

22 February 2018

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Dear Mr Hawkins

**RE: Amendment C234 to the Cardinia Planning Scheme  
(Pakenham East Precinct Structure Plan & Pakenham  
East Native Vegetation Precinct Plan)**

Thank you for your correspondence supplied in relation to amendment C234 to the Cardinia Planning Scheme (Pakenham East Precinct Structure Plan & Pakenham East Native Vegetation Precinct Plan) [C234], received by EPA on 18 January 2018.

EPA understands that C234 seeks to introduce a number of changes to the Cardinia Planning Scheme including the Urban Growth Zone Schedule 5 (UGZ5), the Special Use Zone Schedule 8 (SUZ8), and include three incorporated documents. The land affected by C234 is located east of Pakenham and bound to the north by a significant transmission easement running east-west and to the south by the Princes Freeway.

EPA does not object to C234 and provides the following comments and recommendation for the Victorian Planning Authority's (VPA) consideration.

**Potentially Contaminated Land**

***Ministerial Direction No.1 – Potentially Contaminated Land***

Pursuant to section 12(2)(a) of the *Planning and Environment Act 1987*, planning authorities, in preparing a planning scheme amendment, must have regard to Minister's Directions. The purpose of *Ministerial Direction No. 1 – Potentially Contaminated Land* (Ministerial Direction No. 1) is to ensure that land identified as being potentially contaminated is suitable for a use which is proposed to be allowed per an amendment to a planning scheme that could be significantly adversely impacted by any existing contamination. This direction requires a planning authority to satisfy itself that environmental conditions on-site are suitable for the proposed use.

***Planning General Practice Note – Potentially Contaminated Land (2005) [Practice Note]***

The Practice Note provides guidance to planning authorities to identify potentially contaminated land and the appropriate level of assessment of contamination for both planning scheme amendments and planning permit applications. In addition, the Practice Note lists those land uses deemed to have a high, medium or low potential for contamination. Table 2 within the Practice Note subsequently sets out appropriate levels of investigation for sites identified with either a high or medium risk of contamination. For sites classified as having a high risk, either an environmental audit is required or the Environmental Audit Overlay is to be applied, or, for sites with a medium risk, an environmental site assessment by a suitably qualified professional is required to determine if an audit is appropriate.

***State Environment Protection Policy (Prevention and Management of Contamination of Land) [SEPP PMCL]***

The SEPP PMCL establishes policy goals to maintain, and where appropriate and practicable improve the condition of the land environment to a level sufficient to protect both current and future uses from the detrimental effects of contamination. Where contamination has occurred, the policy requires that management practices are adopted so that unacceptable risks to human health and the environment are prevented and sites remediated or otherwise managed to protect users of the land.

***Environmental Site Assessment***

The accompanying documents to C234, as exhibited, included the environmental site assessment report *CSC-PEP-ESA, Pakenham East Precinct (June 2013)* [ESA] prepared by GHD. The ESA reviewed site history and conducted general site inspections to ascertain the risk rating of land to be potentially contaminated in line with the guidance provided by the Practice Note.

EPA notes that the ESA determined three sites in the affected area to be a high risk of being potentially contaminated land and 20 as being of a medium risk. The policy framework proposed in the UGZ5 at Clause 3 '*Subdivide, use or develop land for a sensitive purpose – Environmental Site Assessment*' and '*Conditions – Environmental Site Assessment*' of C234 amply includes the ESA recommendations requiring an environmental site assessment for sites identified as having a medium risk of contamination when an application for the subdivision, use, or development for a sensitive use is received.

EPA considers the planning framework proposed for those sites identified as having a medium risk as robust and is supported.

It is noted that the planning framework proposed for those sites identified as having a high risk mirrors that of those sites with medium risk, contrary to the ESA and guidance within the Practice Note.

EPA is concerned that without the requirement and trigger for an environmental audit clearly articulated in the planning framework, there may be significant risk posed to future beneficial users of the land. Environmental audits per the requirements of the *Environment Protection Act 1970* provide responsible authorities, landholders, developers and the public with the confidence as to what a site may be used for and what actions, may or may not be required into the future to prevent unacceptable risks to human health. The audit process is a thorough and transparent, peer reviewed process with which EPA is well appointed to assist.

**Recommendation**

- In alignment with the guidance provided by Ministerial Direction No. 1 and the Practice Note, apply the Environmental Audit Overlay to those sites identified as having a high risk of potentially contaminated land by the ESA.

If you need additional information or assistance, please contact our Assessing Officer, Joel Edwards on 1300 EPA VIC (1300 372 842).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marleen Mathias', is written over a faint, light-colored rectangular background.

Marleen Mathias  
Manager  
Southern Metro Compliance Strategy  
**EPA Victoria**