

18/10/2019

Mr. Stuart Moseley
Chief Executive Officer
VICTORIAN PLANNING AUTHORITY
LEVEL 25, 35 COLLINS STREET
MELBOURNE, VICTORIA, 3000

EPA Reference: 5009808

Dear Mr. Moseley,

RE: AMENDMENT C241 – SHENSTONE PARK PSP

I write to provide a formal response to the exhibition of Whittlesea Planning Scheme Amendment C241 – Shenstone Park Precinct Structure Plan (**the Amendment**). EPA has engaged with the City of Whittlesea and the Victorian Planning Authority during the preparation of the Amendment and has provided two responses prior to exhibition (**Appendix A & B**).

These response outlines;

- EPA is generally supportive of the Amendment.
- EPA considers that the methodology used to identify and manage potentially contaminated land is consistent with the General Practice Note "Potentially Contaminated Land", *Department of Sustainability and Environment*, June 2005.
- EPA supports the approach taken in determining the appropriate separation distances from existing and proposed industry, and the land uses permitted within these areas.

Following this response, EPA has engaged with the Victorian Planning Authority and the City of Whittlesea to ensure the Amendment adequately responds to risk to environment and human health.

If you need additional information or would like to discuss this matter, please contact our Assessing Officer, Nicholas Kennedy on 1300 EPA VIC (1300 372 842).

Yours sincerely,



Jeremy Settle
Regional Manager
Northern Metropolitan
EPA Victoria

Enclosed:

- **Appendix A** - EPA Response dated 22 February 2018 (Reference: 5008080)
- **Appendix B** - EPA Response dated 23 July 2019 (Reference: 5009808)



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23/07/2019

Dana Kushnir
Senior Planner – Planning Services
Victorian Planning Authority
LEVEL 25, 35 COLLINS STREET
MELBOURNE VIC 3000

EPA Reference: 5009808

Dear Dana,

RE: WHITTLESEA PLANNING SCHEME AMENDMENT C219 – SHENSTONE PARK

Thank you for your correspondence in relation to the above planning scheme amendment, dated 01/07/2019. This response under Ministerial Direction No. 19 in relation to Whittlesea Planning Scheme Amendment C219 is based on the following understanding;

- The amendment proposes changes to the Whittlesea Planning Scheme to facilitate development of land within the Shenstone Park Precinct in accordance with the vision outlined in the Shenstone Park Precinct Structure Plan.
- This is proposed to be done by rezoning land to Urban Growth Zone Schedule 7 (**UGZ7**) and makes a number of other consequential changes to the Whittlesea Planning Scheme to support the implementation of the Precinct Structure Plan.

EPA understands the two main risks related to environment and human health are ensuring adequate separation distances from existing and proposed industry, and the management of potentially contaminated land. These two risks are discussed below.

1. Separating Incompatible Land Uses

EPA previously provided comments on the draft Shenstone Park Precinct Structure Plan dated 22 February 2018 (Reference: 5008080) which stated;

- EPA is generally supportive of the proposed amendment;
- The use of directional buffers is generally considered problematic, however as the proposed separation distances are larger than those listed in EPA Publication 1518 – *Recommended Separation Distances for Industrial Residual Air Emissions* for the land proposed to be used for sensitive uses² this was not considered an issue;

¹ EPA Publication 1518 – *Recommended Separation Distances for Industrial Residual Air Emissions* (March), “sensitive use” is defined as 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.



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- EPA supports the assessment model whereby obvious and clear sensitive uses such as residential and childcare facilities are prohibited and other land uses with the potential to be adversely affected by amenity are determined on a case by case basis by the responsible authority; and,
- Any development that will accommodate residential or other noise-sensitive uses in the precinct must be designed and constructed to include noise attenuation measures that ensure that industrial noise received at new residential or other noise-sensitive uses complies with the requirements of *State Environment Protection Policy (Control of Noise from Industry, Commerce and Trade) No. N-1*.

