage solution.

Melbourne Water's most recent comments on this waterway are included in the folders provided to the Panel.

The VPA concludes that this application is progressing and, with the benefit of the hearing and further discussions as required, it is anticipated that the matter will resolve.

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<sup>25</sup> Pages 66-67.

<sup>26</sup> Page 68.

<sup>27</sup> From page 8.

## 2.8.2 Kingfisher Estate / Lancefield Road – Wincity (P18855)

### *Expert evidence*

Wincity relies on the following expert witness reports in support of its application and submission:

- Nick Hooper of Taylors in relation to planning;
- Andrew Tamme of Taylors in relation to urban design;
- Aaron Harvey of Biosis in relation to ecology;
- Nick Glasson of Cardno in relation to services infrastructure;
- Chris Butler of Cardno in relation to traffic; and
- Andrew Matheson of Taylors in relation to drainage engineering.

Mr Tamme's report includes an amended plan of subdivision submitted for the purposes of the planning permit application, which responds to the VPA's request for further information.

The revised VPA officer report in respect of this application responds to the evidence circulated.

The VPA considers the subdivision layout in the amended plan to be appropriate and the matters addressed in evidence to be resolved, subject to a relatively minor matter relating to the configuration of road carriageways.

The amendments to the plan of subdivision include:

- the provision of wetlands on the plateau adjacent to the residential and town centre lots, incorporated into the design;
- the provision of a frontage laneway for the eastern 'super lot' overlooking the gully to address the concerns raised by Melbourne Water and Council in relation to ongoing access to and maintenance of the gully as future open space; and
- amendments to the density of housing around the town centre, the size of the central park and other matters of detailed design.

The road carriageway matter relates to the interim intersection concept for Lancefield Road and Main Street (to the north) / Rolling Meadows Drive (to the south), described in section 8.1<sup>28</sup> and provided at Appendix B in Mr Butler's report. The VPA considers that the slip lanes in and out of Main Street should be removed from the interim intersection. The VPA's objective is a town centre environment that balances vehicle and pedestrian movements, and attracts more pedestrian movements through the provision of more direct and shorter pedestrian crossings.

In section 8.4 of his report,<sup>29</sup> Mr Butler recommends that it would be appropriate to amend the cross-section of Main Street within the PSP to allow for wider carriageways, to facilitate future bus movements. This would involve widening the through lanes from 3.0 metres to 3.5 metres. The VPA considers existing cross-section in the PSP showing 3.0 metre lanes through the town centre to be appropriate on the basis that:

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<sup>28</sup> Page 21.

<sup>29</sup> Page 21.

- each traffic lane is abutted by a dividing median strip and generous 2.3 metre wide on-street parking, providing an adequate distance and barrier between buses and pedestrian paths; and
- the designed design speed for the town centre is 30 km/h, which is consistent with 3.0 metre wide lanes and will limit speeds.

### ***Melbourne Water review***

Melbourne Water has formally withdrawn its previous objection to this permit application dated 10 February 2017 and confirmed the amended plan provided in evidence accords with the Oldbury DSS.

The VPA notes the drainage solution in the amended plan of subdivision removes drainage assets from the gully and Emu Creek corridor, avoiding conflict with Aboriginal places and conservation areas.

Melbourne Water no longer objects to the application, subject to permit conditions that it has provided.

The VPA regards this subdivision application as resolved and that a permit can issue subject to conditions.

## **2.8.3 Redstone Hill – Villawood (P18858)**

### ***Expert evidence***

Villawood relies on the following expert witness reports in support of its application and submission:

- Mr Woodland of Echelon Planning in relation to planning;
- Mr Murphy of MDG Landscape Architects in relation to landscape;
- Mr McLean of Alluvium in relation to drainage; and
- Mr Hunt of Ratio Consultants in relation to traffic engineering.

The expert evidence circulated by the permit applicant, Villawood, did not contain an amended plan of subdivision or material otherwise purporting to amend the permit application.

### ***Planning evidence***

Mr Woodland's planning evidence does not address the detail of the Redstone Hill application but, if accepted, would affect the application of housing densities.

Mr Woodland recommends that:<sup>30</sup>

- the RGZ be applied within:
  - 400 metres rather than 800 metres of major town centres;
  - 200 metres rather than 400 metres of local town centres; and
  - 200 metres rather than 600 metres of the Principal Public Transport Network; and

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<sup>30</sup> Pages 9-10 and 36-37.

- more flexibility be provided in the PSP in relation to the achievement of residential densities.

The VPA considers there to be strong support for increased densities around activity centres, and particularly major town centres, in State and local planning policies. It is the VPA's experience that it is difficult to increase density over time once a conventional suburban pattern has been established without, for instance, the setting aside of 'super' lots for high density residential opportunities as has been proposed in the Wincity application for Lancefield Road.

Even if further discretion were provided for in the PSP, the VPA would expect the Redstone Hill site to deliver a relatively high housing density given its access to the major town centre, open space and arterial road. On an objective planning analysis, the attributes of this site, including its physical and policy context, support the provision of higher than average residential density. Indeed, the VPA considers this to be one of the locations within the PSP areas with the strongest opportunities to be able to provide a greater diversity of housing types.

In summary, the VPA considers a site like the subject site, with a major town centre, will be one of the best places to provide the diversity of housing that will be critical to maintaining Sunbury's range of household types and to avoid the new town centre becoming 'just another shopping centre'.

#### *Landscape evidence*

Mr Murphy's landscape evidence as it relates to the Redstone Hill site:

- supports the size and shape of the Redstone Hill regional park as shown in the Sunbury South PSP as consistent with Council's objective to protect views to the top of the hill;<sup>31</sup>
- considers the location of the visual access 'wedge' west of Redstone Hill in the PSP to be broadly correct, but able to be improved by a small amendment to its northern edge;<sup>32</sup>
- supports the distribution of open space areas within the PSP;<sup>33</sup> and
- suggests a more flexible approach to the integration of wetlands into topography.<sup>34</sup>

#### *Traffic evidence*

Mr Hunt's traffic evidence in relation to the Redstone Hill application:

- reviews the traffic and transport assessment report prepared by Cardno that accompanied the application and the GTA modelling, including in the vicinity of Sunbury Road / Lancefield Road and within the Redstone Hill site;<sup>35</sup>
- concludes that:<sup>36</sup>
  - access to the site will initially be directed to Sunbury Road, which has limited ability to absorb traffic at peak times, but can accommodate this through the progressive provision of intersections; and

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<sup>31</sup> Pages 4-6 and 16.

<sup>32</sup> Pages 7-8 and 16.

<sup>33</sup> Pages 9 and 16.

<sup>34</sup> Pages 11 and 16.

<sup>35</sup> Pages 51-53.

<sup>36</sup> Pages 12-13.



- the provision of the southern creek crossing, additional connections, the Bulla Bypass and duplication of Sunbury Road will relieve traffic on Sunbury Road.

#### *Drainage evidence*

Mr McLean's drainage evidence refers to the functional design submitted to Melbourne Water responding to Melbourne Water's objection to the permit application.<sup>37</sup>

#### **Melbourne Water review**

Two draft DSSs apply to the Redstone Hill application site: Shepherds Lane DSS and Turnberry Drive DSS.

Melbourne Water has reviewed the functional design prepared by Mr McLean on behalf of Villawood and provided comments and requests for further information, including a revised stormwater management strategy. These comments are included in the folders provided to the Panel.

The VPA will continue to work with the permit applicant through and outside of the hearing to progress the permit application. The VPA will provide an updated position, if any, in its closing submission.

## **2.9 Deletion of HO358**

*Sunbury South PSP (C207) – Submission 57 (Hume City Council); 71 (Villawood Properties)*

*Lancefield Road PSP (C208) – Submission 54 (Hume City Council); 71 (Villawood Properties)*

The exhibition version of Amendment C207 proposed the removal of HO358 in the Schedule to the Heritage Overlay from the Scheme.

HO358 applies to the Former Constitution Hotel at 675 Sunbury Road, Sunbury.<sup>38</sup> It:

- applies external paint controls; and
- provides that uses that would otherwise be prohibited in the applicable zone may be permitted.

675 Sunbury Road comprises part of the land described as 'Redstone Hill' that is the subject of planning permit application no. P18858 by Villawood.

The permit application contemplates demolition of the relevant buildings and clearing of the site.

Following consideration of submissions in response to exhibition, the VPA no longer proposes the removal of HO358.

The permit application for Redstone Hill was accompanied by a draft heritage report prepared by Bryce Raworth. The report advises that demolition should be permitted for the buildings on the

<sup>37</sup> From page 34.

<sup>38</sup> Property 61 in the Sunbury South PSP.

site, as they do not comprise the hotel buildings itself and have tenuous, if any, connection to the hotel. The draft report suggests that it is the site itself that holds historical social significance as the former location of an historic hotel.

The absence of buildings of historical significance or other physical evidence of the historic use on the site formed the basis for the VPA to exhibit the deletion of the overlay. This exhibition was in the context of a permit application expected to achieve resolution of the issue.

Retaining HO358 would not preclude the VPA from recommending that a permit issue for demolition or alternation of the buildings on site.

The VPA considers one advantage of retaining HO358 is to facilitate a requirement to record any historical material found during demolition and ensure that the layout of the subdivision and site has appropriate regard to heritage interpretation.

The grant of a planning permit does not mean that the approved development will be acted upon. The VPA further considers that retention will protect against demolition in the absence of a replacement proposal, as is the situation with the current permit application.

The retention of HO358 is consistent with Council's submission.

## **2.10 Integrated water network submissions**

*Sunbury South PSP (C207) – Submissions 35 (DELWP – Integrated Water Management); 67 (Western Water); 77 (Melbourne Water)*

*Lancefield Road PSP (C208) – Submissions 36 (DELWP – Integrated Water Management); 66 (Western Water); 74 (Melbourne Water)*

The VPA appreciates that opportunities for integrated water management are central to the water and drainage services and asset planning undertaken by Western Water and Melbourne Water, in collaboration with stakeholders including DELWP.

Within Sunbury, a key focus has been on the opportunity for alternative water supply to service growth, and specifically for stormwater to be captured, treated and provided through the potable water network. The VPA understands this to have informed by service delivery planning by Western Water, and the ongoing refinement of the DSSs that Melbourne Water is preparing to manage stormwater across the precincts.

The exhibited PSPs reflect this cross-government agency planning. The VPA prepared a series of objectives, requirements, guidelines and conditions in the Schedules to the UGZ, together with the relevant agencies, to support the implementation of a regional integrated water management strategy.

The submissions by Western Water and Melbourne Water in response to exhibition of the Amendments sought some further refinement and additions to the PSPs to strengthen support for the implementation of the integrated water management strategy.

