



# Planning Evidence Statement

Amendment C106mth to the Mitchell Planning Scheme

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July 2020





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## 1. INTRODUCTION

1. I received instructions from Harwood Andrews, acting on behalf of the Victorian Planning Authority (the VPA), to prepare a statement of planning evidence in relation to Amendment C106mth (the amendment) to the Mitchell Planning Scheme.
2. The amendment seeks to implement the *Beveridge North West Precinct Structure Plan* (August 2019) (the 'BNWPSP') by:
  - Inserting Schedule 3 to Clause 37.07 Urban Growth Zone (UGZ3) into the Mitchell Planning Scheme;
  - Rezoning land in the Precinct Structure Plan Area from the Urban Growth Zone (UGZ) (without a schedule), Rural Conservation Zone (RCZ) and Urban Floodway Zone (UFZ) to the UGZ3 and RCZ;
  - Inserting Schedule 4 to Clause 43.03 Incorporated Plan Overlay (IPO) into the Mitchell Planning Scheme;
  - Applying the IPO4 to land that is proposed to be zoned RCZ;
  - Deletes the Erosion Management Overlay (EMO) and Vegetation Protection Overlay – Schedules 1 and 2 (VPO1 & VPO2) from land in the amendment area.
  - Incorporates the *Beveridge North West Precinct Structure Plan, August 2019* into the planning scheme by listing it in the Schedule to Clause 72.04.
3. I was not involved in the preparation of the amendment. I was engaged following the referral of submissions to the amendment to a Panel.



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## My Evidence

4. I have been instructed to review the amendment and consider the following questions:
  - Is the exhibited PSP's approach to the proposed quarry strategically justified?
  - Are the proposed affordable housing provisions appropriate?
  - From a planning perspective, are the two north-south arterial roads shown on the PSP appropriate?
  - The appropriateness or otherwise from a planning perspective of the siting of the commercial, school and community uses; location, size and type of open space; density targets and walkable catchments shown on the exhibited PSP.
  - Is the exhibited ordinance appropriate?
  - Are the proposed zone and controls for areas of identified landscape values appropriate?
5. My evidence will also provide a strategic assessment of the amendment, having regard to Planning Practice Note 46: Strategic Assessment Guidelines and whether the amendment faithfully implements the Precinct Structure Plan.
6. I understand that the VPA has circulated a response to submissions, which I have read. I have not sought to provide a response to each submission but have instead approached my evidence on the basis of principles or issues.
7. In preparing this statement, I have:
  - Read the *Beveridge North West Precinct Structure Plan, August 2019*;
  - Reviewed the exhibited amendment, including the proposed Schedule to the Urban Growth Zone, the Schedule to the Incorporated Plan Overlay and the explanatory report;

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- Inspected the Precinct Structure Plan area and its surrounds;
  - Considered relevant aspects of the Mitchell Planning Scheme, including the Planning Policy Framework and any relevant background document;
  - Reviewed *Plan Melbourne 2017-2050: Metropolitan Planning Strategy*;
  - Considered the *Northern Corridor Growth Plan*;
  - Reviewed the *Precinct Structure Planning Guidelines*;
  - Considered relevant Practice Notes (including PPN46: Strategic Assessment Guidelines, PPN42: Applying the Rural Zones, PPN47 – Urban Growth Zone. PPN89 – Extractive Industry and Resources, PPN92 – Managing Buffers for Land Use Compatibility, PPN10: Writing Schedules and PPN13: Incorporated and Background Documents);
  - Considered relevant Ministerial Directions (including the Ministerial Direction on the Form and Content of Planning Schemes, Ministerial Direction No. 1 – Potentially Contaminated Land, Ministerial Direction No. 9 – Metropolitan Strategy and Ministerial Direction No. 11 – Strategic Assessment of Amendments); and
  - Read the 34 submissions received by the planning authority to the amendment.
8. My evidence is based on the amendment as it was exhibited.
9. My opinion on the Amendment is in Section 2 of my statement and my conclusion at Section 3 summarises my opinion.