EPA does not wish to vary our advice with respect to Separating Incompatible Land Uses, (as stated above), in this response.

a) Establishing Buffer Distances

The Impact Assessment Report for Shenstone Park Precinct Structure Plan (GHD, December 2017) main report and the Shenstone Park Impact Assessment Woody Hill Addendum (GHD, 2019) (**the Impact Assessments**) were carried out for the precinct and used to inform the proposed separation distances. EPA supports the approach taken by VPA in determining appropriate separation distances including;

- The precautionary method of consolidating both the recommended separation distances established in *EPA Publication 1518 – Recommended Separation Distances for Industrial Residual Air Emissions* and the directional buffers established in the Impact Assessments by adopting the largest of each buffer at any point.
- The methodology and calculation of the separation distance for the Yarra Valley Water Sewerage Treatment Plant to account for future uncertainties.

b) Land Uses within Buffer Distances

EPA supports sensitive uses being prohibited in the applied Industrial 1 and 3 Zones which prohibit certain sensitive land uses including accommodation, child care centre, education centre (other than business college, employment training centre or tertiary institution) or hotel within the Yarra Valley Water Sewerage Treatment Plant and Quarry Sensitive Use Buffers.

Other land uses with the potential to be affected by adverse amenity are determined on a case by case basis by the responsible authority guided by the decision guidelines established under Clause 6.0 of the UGZ7. Given this decision guideline currently only prompts consideration of effects from the Woody Hill Quarry and Phillips Quarry, EPA recommends VPA consider inserting the Yarra Valley Water Sewerage Treatment Plant as an additional future source of emissions.

2. Potentially Contaminated Land

A Preliminary Environmental Contamination Assessment – Shenstone Park Precinct Structure Plan (Meinhardt, March 2017) (**the Contamination Assessment**) was carried out for the precinct to provide a high-level assessment of the potential for each parcel of land to be contaminated using the General Practice Note “Potentially Contaminated Land”, *Department of Sustainability and Environment*, June 2005 (**the Practice Note**).

The following comments relate to the process for managing potentially contaminated land through the planning system, rather than the quality of the Contamination Assessment.

a) Land with High Potential for Contamination

The Contamination Assessment assigns 870 Donnybrook Road (Woody Hills Quarry) as having a 'High' potential for contamination given its current use as a quarry and recommends that the application of an Environmental Audit Overlay (**EAO**). However, as VPA have noted, the intent of this amendment is to ensure the continual operations of the quarry for its current land use and does not rezone the land to allow for opportunities of sensitive land uses. Given the EAO is a mechanism to trigger an environmental audit when the land is transitioning to a sensitive use, EPA supports VPA's decision to not apply the EAO to this property. Should the quarry ever be rehabilitated and rezoned for the purposes of sensitive uses², the application or the EAO would be more appropriate at this stage.

b) Land with Medium Potential for Contamination – Sensitive Uses

The Contamination Assessment assigns five properties with a medium potential for contamination within areas intended to be used for a sensitive use. Clause 3.0 of the UGZ7 proposes to include an application requirement to undertake an Environmental Site Assessment (**ESA**). This is consistent with the process outlined in the Practice Note, to gain further information on the potential for a site to be contaminated and ultimately inform the need for an environmental audit. VPA may wish to consider including the following parameters in the application requirements;

- Require that the ESA be undertaken to the standard established in with Schedule B2 of the *National Environment Protection (Assessment of Site Contamination) Measure 1999*; and,
- The ability for the planning authority to request the applicant to have the ESA to be peer reviewed to confirm the methodology, conclusions and recommendations.

c) Land with Medium Potential for Contamination – Non-sensitive Uses

The Contamination Assessment rates ten properties with a medium potential for contamination within areas intended not to be used for sensitive uses. It is understood that these areas are proposed to be rezoned to UGZ7 with an applied zone of either Industrial 1, Industrial 3 and Commercial 2 zone which prohibit sensitive uses. EPA understand VPA are not proposing any additional application requirements for these properties. This is consistent with the process outlined in the Practice Note, whereby a planning authority should revert to its general duties under 12(2)(b) of the *Planning and Environment Act 1987* for planning scheme amendments. In discharging this duty, the planning authority must ensure that any significant effects which it considers the environment might have on any use or development are considered envisaged in the amendment.

² Ministerial Direction No. 1 – *Potentially Contaminated Land* (27 September 2001), "sensitive use" is defined to mean a residential use, a child care centre, a pre-school centre or a primary school.

Should you need additional information or would like to discuss this matter, please contact our Assessing Officer, Nicholas Kennedy on (03) 9695 2892.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T Brice', with a long horizontal flourish extending to the right.

Trisha Brice
Team Leader – Strategic Planning
Major Projects & Planning
EPA Victoria

22/02/2018

Mr. Scott Spargo
Strategic Planner
City of Whittlesea
25 Ferres Boulevard
SOUTH MORANG VIC 3752

EPA Reference: 5008080

Dear Scott,

RE: DRAFT SHENSTONE PARK PRECINCT STRUCTURE PLAN – AMENDMENT C219

Thank you for your correspondence in relation to the above planning scheme amendment, referred to EPA on 18 December 2017. EPA is pleased to assist Victorian Planning Authority and Whittlesea City Council with the proposed amendment.