The VPA agrees with the recommendations in these submissions, which include:

- updating Plan 11 (Integrated Water Management) in each PSP to reflect the indicative stormwater harvesting network);
- updating Requirements R82 in the Sunbury South PSP and R78 in the Lancefield Road PSP to include the following additional point:

*A Sunbury Integrated Water Management Plan is being developed by Western Water and Melbourne Water (the Approving Authorities). The developer is responsible for completing an Integrated Water Management Plan that meets the objectives of the overall Sunbury Integrated Water Management Plan.*

- replacing all references in the PSPs to ‘recycled water’ with ‘alternative water’; and
- various updates to the PSPs to emphasise the sensitivity of key waterways and tributaries and the need to protect these as part of development.

There are no unresolved submissions or matters in dispute between the VPA, Melbourne Water, Western Water and DELWP with respect to the Amendments.

## 3 KEY ISSUES RAISED IN SUBMISSIONS

### 3.1 Landfill buffer

*Sunbury South PSP (C207) – Submissions 33 (Sustainability Victoria); 39 (J and L Ware); 61 (Hi-Quality Quarry Products Pty Ltd and Trantaret Pty Ltd); 69 (Metropolitan Waste and Resource Recovery Group); 82 (Environment Protection Authority)*

*Lancefield Road PSP (C208) – Submissions 35 (Sustainability Victoria); 83 (Environment Protection Authority)*

#### 3.1.1 Background

The Sunbury South PSP includes existing quarry, landfill and composting facilities within its boundary, in the north-east of precinct.

The facilities are located at 570 Sunbury Road, Bulla,<sup>39</sup> which is owned by Hi-Quality Quarry Products Pty Ltd (**Hi-Quality**). Hi-Quality also operates the landfill and quarry. The quarry and composting facilities are discussed further below in this submission.

The location of the current and proposed landfill cells in relation to the PSP area is shown on Figure 2 in Mr Ramsay's expert witness report, part of which is extracted below:

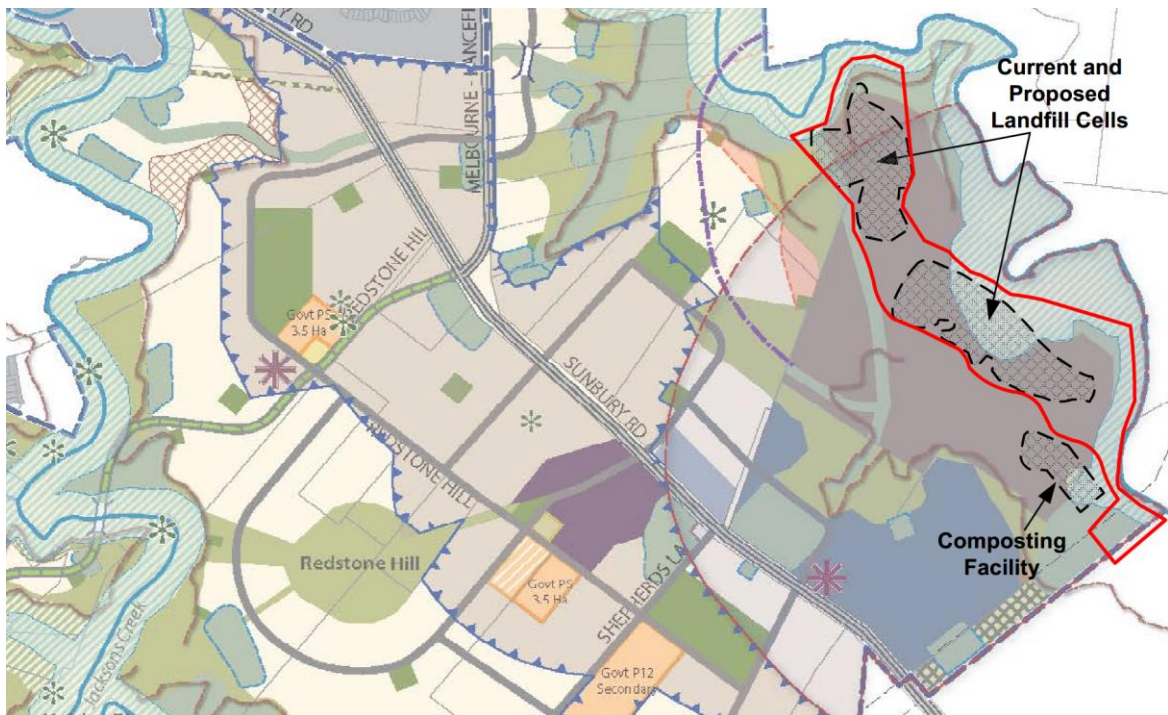


Figure 3: approximate locations of the landfill and composting facilities (extract from Figure 2 in Mr Ramsay's expert witness report)

<sup>39</sup> Property 99 in the Sunbury South PSP.

The landfill is subject to EPA Licence No. 45279, which has the following description:<sup>40</sup>

*The licence allows for prescribed industrial waste (Category C drilling mud, Category C soil, asbestos and materials with polychlorinated biphenyls) and solid inert waste to be deposited to land.*

The landfill is identified in the *Statewide Waste and Resource Recovery Infrastructure Plan Victoria 2015-44 (SWRRIP)*.<sup>41</sup> The SWRRIP includes the landfill in Table 7.10 (Operating landfills in the Metropolitan WRR Region), which describes the wastes it accepts as ‘solid inert’ and its anticipated close date as 2020.<sup>42</sup> The table includes a note that ‘Category C soils and PIW are outside the scope of the SWRRIP’.

The landfill is also identified in the *Metropolitan Waste and Resource Recovery Implementation Plan 2016 (Metro Plan)*.<sup>43</sup> The Metro Plan includes the landfill in Table 10 (Existing landfills), which describes its:<sup>44</sup>

- licensed waste types as: ‘Inert sludges/slurries, materials with PCBs (>2 & <50 mg/kg), contaminated soil (Category C), asbestos (all forms) and ceramic-based fibres similar to asbestos’; and
- likely closure date as: ‘Potential to operate beyond 2046’.

Table 11 (Metropolitan landfill sequence of fill) in the Metro Plan shows the landfill as one of three with ‘Potential to operate beyond 2046’ with the necessary works approval and planning approval to do so.

The VPA understands the timeframe described in the Metro Plan for this landfill to be accurate.

Plan 3 (Future Urban Structure) in the Sunbury South PSP shows the landfill with a ‘landfill buffer (500m)’. This buffer partially overlaps with two other buffers, for the quarry and composting facility, which are considered further below in this submission. Plan 3 shows a range of uses within the landfill buffer.

Schedule 9 to the UGZ replicates Plan 3 in the PSP as Map 1. The Schedule includes provisions that relate to the landfill buffer at:

- Clause 2.4 (Specific provisions – Use of land);
- Clause 2.8 (Specific provision – Buildings and Works within Landfill Buffer);
- Clause 3.7 (Applications to Subdivide or Use Land within Landfill Buffer); and
- Clause 3.8 (All applications within Landfill Buffer).

The submissions identified above raise issues in relation to:

- the appropriate extent of the landfill buffer; and

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<sup>40</sup> The EPA licence is for 600 Sunbury Road, Bulla. The EPA submission notes that the land previously known as 600 Sunbury Road has now been subdivided into three parcels known as 570, 580 and 600 Sunbury Road.

<sup>41</sup> Sustainability Victoria, 2015.

<sup>42</sup> Page 108.

<sup>43</sup> Metropolitan Waste and Resource Recovery Group, September 2016.

<sup>44</sup> Page 49.

- the planning controls proposed in Schedule 9 to apply within the landfill buffer.

In responding to these submissions, the VPA relies on the expert evidence of:

- Mr Clarke in relation to landfill gas; and
- Mr Ramsay in relation to odour.

That evidence considers the exhibition version of the Schedule 9 to the UGZ. The updated planning scheme ordinance at Appendix 5 to the VPA's Part A submission includes a number of proposed changes to the relevant provisions.

The expert witness report in relation to town planning by Michael Barlow of Urbis on behalf of Hi-Quality also considers the landfill buffers.

### 3.1.2 Issue 1: extent of buffer

#### ***Submissions in response to exhibition***

Hi-Quality submitted that it was 'not satisfied that a 500 metres landfill buffer is appropriate having regard to the type of waste accepted on the Hi-Quality site, and current policy uncertainty in relation to landfill buffers'. The VPA understood this submission to be in favour of a reduced rather than expanded buffer.

J and L Ware, the owners of 670 Sunbury Road, Bulla,<sup>45</sup> which adjoins the landfill to the west, raised concerns in relation to noise and dust from both the quarry and landfill operations, which they submitted were 'clearly perceptible and audible at our house approximately 700 m from the property boundary'.

The Environment Protection Authority (EPA) submission referred to the *Best Practice Environmental Management – Siting, Design, Operation and Rehabilitation of Landfills (Landfill BPPEM)*<sup>46</sup> as specifying buffer distances for landfills. The submission noted that both active and closed 'type 2' landfills require a 500 metre buffer in the BPPEM and that the EPA would recommend an audit be undertaken in accordance with section 53V of the *Environment Protection Act 1971* (**s53V audit**) for the Amendment if sensitive uses were proposed to be allowed within that buffer.

The Metropolitan Waste and Resource Recovery Group (MWRRG) submission acknowledged the 500 metre landfill buffer but did not comment on its extent.

The Sustainability Victoria (SV) submission did not refer to the extent of the buffer, but focused on the controls that apply within the buffer.

#### ***VPA submissions and response to evidence***

Section 12(2)(b) of the P&E Act requires a planning authority in preparing a planning scheme amendment to take into account any significant effects which it considers the environment might

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<sup>45</sup> Property 94 in the Sunbury South PSP.

<sup>46</sup> EPA Publication 788.3, August 2015.



have on any use or development envisaged in the amendment. The VPA takes this responsibility seriously and accepts that landfill buffers and their extent are important issues.

The VPA recognises that landfills can have significant effects on the surrounding environment and community, including potential discharges of landfill gas, odour, noise, litter and dust. The VPA considers that Amendment C207, subject to a number of post-exhibition changes summarised below, appropriately takes into account and address those effects.

Clause 19.03-5 in the Scheme (Waste and resource recovery) includes the following strategy:

*Protect waste and resource recovery infrastructure against encroachment from incompatible land uses by ensuring buffer areas are defined, protected and maintained.*

Clause 19.03-5 includes the SWRRIP, the Metro Plan and the Landfill BPEM as policy guidelines.

The extent of the landfill buffer, as depicted in the Sunbury South PSP and Schedule 9 to the UGZ, is based on the Landfill BPEM.