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## 2. OPINION

### Overview

10. Having regard to the strategic planning context for the area subject to the amendment and my instructions, I have framed my assessment and evidence around the following questions:
- Is the amendment strategically justified?
  - Are the exhibited controls appropriate?
  - Is the exhibited PSP's approach to the proposed quarry strategically justified?
  - Are the proposed affordable housing provisions appropriate?
  - Is the proposed layout of the PSP consistent with notions of 20-minute neighbourhoods and good place-making?
11. These matters are addressed within this section of my statement.
12. In framing my assessment, I note that some submitters have raised matters along similar lines. Regardless, my evidence has considered all submissions in forming my opinion.

### **What is the strategic and locational context for the Beveridge North West Precinct Structure Plan Area?**

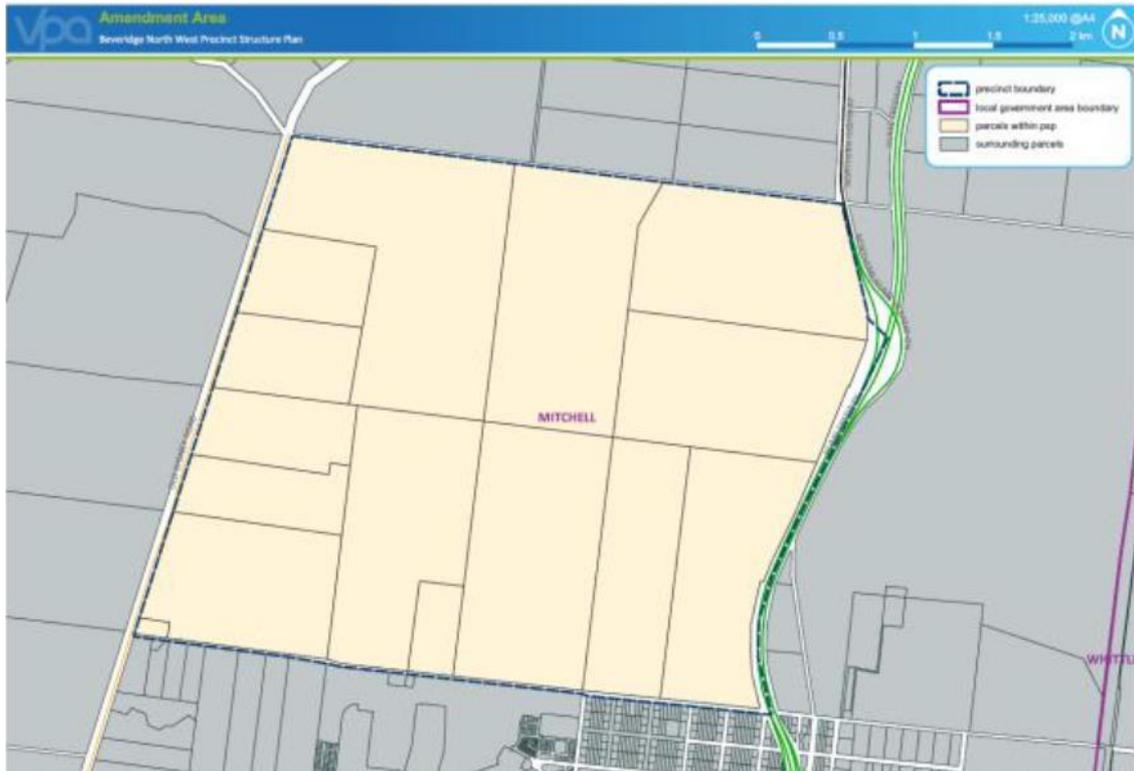
13. The BNWPSP area comprises an overall area of approximately 1,279<sup>1</sup> hectares and is generally defined by the Hume Freeway to the east, Camerons Lane to the south, Old Sydney Road to the west and the western extension of the Hadfield Road West reservation to the north.