EPA is generally supportive of this proposed amendment. However, there are matters EPA wishes to raise for consideration, which are discussed in in this letter.

1. Industrial Land Uses within the Precinct

EPA has a role in regulation of any offsite discharges of water from earth resource sites, and for providing advice on air and noise discharges. EPA regulates offsite emissions however the regulatory responsibility for quarries is with Earth Resources Regulation (ERR). Additionally, EPA has a role in the regulation of sewage treatment facilities and as such can provide independent advice to VPA and Council about the effects of industry on the proposed amendment.

EPA is of the understanding that the following industrial land uses are within, or in close proximity, to the Precinct:

- a) Woody Hills Quarry - Existing quarry.
- b) Phillips Quarry - Approved quarry yet to commence operations.
- c) Yarra Valley Water Sewage Treatment Plant – Proposed to service PSP and precincts.

2. Establishing Buffer Distances

EPA has reviewed the Impact Assessment Report for the Shenstone Park Precinct Structure Plan (the Report) prepared by GHD, dated December 2017. EPA understands that this report informed the buffer distances established within the Precinct.

The use of directional buffers is generally considered problematic, since this method adjusts the default buffers based on wind directions and does not adequately address the uncertainty in emissions and metrological conditions – particularly where there is currently no emissions source. Modelling of emissions from existing and future proposed sources is liable to uncertainty, particularly in the absence of information relating to the quarries operations. There is some ambiguity as to how the Report can accurately predict emission rates.

EPA note that the proposed buffers affecting the Precinct are larger than those listed for the respective industries in EPA Publication 1518 – *Recommended Separation Distances for Industrial Air Emissions*. The proposed buffers are considered sufficient to control the environmental risks. However, given the concerns with the modelling and use of directional buffers, EPA advise against using the Report for the basis of land use planning decisions to the south of the Precinct.

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3. Sensitive Uses within Buffers

EPA understands that if approved, the land within the buffers is generally intended to be zoned as Industrial 1 Zone, Industrial 3 Zone and Commercial 2 Zone. These zones generally exclude sensitive uses but still allows some land uses that are susceptible to adverse amenity impacts including employee training, business college and tertiary education to be permitted.

There may be instances where these 'education centres' (business college, employee training centre or tertiary) are appropriate within the buffers of industrial land uses which must be determined on a case by case basis, given appropriate justification and evidence is submitted with the planning permit application. EPA endorses the assessment model whereby obvious and clear sensitive uses such as residential and child-care facilities are prohibited and other sensitive land uses that may be appropriate are determined on a case by case basis by the responsible authority.

The responsible authority will likely refer to policies and decision guidelines in determining a permit application. The planning authority should consider if the decision guidelines established in section 6 of the UGZ7 will give adequate guidance for the responsible authority to determine appropriateness of these sensitive land uses with the buffer on a case by case basis. Additionally, to ensure the risks are fully assessed, EPA recommends that 'human health' is included as a consideration in the decision guidelines.

4. Identify and label the industry and buffer distances

EPA requests that *Plan 15 – Buffers, Noise Amenity Area & Measurement Length* clearly label the future sewage treatment facility, consistent with how Phillips and Wood Hills Quarries are identified on the map. This change should be reflected in all maps associated with the PSP, ensuring transparency in future land uses, and that the intent of buffer distances is clear.

5. Noise

Any development that will accommodate residential or other noise-sensitive uses in the Precinct must be designed and constructed to include noise attenuation measures. These noise attenuation measures must ensure that industrial noise received at new residential or other noise-sensitive uses complies with the requirements of *State Environment Protection Policy (Control of Noise from Industry, Commerce and Trade) No. N-1*.

EPA notes that *Plan 15 – Buffers, Noise Amenity Area & Measurement Length* does not display a noise amenity buffer for the Phillips Quarry, despite one being referenced in the UGZ7. As discussed with Council, EPA recommends removing reference to Phillips Quarry from the noise assessment section of the UGZ7.

EPA wishes to reiterate its willingness to support Council and the Victorian Planning Authority in its decision-making process with regards to the amendment. Should you wish to discuss this matter further, please contact our Planning Assessment Officer, Nicholas Kennedy, on (03) 9695 2892 or 1300 EPA VIC (1300 372 842).

Yours sincerely,



Steven Pugh
Manager
Metropolitan Region
EPA Victoria