The Landfill BPEM addresses buffer distances for active landfills at section 5.1.5.<sup>47</sup> Within that section, table 5.2 sets out the buffer distances required for ‘landfill gas migration, safety and amenity impacts’. These include:

- 500 metres from buildings and structures for ‘Type 2’ landfills; and
- 200 metres from buildings and structures for ‘Type 3’ landfills.

Section 4 of the Landfill BPEM classifies landfills according to the waste types they accept. Within that section, table 4.1 classifies:

- Type 2 landfills as accepting putrescible (municipal) waste, solid inert waste, fill material, and category C prescribed industrial waste; and
- Type 3 landfills as accepting solid inert waste and fill material only.

The landfill classifications apply across the Landfill BPEM, not exclusively for the purpose of determining buffer distances.

The 500 metre buffer in the Sunbury South PSP and Schedule 9 to the UGZ is based on the distance specified for Type 2 landfills, since the landfill accepts category C prescribed industrial waste.

The VPA has subsequently obtained independent evidence from Mr Clarke in relation to the appropriate extent of the landfill buffer.

Mr Clarke has provided his expert opinion on the wastes accepted at this landfill and its corresponding ‘type’ as follows.<sup>48</sup>

*The HQQP Landfill is defined as a Type 2 landfill in the EPA Licence on the basis that it receives PIW, asbestos and material containing PCBs. However, the 500 m landfill buffer required for Type 2 landfills in the Landfill BPEM is relevant to putrescible wastes, which are*

<sup>47</sup> Pages 13 to 14.

<sup>48</sup> Page 10.

*the waste stream most likely to produce significant volumes of methane and carbon dioxide. The Type 2 wastes disposed at the HQQP landfill are likely to generate less methane and carbon dioxide than solid inert waste.*

Mr Clarke consequently states:<sup>49</sup>

*Based on the nature of waste in the HQQP Landfill I believe it is prudent to adopt the landfill buffer distance of 200 m required for Type 3 landfills as a starting point.*

From this starting point, Mr Clarke recommends a number of modifications to the 200 metre buffer based on his assessment of the contaminant sources, pathways and receptors, and the relationships between them. These modifications involve:

- An extension to the west of the landfill towards areas proposed for residential and industrial use, approximately 50 metres beyond the break in slope, to result in a maximum extent of approximately 315 metres. Mr Clarke considers that:<sup>50</sup>

*In the unlikely event of “upset” conditions arising, vacant land at the top of the plateau would allow the licence holder for the landfill and EPA to more easily implement contingency measures between the landfill and sensitive receptors.*

- A reduction to the east of the landfill towards Emu Creek where elevations drop below the base of waste in the landfill and any subsurface migration of landfill gas is likely to discharge to the atmosphere in the slope.

The landfill buffer extent recommended by Mr Clarke in respect of landfill gas migration is presented in Figure 3 of his report.

There is no other expert evidence before the Panel in relation to landfill gas.

As noted above, the Landfill BPEM requires the buffers specified in table 5.2 for ‘safety and amenity impacts’ in addition to landfill gas migration. In this regard, the Landfill BPEM states:<sup>51</sup>

*While other potential impacts such as fire, litter, noise and safety risks exist, the buffers required for protection from these impacts fall within the buffer required for odour and landfill gas.*

The expert evidence of Mr Ramsay on behalf of the VPA considers the appropriate extent of the landfill buffer in relation to odour impacts.

Mr Ramsay notes that the landfill is a Type 2 landfill because it is licensed to receive category C prescribed in industrial waste and that the required buffer in the Landfill BPEM for a Type 2 landfill is 500 metres.

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<sup>49</sup> Page 14.

<sup>50</sup> Page 14.

<sup>51</sup> Page 14.



There is no other expert evidence before the Panel in relation to odour impacts from the landfill.

### ***VPA position***

The VPA acknowledges the landfill is classified as a Type 2 landfill in the Landfill BPEM. However, the VPA notes the detailed assessment of Mr Clarke and his statement that the 500 metre buffer required for Type 2 landfills in the Landfill BPEM relates to putrescible wastes, which this landfill is not licensed to accept.

The buffers required by the Landfill BPEM relate to both landfill gas migration and odour impacts. The VPA acknowledges Mr Clarke's evidence considers landfill gas migration only. What then follows is a conflict in the evidence between that of Mr Clarke premised on landfill gas and that of Mr Ramsey on the issue of odour. The conflict in point is that Mr Ramsey's evidence seeks to preserve the 500 buffer. The VPA considers that Mr Clarke's analysis with respect to the nature of wastes accepted by the landfill is relevant to odour.

The VPA supports the landfill buffer extent recommended by Mr Clarke and shown in Figure 3 of his report. It is the VPA's submission that this extent may be appropriate to manage both landfill gas and potential odour impacts from the landfill. It would then follow that the reduced buffer should be reflected on Plan 3 in the Sunbury South PSP and Map 1 in Schedule 9 to the UGZ. Ultimately these are matters to be tested through evidence and the VPA will provide its further comment in due course.

## **3.1.3 Issue 2: planning controls**

### ***Submissions in response to exhibition***

Hi-Quality's submission did not address what planning controls should apply to land within the landfill buffer.

J and L Ware submitted that a buffer should be applied that prevents residential uses until the relevant noise and dust-generating activities relocate, change or cease.

The EPA submitted that changes should be made to Schedule 9 to the UGZ to:

- prohibit sensitive uses within the buffer while the landfill continues to operate; and
- require a s53V audit to accompany all applications within the landfill buffer.

The MWRRG submission generally supported the provisions in Schedule 9 to the UGZ, but recommended:

- more clearly identifying the landfill buffer in Map 1 and renaming the buffer 'landfill gas migration and amenity buffer area';
- removing the application of residential zones within the buffer; and
- transferring the provisions that relate to the buffer to an Environmental Significance Overlay (ESO).

SV submitted that:

- sensitive uses should be prohibited within the landfill buffer;
- additional sensitive uses should be considered for exclusion, such as place of worship, business college, employment training centre, tertiary institution, and outdoor/indoor recreation facility;

- Plan 3 in the PSP and Map 1 in the Schedule should more clearly identify the land uses within the buffer; and
- in the longer term, the buffer could be converted into an overlay in the Scheme.

#### **VPA submissions and response to evidence**

The Landfill BPEM states that where a proposal ‘would have the effect of allowing development that encroaches into the recommended landfill buffer or increases the extent of development within the already encroached buffer area, EPA recommends that the planning or responsible authority require an environmental audit be conducted under Section 53V of the EP Act’.<sup>52</sup>

The EPA has published a draft guideline on *Assessing planning proposals near landfills* to provide further advice to planning and responsible authorities in relation to this issue.<sup>53</sup>

The draft guideline notes that landfill buffers are to manage the risk of both landfill gas and odour impacts, which raise different concerns in relation to encroaching use and development. It states:<sup>54</sup>

- *In the context of landfill gas, any building or structure is considered sensitive, because of the risk of explosion or asphyxiation.*
- *In the context of odour, the definition in the Recommended Separation Distances for Industrial Residual Air Emissions – Guideline<sup>55</sup>...is appropriate, which is:*  
*Any land uses which require a particular focus on protecting the beneficial uses of the air environment relating to human health and wellbeing, local amenity and aesthetic enjoyment, for example residential premises, child care centres, pre-schools, primary schools, education centres or informal outdoor recreation sites.*

With respect to the definition of ‘sensitive use’ in the context of odour impacts, the VPA understands that the EPA commonly advises that ‘informal outdoor recreation’ is in fact an appropriate use within landfill buffers.

The post-exhibition version of Schedule 9 to the UGZ at Appendix 5 to the VPA’s Part A submission removes ‘information outdoor recreation’ as a use for which a permit is required within the landfill buffer under Clause 2.4.

The removal is recommended by Mr Clarke on the basis that this use ‘would not typically involve construction of a building or structure’.<sup>56</sup> It is also recommended by Mr Ramsay, who states that:<sup>57</sup>

*Recreational and conservational public open space is a typical and appropriate interface land use and is explicitly listed in Section 10.2 of [the Separation Distance Guideline].*

Mr Clarke and Mr Ramsay raise a number of concerns with the planning controls proposed in Clause 3.8 as exhibited.

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<sup>52</sup> Page 14.

<sup>53</sup> EPA Publication 1625, June 2016.

<sup>54</sup> Page 2.

<sup>55</sup> EPA Publication 1518, March 2013 (**Separation Distance Guideline**).

<sup>56</sup> Page 16.

<sup>57</sup> Page 17.

Mr Clarke notes the difficulty for future planning permit applicants with respect to land within the landfill buffer in gaining access to the information required to conduct a landfill gas risk assessment, which is also required for a s53V audit.<sup>58</sup> The post-exhibition version of Schedule 9 to the UGZ in Appendix 5 to the Part A submission removes the option of submitting a landfill gas risk assessment in Clause 3.8 and requires all applications within the landfill buffer to be accompanied by a s53V audit.

This post-exhibition change would address Mr Ramsay's opinion, based on the application of the draft EPA guideline, that the EPA would be likely to recommend a s53V audit for any new building work within the landfill buffer.

Mr Clarke further recommends that uses within the landfill buffer should be limited to 'informal outdoor recreation'.<sup>59</sup> The VPA understands this would address Mr Ramsay's concerns in relation to Clause 3.7 and the level of assessment required to accompany applications to use land or subdivide land for a sensitive use.<sup>60</sup>

Clause 2.8 requires a permit for buildings and works within the landfill buffer. It includes a list of exemptions for 'non-intrusive works'. Mr Clarke recommends that the permit requirement apply to a number of specific types of subsurface infrastructure. The VPA considers Mr Clarke's recommendation to be consistent with the intention of Clause 2.8, but supports incorporating this change for clarity.

### ***VPA position***

In response to the evidence of Mr Clarke and Mr Ramsay, the VPA supports the following changes to the post-exhibition version of Schedule 9 to the UGZ in Appendix 5 to the Part A submission:

- removing land designated as 'residential' from within any reduced landfill buffer extent shown on Map 1 (and on Plan 3 within the Sunbury South PSP);
- removing the references to the landfill buffer in Clause 2.4, in relation to permit applications to use land for sensitive uses;
- include within Clause 2.8 a permit requirement for works associated with underground services within the landfill buffer, including stormwater drains, pits, water mains, sewers, power lines and communications cables; and
- removing Clause 3.7 entirely, which relates to applications to use land or subdivide land for a sensitive use.

Ultimately, the Panel has before it detailed evidence on landfill gas to the effect that this element would justify a (generally) 200m buffer and less detailed evidence from Mr Ramsey to the effect that the risk of landfill odour justifies the exhibited buffer. Naturally this will be tested in evidence by the parties.