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<sup>1</sup> I note that the explanatory report for the amendment said that the PSP has an area of 1,254 hectares. I am instructed that this is an error and that the exhibited PSP includes the correct figure.



14. The BNWPSP area is close to the northern extent of the Urban Growth Boundary (UGB), which includes Wallan Township, to the north.



**Beveridge North West Precinct Structure Plan area (source: Beveridge North West Precinct Structure Plan)**

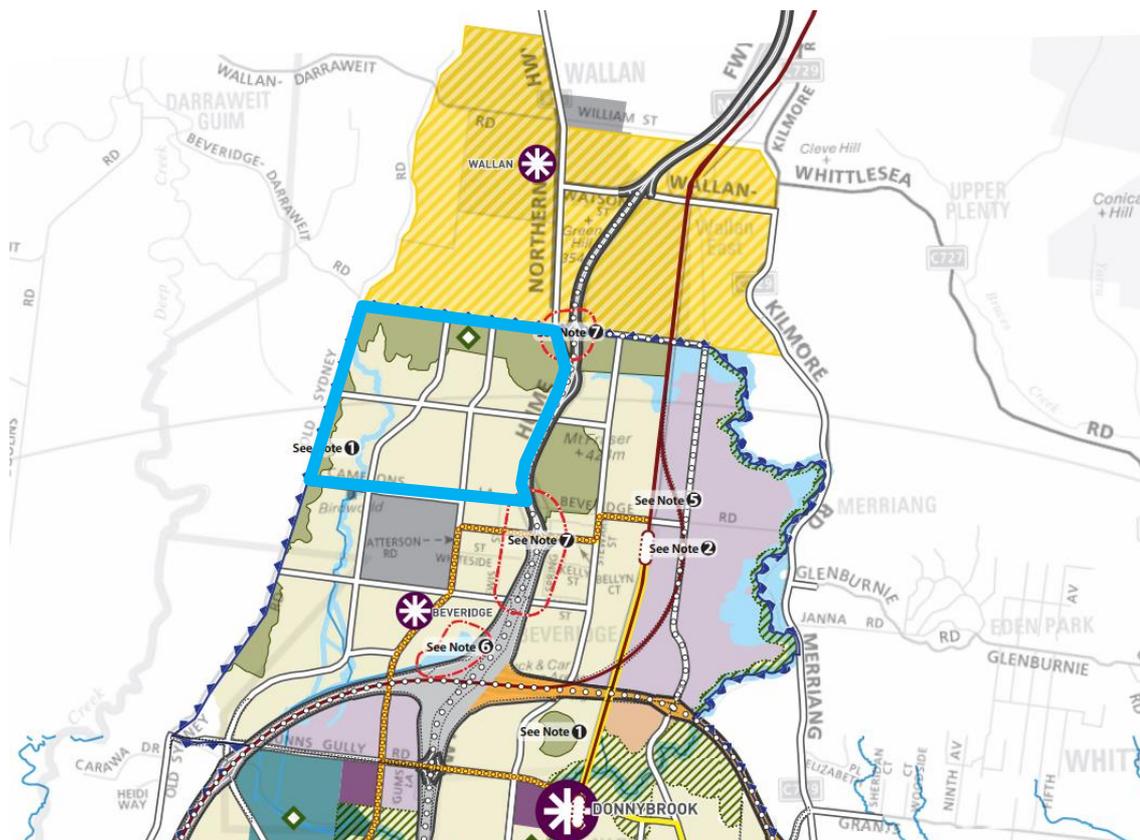
15. The BNWPSP area is located north of Beveridge and immediately south of the Wallan South growth area. This area is identified in the Mitchell Planning Scheme as having the potential for 'conventional residential' development.
16. The PSP area is predominantly rural in character, with areas of landscape significance<sup>2</sup> including Spring Hill cone, located in the north-east of the PSP area.
17. The Northern Growth Corridor Plan (prepared by the then Growth Areas Authority) identifies the strategic context of the Beveridge North West precinct. That Plan shows

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<sup>2</sup> As identified in the Precinct Structure Plan.



that the area is identified for residential purposes, save for areas close to the northern and western boundaries of the precinct, have identified landscape values. An area is identified close to the northern boundary for regional active open space (under investigation). Broadly, the plan also seeks for the provision of two new north-south and one new east-west arterial roads within the PSP area.