The underlying issue is that there remains contention about the proper buffer extent. The VPA considers the controls should reflect that opportunities exist to realise broader urban objectives in

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<sup>58</sup> Page 15.

<sup>59</sup> Page 14.

<sup>60</sup> Pages 17 to 18.

the future by inviting applicants to satisfy the relevant authorities about buffer reductions, without the need for a further amendment to the Scheme.

### 3.2 Composting facility buffer

*Sunbury South PSP (C207) – Submissions 18 (Marantali Pty Ltd); 33 (Sustainability Victoria); 45 (RCL Group); 61 (Hi-Quality Quarry Products Pty Ltd and Trantaret Pty Ltd); 69 (Metropolitan Waste and Resource Recovery Group); 82 (Environment Protection Authority); 95 (Veolia Environmental Services Pty Ltd)*

*Lancefield Road PSP (C208) – Submissions 33 (Sustainability Victoria); Submission 83 (Environment Protection Authority)*

Co-located with the landfill on land owned by Hi-Quality is a composting facility operated by Veolia Environmental Services (Australia) Pty Ltd (**Veolia**).

The composting facility is situated in the south-eastern portion of the site, shown in relation to the landfill and PSP area in Figure 1 above.

The composting facility is subject to EPA Licence No. 101952, which has the following description:

*The licence holder operates an in-vessel aerobic composting facility. This licence addresses odour discharges and allows for green waste, solid domestic food waste and grease trap effluent to be composted onsite. The composting capacity of the premises is 85,000 tonnes per year of waste, including 3,000 tonnes of grease interceptor trap effluent.*

The composting facility is identified in the SWRRIP as an ‘existing hub of state significance’.<sup>61</sup> The SWRRIP explains ‘why it is important to the state system’ as follows:

- *This is a major organics reprocessing hub accepting MSW mixed organics from 11 local governments in the north west area of metropolitan Melbourne. It is the largest in-vessel composting facility in the state.*
- *If this site is to be maintained in the long term as a hub then planning needs to ensure the preservation of adequate buffer distances, that incompatible uses are not established in proximity to the hub and that the activities within the precinct are compatible and conducted in a manner that does not impact on the community, environment and public health of surrounding land users.*

The facility is the only major processor of ‘mixed organics’ in the metropolitan region identified in the SWRRIP.<sup>62</sup>

The Metro Plan also identifies the facility as ‘existing resource recovery and consolidation infrastructure’<sup>63</sup> and a ‘Metropolitan Melbourne hub of state importance’, described as follows:<sup>64</sup>

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<sup>61</sup> Page 38 in Table 2.2.

<sup>62</sup> Page 80 in Table 5.4.

<sup>63</sup> Page 39 in Table 8.

<sup>64</sup> Page 72 in Table 15.

<p><b>Location:</b> Co-located on Hi Quality Bulla Landfill site 580 Sunbury Road Bulla</p> <p><b>Landfill:</b> Solid Waste Only</p> <p><b>Resource recovery:</b> Organics in vessel composting</p>	<p><b>Description &amp; current role</b></p> <p>This facility processes MSW mixed organics from 11 local governments in the northern and western areas of the metropolitan region. The site is also co-located with a solid waste landfill accepting Category C Prescribed Industrial Waste and C&amp;D recovery operation.</p> <p><b>Challenges</b></p> <p>In order to retain a good operational buffer, the site owner has purchased surrounding land to ensure a buffer of at least 500 meters.</p> <p>Growth area precinct structure planning has commenced for the Sunbury PSP on land to the west of the site. It is intended that the land adjacent to the site be set aside for industrial and business purposes.</p> <p><b>Future considerations</b></p> <p>This hub will continue to be a significant part of the metropolitan organics network over this life of this plan and beyond.</p>
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Figure 4: extract from Table 15 (Metropolitan Melbourne hubs of state importance) from page 72 of the Metro Plan

Plan 3 (Future Urban Structure) in the Sunbury South PSP includes a 'composting facility odour buffer (tbc)'. The extent of the buffer shown on Plan 3 is 1,300 metres. Plan 3 shows a range of uses within the composting facility buffer.

Schedule 9 to the UGZ includes provisions that relate to the composting facility buffer at:

- Clause 2.4 (Specific provisions – Use of land); and
- Clause 3.9 (Applications within the Composting Facility Odour Buffer).

The submissions identified above raise issues in relation to:

- the appropriate extent of the composting facility buffer; and
- the planning controls proposed in Schedule 9 to apply within the composting facility buffer.

In responding to these submissions, the VPA relies on the expert evidence of Mr Ramsay.

Mr Ramsay's evidence considers the exhibition version of the Schedule 9 to the UGZ. The updated planning scheme ordinance at Appendix 5 to the VPA's Part A submission includes a number of proposed changes to the relevant provisions.

One other expert witness report in relation to odour has been circulated to the Panel and parties, by Michael Assal of The Odour Unit on behalf of Veolia.

The Panel further advised on 18 August 2017 that a report by Tim Pollock of GHD on behalf of Hi-Quality can be given the status of expert evidence.<sup>65</sup>

Mr Ramsay, Mr Assal, Mr Pollock and a representative of the EPA with technical expertise in odour are conducting a conclave on 21 August 2017. A statement from that conclave highlighting points of agreement and disagreement between the experts will then be circulated.

<sup>65</sup> *Hi-Quality Quarry Products Pty Ltd, Veolia Buffer Assessment: Odour monitoring and modelling results* (GHD, August 2017) (**GHD report**).

### 3.2.1 Issue 1: extent of buffer

#### *Submissions in response to exhibition*

Veolia did not make a submission in response to exhibition of Amendment C207, but subsequently requested to be heard by the Panel with reference to a draft version of the GHD report. The final version of that report was circulated to the Panel and parties on 4 August 2017. Veolia's submission expressed its preliminary concerns with the draft GHD report.

The Veolia submission noted the 1,300 metre buffer reflects the recommended separation distance in the EPA guideline *Designing, Constructing and Operating Composting Facilities*<sup>66</sup> (**Composting Guideline**) and opposed the submission by Hi-Quality that this be reduced to 600 metres.

The EPA licence under which Veolia operates includes a condition that reads 'offensive odours must not be discharged beyond the boundaries of the premises'.<sup>67</sup>

Hi-Quality submitted that 'the composting facility odour buffer should be reduced to 600 metres, and the walkable catchment boundary should be adjusted accordingly. 600 metres is an appropriate buffer having regard to works proposed by Veolia to manage odour.'

The RCL Group, owner of 605 Sunbury Road,<sup>68</sup> to the south-west of the composting facility, submitted that a 1,300 metre buffer was 'excessive and creates an unnecessary and inappropriate burden to development'. The RCL Group submission referred to the planning officer's report to Hume City Council in relation to the planning permit application for the facility and included an extract from that report replicating a previous GHD odour assessment, which RCL Group submitted supported a reduced buffer.

The submission by Marantali Pty Ltd, owner of 607 Sunbury Road,<sup>69</sup> also to the south-west of the composting facility, did not refer to the extent of the buffer, but focused on the controls that apply within the buffer.

The EPA submission acknowledged the 1,300 metre buffer reflects the recommended separation distance in the Composting Guideline, but stated that 'this recommendation is a guideline and consideration needs to be given to potential impacts beyond this buffer due to siting and localised environmental conditions'. The EPA further submitted that it 'is not uncommon for such operations to have off site odour impacts up to 3km from the activity boundaries, exceeding the recommended separation distances'. The EPA recommended that an odour assessment be undertaken for the facility, including odour surveillance and desktop modelling, to determine the extent of the buffer.

The MWRRG submission noted that the extent of the buffer 'applies to existing operations and does not take into account potential future capacity', but did not otherwise comment on the distance.

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<sup>66</sup> EPA Publication 1588.1, June 2017.

<sup>67</sup> Condition LI\_A1.

<sup>68</sup> Property 72 in the Sunbury South PSP.

<sup>69</sup> Property 71 in the Sunbury South PSP.

SV submitted that an amended composting facility buffer should be ‘determined in consultation with the EPA’, but did not otherwise comment on its extent.

### ***VPA submissions and response to evidence***

As noted above in relation to the landfill buffer, section 12(2)(b) of the P&E Act requires a planning authority in preparing a planning scheme amendment to take into account any significant effects which it considers the environment might have on any use or development envisaged in the amendment.

The VPA recognises that composting facilities have the potential to affect human health, amenity and the environment, particularly by the generation of odour. The VPA considers that Amendment C207, subject to a number of post-exhibition changes summarised below, appropriately takes into account and address those effects.

As is also noted above, Clause 19.03-5 in the Scheme (Waste and resource recovery) includes the following strategy:

*Protect waste and resource recovery infrastructure against encroachment from incompatible land uses by ensuring buffer areas are defined, protected and maintained.*

Clause 19.03-5 includes the SWRRIP, the Metro Plan and the Composting Guideline as policy guidelines.

The extent of the composting facility buffer, as depicted in the Sunbury South PSP and Schedule 9 to the UGZ, is based on the Composting Guideline and the Separation Distance Guideline.

The Separation Distance Guideline sets out the EPA’s recommended separation distances for ‘off-site residual odour and dust emissions from industries’.<sup>70</sup> These are listed in Table 1 by industry category. Table 1 includes ‘green waste composting facility’.<sup>71</sup> It refers to the draft version of the Composting Guideline, as this had not been published in final form at the time. Mr Ramsay has confirmed that the relevant separation distances have not changed between the draft and final versions.<sup>72</sup>

Section 4.1 of the Composting Guideline describes how to calculate separation distances between composting facilities and sensitive land uses. Section 4.2 includes ‘examples of separation distances’, based on feedstocks, process design and site capacity. Having regard to the EPA licence for the Veolia facility, it meets the description of ‘reference facility 1’, to which Table 2 in section 4.2 applies. This is extracted below:

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<sup>70</sup> Page 3.

<sup>71</sup> Page 11.

<sup>72</sup> Page 16.



Types of feedstock	Technology being used	Size of the plant	Recommended separation distance (metres)
Green waste Vegetable organics Grease inceptor trap waste	Open air receival	1,200 tonnes per annum	>300
	Enclosed aerobic composting with secondary odour capture and treatment equipment Open air maturation	14,000 tonnes per annum	>500
		36,000 tonnes per annum	>800
		55,000 tonnes per annum	>1,000
		75,000 tonnes per annum	>1,200
		90,000 tonnes per annum	>1,400

Figure 5: extract from Table 2 (reference facility 1) from page 9 of the Composting Guideline

The Veolia facility is licensed to accept 85,000 tonnes per annum of waste. The 1,300 metre separation distance in the PSP has been determined by reference to the separation distance examples provided for a plant accepting 75,000 tonnes and a plant accepting 90,000.

The 1,300 metre separation distance is supported by the expert evidence of both Mr Ramsay and Mr Assal.<sup>73</sup>

The GHD report accepts 1,300 metres as the 'default' buffer for its site-specific assessment of the facility.<sup>74</sup> The assessment includes odour modelling of two scenarios:

1. the current facility based on recent observations and measurements; and
2. if the raw green waste receival pad at the facility were enclosed, with the captured emissions treated through a biofilter.<sup>75</sup>

The GHD report concludes on the basis of its modelling that the first scenario requires a buffer larger than 1,300 metres, and the second scenario results in a significantly reduced buffer of approximately 600 metres.<sup>76</sup>

Mr Ramsay and Mr Assal's expert reports include peer reviews of the GHD report. Both raise concerns with the data, methodology, assumptions and findings in the GHD report and conclude that the report does not provide an appropriate basis on which to justify a site-specific variation to the 1,300 metre buffer.<sup>77</sup>

Mr Ramsay accepts it may be inferred from the GHD report that 'if the receival area is fully enclosed and fugitive emissions are minimised then impacts on sensitive receptors would be reduced'.<sup>78</sup> He concludes that:<sup>79</sup>

<sup>73</sup> Pages 16 and 15 in their respective expert witness reports.

<sup>74</sup> Page 2.

<sup>75</sup> Page 14.

<sup>76</sup> Pages 20 and 23.

<sup>77</sup> Pages 23 to 28 in Mr Ramsay's report and pages 7 to 12 in Mr Assal's report.

<sup>78</sup> Page 25.

<sup>79</sup> Page 28.



*In the future, should the receival area of the Veolia facility be totally enclosed there would be a basis to consider a reduction in the separation distance based on the criteria for a variation to recommended separation distances in [the Separation Distance Guideline].*

Mr Assal observes that, to his knowledge, no cost/benefit analysis of enclosing the receival area has been undertaken 'to evaluate its technical viability and benefit with respect to the odour outcomes, and considers that 'this may not necessarily be the most effective use of resources'.<sup>80</sup>

#### **VPA position**

The VPA considers the expert evidence to support the 1,300 metre separation distance in the Sunbury South PSP and Schedule 9 to the UGZ.

The VPA does not support the submissions seeking reduction in the separation distance.

The VPA understands, on the basis of the evidence, that technical methods are currently available to substantially reduce the existing buffer, including the option of enclosure. For that reason, the EPA considers that while the buffer should not currently be reduced, the PSP should respond in a manner that adequately addresses the potential for change.<sup>81</sup>

### **3.2.2 Issue 2: planning controls**

#### ***Submissions in response to exhibition***

The Veolia, Hi-Quality and RCL Group submissions did not address what planning controls should apply to land within the composting facility buffer. The overarching VPA position, having regard to the text and operation of the Scheme above, is that there must be a degree of flexibility in the controls, particularly given the exhibited underlying residential zoning for some of the land within the buffer.

Marantali Pty Ltd submitted that Clause 3.9 should be amended to require that planning permit applications for sensitive uses within the buffer 'have regard to' an odour environmental risk assessment in respect of the facility rather than 'be accompanied by' such an assessment, so that one assessment may be relied on by all future applicants.

The EPA submitted that it was 'not satisfactory' for Clause 3.9 to require planning permit applications for sensitive uses within the buffer to be accompanied by an odour environmental risk assessment prior to an odour assessment being undertaken in respect of that buffer.

The MWRRG submitted that:

- the composting facility and its buffer should be more clearly identified in Map 1;
- references to 'green waste facility' should be amended to 'garden and food organics facility';
- residential zones should not be applied within the buffer; and

<sup>80</sup> Page 9.

<sup>81</sup> There are likely to be additional matters raised in the course of the hearing, such as land tenure, by the relevant parties that must be considered when effecting long-term planning decisions.

- the provisions that relate to the buffer should be transferred to an Environmental Significance Overlay (ESO).

SV submitted that:

- sensitive uses should be prohibited within the composting facility buffer;
- additional sensitive uses should be considered for exclusion, such as place of worship, business college, employment training centre, tertiary institution, and outdoor/indoor recreation facility;
- Plan 3 in the PSP and Map 1 in the Schedule should more clearly identify the land uses within the buffer; and
- in the longer term, the buffer could be converted into an overlay in the Scheme.

#### **VPA submissions and response to evidence**

The range of uses depicted within the composting facility buffer in the PSP and on Map 1 in Schedule 9 to the UGZ includes 'residential'.

The EPA acknowledges that the purpose of the buffer is to ensure separation between the facility and 'sensitive uses', including residential.

Clause 3.9 in Schedule 9 to the UGZ, as exhibited, required applications for sensitive uses within the composting facility odour buffer to be accompanied by an odour environmental risk assessment. In the post-exhibition version of Schedule 9 appended to the VPA's Part A report, this was changed to an 'odour, dust, noise and vibration assessment'. The changes in this version also included the removal of 'informal outdoor recreation sites' as a sensitive use from Clause 3.9 and Clause 2.4. That change is supported by the evidence of Mr Ramsay.<sup>82</sup>

Mr Ramsay further recommends that Clause 3.9 be amended to require applications for sensitive uses to be accompanied by a s53V audit 'able to demonstrate that risk of adverse amenity impact due to odour from the composting facility can be controlled'.

The VPA accepts this evidence and supports requiring a s53V audit report as part of such applications.

Mr Assal and Mr Pollock's reports do not consider the controls proposed in Schedule 9 to the UGZ.

The VPA does not consider any further changes to be required to Schedule 9.

In his expert witness statement in relation to town planning on behalf of Hi-Quality, Mr Barlow states:<sup>83</sup>

*I am instructed that, in the worst-case scenario, there will be no buffer associated with Veolia from 2028/2033 as there is no possible scenario in which it will be operating in a manner that requires a buffer over the land shown for residential (on the HQ Concept Plan) by 228/2033.*

<sup>82</sup> Page 19.

<sup>83</sup> Paragraph 220, page 42.

The VPA understands this to be referring to Hi-Quality's ownership of the land on which the Veolia facility is located and the fact that this relationship is governed by lease.

The VPA considers it appropriate to apply residential zoning to some of the area subject to the composting facility buffer, subject to the controls imposed in Clause 3.9 in Schedule 9 to the UGZ. This would allow flexibility and preclude the need for a further planning scheme amendment to reduce the buffer, in the event the receival area at the facility is enclosed and the buffer can be significantly reduced. It would also account for a range of potential future changes, including the possible end of Veolia's lease of the composting facility site from Hi-Quality.

The key question for the Panel is the preparation of controls that permit the requisite flexibility but act as a sufficient gatekeeper until changes are effected to or upon the Veolia site.

#### **VPA position**

Having considered the expert evidence in relation to the composting facility buffer, the VPA proposes an additional change to Clause 3.9 in Schedule 9 to the UGZ to require planning permit applications for sensitive uses to be accompanied by a s53V audit.

### **3.3 Quarry buffer**

*Sunbury South PSP (C207) – Submissions 39 (J and L Ware); 61 (Hi-Quality Quarry Products Pty Ltd and Trantaret Pty Ltd); 82 (Environment Protection Authority)*

*Lancefield Road PSP (C208) – Submission 83 (Environment Protection Authority)*

The VPA's Part A submission identified the quarry operated by Hi-Quality at 570 Sunbury Road, Bulla as a 'non-blasting quarry'. This was consistent with its classification in the submission from the EPA. However, the VPA now understands the quarry's operations include blasting.

The quarry is subject to Work Authority No. 1123. Condition 14 in the work authority sets airblast and ground vibration limits.

Plan 3 (Future Urban Structure) in the Sunbury South PSP depicts a 'quarry buffer (250m)'. As noted in the EPA submission, the Separation Distance Guideline recommends a 250 metre buffer for non-blasting quarries.

The Separation Distance Guideline recommends a 500 metre buffer for blasting quarries. There is no evidence before the Panel in respect of the quarry buffer.

The VPA considers that Plan 3, and correspondingly Map 1 in Schedule 9 to the UGZ, should be revised to reflect a 'quarry buffer (500m)'.

Clause 2.12 in Schedule 9 to the UGZ relates to referral of applications within the quarry buffer. The text in this clause includes several references to '250 metres' that would also require revision to '500 metres'.

The VPA does not consider any further changes to be necessary. The VPA notes that it is in the nature of a quarry that blasting is not indefinitely required. As submitted above in relation to the landfill and composting facility buffers, the VPA considers it important that the PSP and

Amendment ordinance provide sufficient flexibility to accommodate future changes. This is particularly applicable in relation to blasting operations at the quarry.

### 3.4 Racecourse Road site

The Racecourse Road site is the subject of numerous submissions in response to exhibition of the Lancefield Road PSP, particularly from existing Sunbury residents. These are identified on the map of submissions prepared by the VPA for this hearing.

The Racecourse Road site is also the subject of section 96A planning permit application no. P18854 by Villawood for a proposed residential subdivision named Sherwood Heights. Section 2.8.1 of this submission provides an update on the VPA's assessment of that application, including a response to expert evidence.

The submissions raising concerns in relation to development on this site generally sought to protect the valley's visual landscape, heritage places, and natural conservation values.

Specific recommendations made in these submissions include:

- retaining the current application of the Rural Conservation Zone (**RCZ**) to the valley;
- abandoning plans for the northern crossing of Jacksons Creek connecting Elizabeth Drive to Lancefield Road; and
- abandoning or reducing the extent of residential development on the east side of Racecourse Road.

The northern crossing is discussed above in this submission in relation to heritage and below in relation to its role in the transport network.

The VPA continues to support the residential designation of this area in the Lancefield Road PSP. However, in response to the submissions received and having regard to the sensitive context of the site, the VPA has proposed:

- a reduction in the developable area; and
- the application of additional design controls to ensure an appropriate built form outcome.

The documents outlining this position were circulated on 2 August 2017 and are included at Appendix 9 to the VPA's Part A submission.

The VPA relies on the expert evidence of Mr Czarny in relation to urban design matters relating to the site.

Further detail in relation to the VPA's position is provided below.

#### 3.4.1 Development of the Racecourse Road site

The Racecourse Road site has been included within the Urban Growth Boundary since 2010.<sup>84</sup>

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<sup>84</sup> Amendment VC68 gazetted on 6 August 2010.