Extract of the Northern Growth Corridor Plan, Beveridge North West PSP area shown outlined in blue (source: Growth Areas Authority and altered by me to show the PSP area)

### Is the amendment strategically justified?

18. I have reviewed the strategic justification for the amendments in accordance with the framework provided by Planning Practice Note 46: Strategic Assessment Guidelines. The salient points of my consideration of these issues are as follows:

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### Why is the amendment required?

19. Amendment C106mth is required to implement the BNWPSP.
20. The BNWPSP seeks to further the development of the northern growth corridor by providing a residential and employment precinct that comprises approximately 16,200 new dwellings for a residential population of approximately 45,000 people.
21. The BNWPSP seeks to provide for the timely delivery of infrastructure and community services to service this community and others in the northern growth corridor. The BNWPSP seeks to provide for a range of commercial land uses, government and non-government schools, regional and local open space and community facilities.
22. The amendment is required to allow for the land to be developed in accordance with its role as an urban growth area, consistent with policy outlined in the Mitchell Planning Scheme and Plan Melbourne 2017-2050.

### Objectives of Planning in Victoria

23. Section 4(1) of the *Planning and Environment Act 1987* sets out the objectives of planning in Victoria. Relevantly, the amendment implements and advances the following objectives:
  - *To provide for the fair, orderly, economic and sustainable use and development of land.*
  - *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
  - *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.*
  - *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*



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- *To facilitate development in accordance with the objectives [outlined above].*
  - *To facilitate the provision of affordable housing in Victoria.*
  - *To balance the present and future interests of all Victorians.*
24. The amendment will provide clear direction for the future use and development of land within the BNWPSP area.
25. The amendment provides the statutory mechanism to facilitate the sustainable and orderly development of this part of the northern growth corridor in a manner that balances the present and future interests of Victorians.
26. It provides an opportunity to develop a pleasant living, working and recreational environment and seeks to assist in the facilitation of the provision of affordable housing within Victoria.
27. It is my view that the amendment is generally consistent with the objectives of planning in Victoria.

#### Environmental, Social and Economic Effects

28. I consider that the amendment has the following effects:
- Protection of areas identified as having landscape values or significance, such as the Spring Hill cone and Kalkallo Creek;
  - The delivery of additional housing, which can assist in improving the availability and diversity of housing to a broader cross-section of the community;
  - The provision of additional economic opportunity through the delivery of four local town centres;
  - The implementation and protection of key open space areas; and



- The timely provision of infrastructure and community services, which will increase the community's access to social and provide economic benefits .

29. In this regard, I consider that from a town planning perspective, the amendment will have overall neutral or positive environmental, social and economic effects. In saying this, I acknowledge the debate concerning the location of the potential quarry in the north east of the PSP area.

#### Compliance with Ministerial Directions

30. I have considered the amendment against the requirements of the *Ministerial Direction on the Form and Content of Planning Schemes* (as amended 23 January 2020). I am satisfied that the proposed structure and content of the ordinance meets the requirements of this Direction.

31. *Ministerial Direction No. 1 – Potentially Contaminated Land* requires planning authorities to be satisfied that any amendment which would have the effect of allowing potentially contaminated land to be used for a sensitive use, agriculture or public open space is suitable for those uses in terms of the land's environmental condition.