The *Sunbury/Diggers Rest Growth Corridor Plan (Growth Corridor Plan)*<sup>85</sup> depicts the site as ‘existing open space’ and an ‘investigation area’. This is accompanied by Note 2, which states ‘Potential for review of Rural Conservation Zone at precinct Structure Plan stage’.

The Growth Area Plan also shows a ‘Road Link (under investigation)’ in the approximate location of the northern Jacksons Creek crossing. This is accompanied by Note 3, which states ‘Creek crossing under investigation’.

A Public Acquisition Overlay (**PAO**) applies between Racecourse Road and the railway line to the east of Jacksons Creek. This is depicted as PAO2, with the Schedule to the PAO identifying Council as the acquiring authority and ‘road construction and widening’ as the purpose of acquisition.

There is conventional density residential development established to the immediate south of the site and approved to the immediate west of the site, with lower density development further to the north.

It is evident that Jacksons Creek is an important asset and a perhaps defining element of the broader landscape. The role of urban planning is to take the discrete threads of policy and to achieve an acceptable planning outcome. This is a balancing exercise and the outcomes proposed in this area meet a range of community needs for transport, housing and amenity. This is not a planning issue where the only appropriate outcome is preservation or avoidance.

A thorough description and assessment of the site’s context and interfaces is set out in Mr Carny’s expert witness report,<sup>86</sup> as well as a review of the existing planning and design controls.<sup>87</sup>

The first question considered in Mr Czarny’s evidence is whether the site can accommodate residential development at all. The VPA adopts Mr Czarny’s analysis and opinion that there are ‘opportunities for residential development on the eastern side of Racecourse Road’, but that it is appropriate:<sup>88</sup>

*...to enforce more rigid parameters relating to the siting design and layout of residential subdivision (and associated infrastructure) to ensure that there is sensitivity to the significant landscape of the Jacksons Creek corridor and the associated landscape values of the precinct.*

### 3.4.2 Extent of development

As noted above, the VPA has circulated a ‘proposed revision to development area’. This document uses the subdivision plan in the exhibited section 96A permit application for reference and shows the removal of two parts of the developable area towards the north and east.

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<sup>85</sup> 17 June 2012.

<sup>86</sup> Pages 3-5.

<sup>87</sup> Page 6.

<sup>88</sup> Pages 9-11 (text cited on page 10).

The areas removed represent the lower parts of the developable area, sitting on the flatter surface within the valley proper. The VPA's objective in proposing this reduction is to contain development to the hillside next to the valley, to preserve views of the valley and present a more sensitive response to the valley interface.

Mr Czarny has reviewed the development extent proposed by the VPA and provides his opinion that the reduction proposed is his preferred view:<sup>89</sup>

*...in that it provides a consistent frontage to the Creek at an intermediate elevation that is clearly distinguishable in long and close-range views from the flat Creek flood plain and its conservation threshold.*

As noted above, the expert witness reports of Mr Woodland and Mr Murphy on behalf of Villawood also appear to express support for the reduced extent of development on planning and landscape grounds respectively.

### 3.4.3 Design controls

Mr Czarny has also reviewed the controls proposed in Amendment C208 to apply to this site as exhibited, as well as the additional controls circulated by the VPA on 2 August 2017. Mr Czarny describes these controls as representing 'an appropriate regulatory response', but notes they may require some refinement.<sup>90</sup>

Mr Woodland expresses a similar view in his planning evidence on behalf of Villawood. The VPA will consider any feedback received in respect of the proposed controls and will work with interested submitters to endeavour to achieve a consensus position.

At this time, the VPA considers the combination of reducing the developable area and imposing more detailed design controls will result in an appropriate built form outcome on the site that responds sensitively to the Jacksons Creek valley.

## 3.5 Regional transport impacts

*Sunbury South PSP (C207) – Submissions 23 (N and R Isles); 36 (Jacksons Creek EcoNetwork, Friends of Holden Flora Reserve, Friends of Emu Bottom Wetlands); 57 (Hume City Council); 75 (Capitol Property Group); 83 (T Dance)*

*Lancefield Road PSP (C208) – Submissions 6 (J McKerrow); 19 (N and R Isles); 20 (D Manning); 54 (Hume City Council); 77 (M Gray); 84 (T Dance)*

Transport and traffic aspects of the Amendments were raised in multiple submissions in response to exhibition and a number of parties will be calling traffic engineering evidence at the hearing.

The VPA relies on the expert evidence of Mr Humphreys in relation to regional traffic impacts.

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<sup>89</sup> Page 16.

<sup>90</sup> Page 15.

The expert witnesses whose evidence relates to regional traffic impacts are participating in a conclave that will result in a statement highlighting their points of agreement and disagreement. The VPA expects that statement to be available for the second day of the hearing.

A relatively brief background is provided below in advance of the conclave statement.

### 3.5.1 Background

Mr Humphreys' report describes the transport context of the precincts, the strategic transport modelling that has informed the preparation of the PSPs and the key elements of the proposed road network.

The traffic infrastructure identified within the PSPs includes duplications of existing arterial roads, upgrades to key intersections, and the construction of two crossings of Jacksons Creek in addition to the existing crossing on Sunbury Road: one to the north and one to the south of the township.

A number of submissions refer to the Bulla Bypass. This is a proposed arterial road intended to improve connectivity between the Sunbury/Diggers Rest corridor and the Tullamarine Freeway. Mr Humphreys notes that a preferred alignment of the Bulla Bypass was part of Amendment C190 to the Scheme and submitted to the Minister for Planning for approval, but the Minister has requested that the alignment be subject to further review.

VicRoads is undertaking this review and has advised:

- the review of the alignment is likely to be completed in six to 12 months; and
- the bypass is likely to be constructed in 10 to 15 years.

The modelling for the PSPs at 2046 assumes the construction of the Bulla Bypass.

### 3.5.2 Jacksons Creek road crossings

Mr Humphreys has reviewed and summarised the modelling in relation to additional crossings of Jacksons Creek. The modelling shows that the introduction of one and two crossings of Jacksons Creek will reduce traffic volumes on the Sunbury Road network.<sup>91</sup> When viewed in isolation, the southern crossing reduces congestion within the Sunbury town centre to a greater degree than the northern crossing.<sup>92</sup>

The modelling shows this reduction in congestion, both with and without the construction of the Bulla Bypass.<sup>93</sup> If the Bulla Bypass is delayed, the expert opinion of Mr Humphreys is that increased growth in Sunbury is likely to lead to changes in behaviour including:<sup>94</sup>

- diversion of traffic from Sunbury Road to other parts of the network;
- increased use of alternative modes of transport; and
- increased travel outside of identified peak hours.

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<sup>91</sup> Pages 25-26.

<sup>92</sup> Page 26.

<sup>93</sup> Page 28.

<sup>94</sup> Page 31.

Mr Humphreys considers that introduction of a Jacksons Creek crossing will not in itself resolve capacity issues on Sunbury Road, but will reduce congestion within the Sunbury town centre and provide greater flexibility within the traffic network. Mr Humphreys accordingly concludes that ‘development of the two PSPs should not be delayed in the absence of the Bulla Bypass’.<sup>95</sup>

Mr Humphreys has also reviewed the cross-sections proposed for the Jacksons Creek road crossings and provided his opinion that they will provide appropriate capacity to carry the modelled traffic volumes.<sup>96</sup>

The VPA adopts Mr Humphrey’s position.

### 3.5.3 Transport network impacts

A number of submissions from current Sunbury residents expressed concern in relation to both existing traffic conditions within Sunbury and predicted traffic impacts resulting from development of the PSP areas.

Mr Humphreys notes that modelling of the existing conditions in the Sunbury road network shows some localised congestion in parts of the town centre during peak periods, particularly at Sunbury Road in the vicinity of the existing Jacksons Creek crossing.<sup>97</sup>

To understand the worst case scenario, Mr Humphreys has modelled congestion within the Sunbury Town centre in 2046 during peak periods, without the construction of the two proposed Jacksons Creek crossings.<sup>98</sup> The results showed the existing network within the Sunbury town centre to maintain good levels of service compared to 2014.<sup>99</sup>

Mr Humphreys has identified the projected increases on existing local roads by 2046 in Tables 9.1 and 9.2 of his report,<sup>100</sup> which is likely to be of interest to individual submitters. Mr Humphreys has also addressed submissions raising matters relevant to his evidence in Table 10.1.<sup>101</sup>

Mr Humphreys summarises his opinion in relation to the impact of the PSPs on the transport network as follows:<sup>102</sup>

*Overall, whilst there is anticipated to be some growth on the local road network in Sunbury, I do not consider that the increases are of a substantial nature and people’s ability to travel through Sunbury will not be compromised by the development of the two PSPs. From a regional perspective, the increased traffic on Lancefield Road, whilst substantial when compared to the existing volumes, will be complimented with the appropriate capacity upgrades and will not inhibit motorists to travel both locally and regionally.*

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<sup>95</sup> Page 32.

<sup>96</sup> Pages 26-27.

<sup>97</sup> Page 8.

<sup>98</sup> Page 33.

<sup>99</sup> Page 34.

<sup>100</sup> Pages 34-35.

<sup>101</sup> Page 37.

<sup>102</sup> Page 36.



*The level of infrastructure that is attributable to the two PSPs will not only service the growth afforded with the PSPs but will also benefit existing Sunbury residents and the future development of Sunbury North and West.*

### 3.6 Regionally significant landscape values

*Sunbury South PSP (C207) – Submissions 39 (J and L Ware); 41 (Steven Galdes); 44 (Asia-Pacific Property Pty Ltd); 53 (owner of 280 Lancefield Road); 56 (SB Capital); 57 (Hume City Council); 61 (Hi-Quality Quarry Products Pty Ltd and Trantaret Pty Ltd); 64 (Fox Hollow Drive vendors); 75 (Capitol Property Group); 85 (I, D, N and L Kolceg)*

*Lancefield Road PSP (C208) – Submissions 53 (owner of 280 Lancefield Road); 54 (Hume City Council); 60 (potential developers of 280 Lancefield Road)*

The exhibited PSPs include relatively extensive areas identified as ‘regionally significant landscape values’ on Plan 3 (Future Urban Structure). These broadly follow the key waterway corridors and sit outside the developable area of the precincts.

For exhibition, those areas comprised:

- land considered to have particular regional landscape significance, including valleys, escarpments and hilltops (as the name suggests); and
- land that would be challenging to develop having regard to appropriate drainage of the land, and for which drainage works have not been included in the draft PSPs.

In respect of the first category of land, to identify these areas the VPA:

- commenced with the land designated as ‘landscape values’ in the Growth Corridor Plan;
- used contour plans to obtain ‘break of slope’ information; and
- undertook a refinement process with Melbourne Water on a reach-by-reach basis to finalise the plans, through observations of 3D modelling.

This process identified the most important elements of the landscape.

The VPA considers the label ‘regionally significant landscape values’ was not likely to have clearly communicated the second category of land. Indeed, a number of submissions suggested that the areas had been too broadly defined and included areas without any clearly evident landscape values requiring protection.

The VPA and Melbourne Water have subsequently reviewed the areas described as ‘regionally significant landscape values’ to separate the two categories and more accurately describe the second as ‘land not serviced by dss – potentially developable land’.

The VPA and Melbourne Water have also developed a suite of controls to provide for the potential development of this second category of land. This will broadly involve applicants developing a locally responsive drainage solution consistent with both the new controls and existing relevant objectives, requirements and guidelines in the PSPs, and fully funding any drainage works.

The VPA informed the parties of this review on 31 July 2017 and circulated:

- a revised plan for each PSP titled ‘Potentially Developable Land – Land not serviced by Development Services Scheme’ showing:
  - ‘stormwater quality treatment assets’;

- ‘waterway corridors’;
- ‘land not serviced by dss – undevelopable’;
- ‘break of slope’; and
- ‘land not serviced by dss – potentially developable land’; and
- planning controls proposed for inclusion in the Amendments to apply to this final category.

Those documents are included at Appendix 11 to the Part A submission.

The VPA anticipates that the circulated material will result in resolution, or at least clarification, of a number of submissions relating to regionally significant landscape values. Where parties have reviewed the new material and concluded that their submissions remain unresolved, the VPA can work further with these parties and address any final matters in closing submissions.

### 3.7 Drainage and waterway overview

*Sunbury South PSP (C207) – Submissions 23 (N and R Isles); 24 (E Brogan); 83 (T Dance)*

*Lancefield Road PSP (C208) – Submissions 19 (N and R Isles); 24 (E Brogan); 84 (T Dance)*

Several Sunbury resident submitters have expressed concern in relation to the approach in the Amendments to drainage and waterways. This approach, including Melbourne Water’s role, is summarised below.

#### **Melbourne Water involvement**

Melbourne Water is the Waterway, Floodplain and Regional Drainage Management Authority for the Port Phillip and Western Port Bay catchments, as defined in Part 10 of the *Water Act 1989*.

The VPA has been working closely with Melbourne Water as an agency in the PSP process.

#### **Waterways within the PSP areas**

There are two major waterways located within the PSP areas: Jacksons Creek and Emu Creek.

Both are major waterways with catchments upstream of the Lancefield Road PSP. Jacksons Creek has a catchment of greater than 25,700 hectares. Emu Creek has a catchment greater than 15,700 hectares.

Each of these major waterways has an extensive tributary system within the Amendment areas.

#### **Development Services Schemes**

Melbourne Water designs Development Services Schemes (**DSSs**) to masterplan the drainage and waterway infrastructure required to service future urban development. There are more than 200 DSSs across greater Melbourne.

A DSS is a catchment-based, conceptual masterplan of drainage infrastructure and a pricing arrangement (contribution rates) to fund the construction of the assets. There are a total of ten DSSs across the two amendment areas.

Contributions for each DSS are calculated so that the income derived from contributions equals the planned expenditure over the expected life of a scheme.

DSS works are constructed by developers, usually at the time of subdivision. Developers who are required to construct scheme works are reimbursed according to the DSS from the contributions received in the scheme.

A common set of objectives and hydraulic and environmental performance criteria are incorporated into the design of DSSs. These are outlined in *Principles for Provision of Waterway and Drainage Services for Urban Growth* and include the following:<sup>103</sup>

- Water quality will be treated to best practice in accordance with *Best Practice Stormwater Management Guidelines*.<sup>104</sup>
- All new developments will achieve current flood protection standards, generally being 1-in-100 year flood protection.
- The minor drainage system will have a capacity to cater for a 1-in-5 year storm event.
- Assets are designed to a standard to the satisfaction of the ultimate asset owner, usually Council or Melbourne Water.
- All landowners will receive an equivalent level of service.
- A robust consultation process will govern the creation of DSSs.
- The environmental, social (including heritage) and economic site-specific and system-wide values of waterways will be protected.
- DSSs should propose infrastructure to service development that is optimal in terms of cost and performance.

DSSs are a conceptual design and provide for flexibility at functional design, subject to achievement of the DSS design objectives.

The design of DSSs is informed and guided by scientifically rigorous and industry-accepted reference documents. These include:

- *Wetland Design Manual: design, construction and establishment of Wetlands* (Melbourne Water, 2017);
- *Healthy Waterways Strategy: A Melbourne Water strategy for managing rivers, estuaries and wetlands* (Melbourne Water, 2013);
- *MUSIC Guidelines: input parameters and modelling approaches for MUSIC users in Melbourne Water's service area* (Melbourne Water, 2016);
- *Waterway Corridors: guidelines for greenfield development areas within the Port Philip and Westernport Region* (Melbourne Water, 2013);
- support resources available from the Melbourne Water 'Planning and Building' website; and
- others as appropriate to specific sites.

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<sup>103</sup> Melbourne Water, June 2007.

<sup>104</sup> CSIRO, 1999. Currently 45% in total nitrogen and phosphorus, 80% reduction in total suspended solids.

Melbourne Water routinely undertakes background investigations to understand the site-specific waterway form, values and conditions for those waterways contained within a proposed DSS. These studies inform the design of the DSS.

### ***DSSs for the Sunbury South and Lancefield Road precincts***

Melbourne Water has been working with other agencies and authorities, including the VPA, since 2014 to design DSSs that respond to requirements in the Sunbury South and Lancefield Road areas, including in relation to planning controls, transport infrastructure alignment, and conservation areas.

The topography of the Sunbury area within the precincts is generally characterised by steep terraced escarpments and well-incised waterway tributaries.

The unique and sensitive environment of the greater Sunbury region resulted in numerous background investigations for the region being conducted by Melbourne Water and the VPA. These include:

- *Final Assessment: riparian vegetation and geomorphology in the Sunbury growth area* (Alluvium, October 2014) – This study assessed the fluvial geomorphology, riparian vegetation, cultural heritage and habitat values of tributaries within the Sunbury DSS areas. It assigned both a geomorphic value and vegetation value to each reach of tributary within the study area.
- *Erosion analysis classification for waterways around Sunbury* (Alluvium February 2015) – This study identified those tributaries which required more detailed erosion potential analysis.
- *EPI and volumetric results, groups 1, 2 & 3* (Alluvium May 2015) – This study identified a series of drainage options for flow management to preserve the physical integrity and manage the risk of large-scale erosion of waterways within the study area.
- *Assessment of stormwater management challenges around Sunbury* (Alluvium June 2015) – This study, through the use of several case studies, investigated the level of risk of erosion to tributaries from stormwater runoff and identified appropriate DSS design objectives.

### ***Preliminary DSSs***

Melbourne Water engaged Engeny Water Management and Alluvium in respect of the Lancefield Road PSP and Sunbury South PSP respectively, to prepare the proposed DSSs, based on Melbourne Water's requirements, the scientific investigations and industry-accepted reference documents.

Engeny Consulting and Alluvium Consulting (Lancefield Road and Sunbury South respectively) were engaged to prepare the proposed DSS based on Melbourne Water DSS requirements from rigorous scientific investigations and industry accepted reference documents.

The VPA provided the *Draft DSS Water Quality Assets and Waterway Corridors Over Exhibited Future Urban Structure* to landowners and relevant submitters by letter dated 27 June 2017. These plans show the conceptual location of assets for each PSP.

The VPA also relies on the expert evidence of Dr Blackham, Mr Gilmore and Mr Clemson in relation to drainage matters.

### 3.8 Concept plans and additional cross-sections

*Sunbury South PSP (C207) – Submissions 24 (E Brogan); 48 (R and R Mezzatesta); 56 (SB Capital); 57 (Hume City Council); 75 (Capitol Property Group); 84 (Kolceg Family); 85 (I, D, N and L Kolceg); 89 (Oreana Project Management Pty Ltd)*

*Lancefield Road PSP (C208) – Submissions 17 (E Brogan); 54 (Hume City Council); 56 (295 Lancefield Road JV Pty Ltd); 91 (Foschia Family)*

The exhibited PSPs contained concept plans for town centres and residential areas where the VPA deemed that additional guidance may be needed due to topographical challenges or site constraints, such as land fragmentation or access.

The VPA received submissions in relation to each of the concept plans, including from Council.

The VPA has now revised those concept plans in response to submissions and further consultation. The VPA has worked productively with affected submitters in relation to these plans and will continue to do so.

Council is calling Julia Bell of David Lock Associates on urban design in relation to the exhibited and revised concept plans.

#### 3.8.1 Redstone Hill Major Town Centre Concept Plan

The revised concept plan for the Redstone Hill Major Town Centre incorporates a number of relatively minor changes in response to submissions. These:

- incorporate a central indicative public transport interchange on the main connector road through the centre connecting to Sunbury Road;
- adjust development footprints to respond to the revised draft DSS;
- remove direct connections to the centre from the proposed service roads on Sunbury Road; and
- nominate a single community centre site, rather than three separate options.

#### 3.8.2 Harpers Creek Local Town Centre Concept Plan

This concept plan was not exhibited with the same level of detail as other concept plans within the PSP. It has now been refined to:

- provide further detail on the location of land uses, including indicative location of the supermarket and retail uses, car parking and access and the town square, as well as active frontages;
- limit the government primary school to be shown over two allotments rather than three;
- re-position the community facility to be located in to the south of the government primary school, to enable a community hub to develop in proximity to the town square; and
- better respond to site constraints such as waterways and topography, while having regard to existing property boundaries.

### 3.8.3 Emu Creek Local Town Centre Concept Plan

Council's submission raised concerns in relation to the street alignment with the Emu Creek Local Town Centre, and the spread of the main street activity across multiple streets. The concept plan has accordingly been reconfigured to:

- consolidate the primary retail 'main street' environment of the centre on to a single street;
- straighten the alignment of the main street to take better advantage of key view lines;
- relocate the community centre to the north of the main street adjacent the town square; and
- respond to the revised draft DSS.

The changes to the concept plan have minor implications for the section 96A planning permit application by Wincity. WinCity has been consulted on those changes and the VPA understands Wincity will update the superlots within its subdivision application to respond to the changes.

### 3.8.4 Yellow Gum Local Town Centre Concept Plan

The VPA received submissions relating to the Yellow Gum Local Town Centre from Council, Lancefield Road Joint Venture and the Foschia Family.

Council expressed concern regarding the orientation of the main street along the Northern Link/Elizabeth Drive extension and the extent to which a functional main street could be achieved along what will be a high volume traffic road.

Lancefield Road Joint Venture submitted that the Yellow Gum LTC should provide for 16,000 sqm of retail. The concept plan will provide for the capacity for further expansion of the centre to this scale. However, the as-of-right shop floor space provided for the centre will remain 10,000 sqm. Future permit applications for floor space beyond this threshold will need to justify the proposed scale.

The concept plan has been amended to:

- re-orient the town centre to address the north-south connector road, rather than the more heavily trafficked east-west road;
- include a central town square which is readily accessible from the community facility and is well addressed by retail uses;
- provide for office development fronting Lancefield Road;
- delete reference to the potential private child care / medical centre;
- include a mixed use and acknowledge the potential for longer term future retail expansion to the north of the centre; and
- correct graphical errors.

### 3.8.5 Vineyard Road Employment Area Concept Plan

Following exhibition of the Sunbury South PSP, VicRoads advised that it did not support the access arrangement to the area of a signalised intersection from the on-ramp to the Calder Freeway (IN-07 in the exhibited PSP). VicRoads indicated that its preference was for a signalised intersection from Moore Road/Old Vineyard Road. The concept plan has been updated to reflect this access, as well as minor changes to the local street network.

### 3.8.6 Balbethan Drive Residential Concept Plan

As noted above, this concept plan has been updated and a set of development principles, requirements and guidelines included in the PSP.

The concept plan has also been updated to:

- remove the small local park previously shown adjacent Lancefield Road (at 25 St Ronans Court);
- better respond to the location of existing dwellings;
- update graphical style; and
- illustrate traffic treatments.

### 3.8.7 Gellies Road Residential Concept Plan

The Gellies Road area has been significantly affected by the revisions to the draft DSS, which has resulted in a substantial increase in the developable area. The concept plan has been updated to reflect this revised development footprint.

In addition, an intersection shown as a left-in/left-out in the central part of the concept plan area has been redesignated as a future signalised intersection to support local bus services, as well as pedestrian movement across Lancefield Road.

### 3.8.8 Harker Street Residential Concept Plan

This concept plan has been subject to minor refinements, including updates to:

- exclude development from the transmission line easement; and
- remove indicative lot boundaries from the concept plan, to achieve an appropriate level of detail for inclusion in the PSP.

### 3.8.9 Harpers Creek Residential Concept Plan

In response to Council's submission, this concept plan area has been expanded to also apply to land within the Fox Hollow Drive area. This area is subject to a number of constraints, including drainage corridor and stormwater quality treatment assets, access, topography and land fragmentation.

Key changes include:

- the provision of a potential local street connection to the boulevard connector at the eastern end of the Harpers Creek part of the concept plan area (south of Jacksons Creek);
- minor realignment to the boulevard connector road between Harpers Creek and Jacksons Creek, to support a more logical local subdivision design response; and
- a series of changes in response to the revised draft DSS.

### 3.8.10 Additional concept plans

Two new concept plans are proposed for inclusion in the PSPs.

#### ***Proposed Future Sunbury South Train Station Concept Plan***

This concept plan will apply to the train station environs in Sunbury South. The intent of the concept plan is to ensure appropriate pedestrian connectivity to the station through the



surrounding local road network. The concept plan also sets out the relationship between the potential future train station and a future Local Convenience Centre, proposed to be included within the PSP in response to submissions.

The concept plan is accompanied by a new cross-section 'Key Local Access Street – Sunbury South Access'. This cross-section is based on a standard 'Key Local Access Street Level 2' cross-section, expanded from 20 metres to 22 metres to accommodate a bi-directional shared path on one side of the road, to provide improved access from the connector road network to the potential future Sunbury South train station.

#### ***Racecourse Road area***

This concept plan will apply to the land which is the subject of Villawood's section 96A planning permit application. The intent of the concept plan is to ensure that development responds sensitively to landscape features. As the site is currently the subject of a planning permit application for subdivision, the concept plan will have limited relevance in the PSP should the current application be approved and the permit acted upon. However, the inclusion of a concept plan within the PSP will ensure that should the current development not proceed (or any permit require amendment), any future application responds sensitively to the site in the manner required.

#### **3.8.11 Conservation Interface Zone cross-sections**

The exhibited PSPs did not include Conservation Interface Zone cross-sections to define the appropriate interface response between development within the precincts and the conservation areas identified under the Biodiversity Conservation Strategy and protected under the *Environment Protection and Biodiversity Conservation Act 1999*.

These cross-sections, based on similar cross-sections prepared in other recent PSPs, have now been prepared in association with DELWP and set out the urban development interface requirements for Conservation Areas 18 to 21.

### **3.9 Creek corridor interfaces**

*Sunbury South PSP (C207) – Submissions 45 (RCL Group)*

*Lancefield Road PSP (C208) – Submissions 53 (owner of 280 Lancefield Road); 60 (potential developers of 280 Lancefield Road)*

The PSPs have been prepared with regard to the landscape significance of the twin creek corridors of Jacksons Creek and Emu Creek. The exhibited PSPs included a range of controls to provide direction on an appropriate design response for land in close proximity to the creeks. These controls included a series of mandatory setbacks/interface treatments for development within creek corridors, based upon a defined break of slope.

Plan 5 (Image, Character, Heritage and Housing) in each PSP identified a series of interface edges with the creek escarpments, and the PSPs mandated the particular setback response. For 'Interface with escarpment – visual' interfaces, this included a mandatory 40 metre setback from the defined break of slope to future lot boundaries. For 'interface with escarpment – non-visual' interfaces, the



PSPs required a 27.5 metre setback. The setbacks were based on an assessment of visual impact of housing from within the valley of the creek corridor.

The application of 'visual' setbacks was intended to ensure that double storey dwellings would not be visible from within the creek corridor, wherever this was possible. The 'non-visual' setback was defined in areas where this visual intrusion was unlikely to occur, but a usable and well-defined passive open space buffer to the break of slope was nevertheless desirable.

A number of submissions contended that the mandatory setback of 40 metres associated with the 'visual' interface was excessive, and that flexibility should be provided in relation to both distance and setback components to allow locally appropriate variation to be considered.

In response to submissions, the VPA has reviewed the locations for the application of these setbacks, particularly the 'visual' interface treatment, having regard to locations where the visual intrusion of development upon the creek corridors may be impossible to avoid, and whether in certain instances some discretion should be built into the PSPs to allow variations to these setbacks.

The VPA now proposes to apply the following cross-sections to the creek corridors and waterways:

#### Regionally Significant Landscape: Escarpment top – Visually sensitive

- Total setback of 40m to the lot boundary, comprising a 5.0m vegetation buffer to the escarpment, 20.2m linear open space (including 3m shared path and 1m berth either side), and a 14.8m road reserve.
- Applies to the Jackson Creek corridor and Emu Creek corridor wherever development is proposed directly adjacent to the primary creek corridor, and where there is an escarpment.
- The setbacks defined in this control are mandatory.

#### Regionally Significant Landscape: Escarpment top – non visually sensitive

- Total setback of 27.3m to the lot boundary, comprising a 5.0m vegetation buffer to the escarpment, 7.5m linear open space (including 3m shared path and 1m berm either side), and a 14.8m road reserve.
- Applies to the Jackson and Emu Creek corridors and tributaries where the escarpment does not directly interface with the primary creek corridors.
- The setbacks defined in this control are discretionary, and may be altered to the satisfaction of the responsible authority.

#### Interface with Waterway

- Comprises a 3.0m shared path within a vegetation buffer (distance unspecified), adjacent to the Local Access Street Level 1 cross-section (16m).
- Applies to all remaining areas of tributaries and constructed waterways.

#### Interface with Conservation Area

- These have been developed with DELWP to respond to the different conservation area types – see section 3.8.11 above.

## 4 REMOVAL OF RESTRICTIVE COVENANTS

Amendment C208 proposes to amend the Schedule to Clause 52.02 (Easements, restrictions and reserves) to remove the restrictive covenants contained in:

- instrument of transfer no. V178361Y from 5 Stockwell Drive, Sunbury (Lot 2 on PS403051); and
- instrument of transfer no. V161817C from 11 Stockwell Drive, Sunbury (Lot 1 on PS403051).

These documents are included in the folders provided to the Panel.

A covenant can be removed or varied through a planning scheme amendment pursuant to section 6(2)(g) of the P&E Act.

No specific tests are set out in the P&E Act for a planning scheme amendment that authorises the removal of a covenant. The VPA notes that Planning Panels have previously found that while potential detriment to landowners who benefit from the covenant is a relevant consideration, the 'detriment' test that applies under section 60(5) of the P&E Act for a permit application should not be applied to an amendment. The widely accepted criteria for an amendment to authorise variation or removal of a covenant are those set out in the Mornington Peninsula C46 Panel report as follows:

*First, the Panel should be satisfied that the Amendment would further the objectives of planning in Victoria. The Panel must have regard to the Minister's Directions, the planning provisions, MSS, strategic plans, policy statements, codes or guidelines in the Scheme, and significant effects the Amendment might have on the environment, or which the environment might have on any use or development envisaged in the Amendment.*

*Second, the Panel should consider the interests of affected parties, including the beneficiaries of the covenant. It may be a wise precaution in some instances to direct the Council to engage a lawyer to ensure that the beneficiaries have been correctly identified and notified.*

*Third, the Panel should consider whether the removal or variation of the covenant would enable a use or development that complies with the planning scheme.*

*Finally, the Panel should balance conflicting policy objectives in favour of net community benefit and sustainable development. If the Panel concludes that there will be a net community benefit and sustainable development it should recommend the variation or removal of the covenant.*

The covenant in V178361Y that applies to 5 Stockwell Drive is dated from 1998 and provides that the owner must not:

- construct any building or structure without the consent of the Urban Land Authority; or
- erect any sign boarding or advertisement without the consent of the Urban Land Authority.

While the precise form of the covenant in V161817C on 11 Stockwell Drive is cast in slightly different terms, it covers the same obligations. Both covenants also address an obligation under the *Urban Land Authority Act 1979* that a house will be constructed within 5 years of the purchase.

Importantly, both covenants include a statement that the restrictive obligations in the covenants cease to have effect on 31 December 2005. The other obligation concerning the construction of a dwelling will have also run.

The Urban Land Authority later became Places Victoria and, more recently, Development Victoria.

Applying the tests above to what is effectively a ‘dead letter’:

- The removal of the covenants will be consistent with the objectives of planning in Victoria, on the basis that it will remove later obstacles to the urban development of the land. The support underpinning the PSPs also relates to this point.
- Given the covenants are no longer operative, there is no negative imposition on the rights of other persons.
- The points above result in a net community benefit, however minor, arising from the removal.

The VPA is satisfied that the removal of the covenants is appropriate.