32. A desktop environmental site assessment was prepared as part of the PSP's preparation. The assessment did not identify any land that had a high risk of potential contamination. Sites of medium risk were identified and the proposed UGZ3 includes mechanisms that require a further Phase 2 Environmental Site Assessment prior to the use of those sites for sensitive land uses. The conditions and requirements for permits for those parcels of land also refer to the need a certificate of environmental audit prior to the commencement of the use.

33. This is an appropriate mechanism for the management of potentially contaminated land within the PSP area.



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34. The Amendment was exhibited with an explanatory report that met the requirements of *Ministerial Direction No. 11 – Strategic Assessment of Amendments*.
  35. The amendment has had regard to *Ministerial Direction No. 9 – Metropolitan Planning Strategy* and has considered the relevant metropolitan planning strategy – Plan Melbourne.
  36. *Ministerial Direction No. 12* requires a planning authority to evaluate and include information in the explanatory report about how an amendment implements any Growth Area Framework Plan and the Precinct Structure Planning Guidelines as they apply to the land. The explanatory report prepared for the amendment set out a response to the relevant documents. I have reviewed the content of the explanatory report and I am satisfied that it appropriately responds to the matters outlined in the Ministerial Direction.
  37. In my opinion, the amendment and the proposed provisions comply with all relevant Ministerial Directions.

#### The Planning Policy Framework

38. The amendment broadly supports and implements a number of relevant objectives in the Planning Policy Framework, including the Local Planning Policy Framework.
39. Most particularly, it advances the policy direction at Clause 11.03-2S 'Growth areas' that seeks to provide for coordinated development in the growth area and deliver residential land with good access to existing and proposed services and open space.
40. The development of housing and commercial opportunities is broadly consistent with key strategic directions at Clauses 16 and 17, that generally seek to deliver housing diversity, affordable housing and increased housing density in proximity to services, as well as to sustain a competitive economy.



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41. It subsequently advances policy directions at Clause 12.01-1S 'Protection of biodiversity' and provides transport and other infrastructure in a manner anticipated by Clauses 18 and 19.
  42. There is limited local planning guidance at Clauses 21 and 22 that is of relevance to this amendment.
  43. The amendment responds to the Mitchell 2020 Community Plan identified in Clause 21.03-3 'Strategic vision', which acknowledges that the municipality will have significant growth and diverse housing opportunities.
  44. Clause 21.02-1 'Urban growth' has a relevant objective that seeks to manage urban growth. It acknowledges that Mitchell's role will continue to evolve in line with the Northern Growth Corridor Plan and the implementation of Precinct Structure Plans for developing areas.
  45. In terms of the environment, the amendment responds to policy directions at Clause 21.03-1 'Biodiversity' to protect and enhance indigenous flora, fauna and habitat.
  46. Broadly, the amendment also advances policy direction for housing and economic development contained within Clauses 21.07 and 21.08, that generally seek for the provision of a variety and choice in housing and to facilitate new development and employment opportunities.
  47. In this regard, the amendment will advance stronger statutory settings to guide development within this part of the growth corridor. In this regard, I conclude that the amendments are broadly consistent with and implement the Planning Policy Framework in the Mitchell Planning Scheme.

#### Use of the Victoria Planning Provisions

48. I discuss the appropriateness of the controls and whether they are acceptable implementation tools later in my evidence.

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### Views of Relevant Agencies

49. I am advised that the amendment and BNWPSP were prepared in consultation with several agencies which would have an interest in the amendment.
50. The amendment was subject to the usual public exhibition process.
51. I have reviewed the submissions received by agencies including Mitchell Shire Council, the Country Fire Authority, Melbourne Water, Yarra Valley Water, the Department of Transport (and VicRoads, as it was previously known), the Department of Jobs, Precincts and Regions and the Environment Protection Authority.

### Bushfire Risk

52. The Beveridge North West precinct is identified as being within a bushfire prone area.
53. Planning policy at Clause 13.02-1S applies to land that is within a designated bushfire prone area. It seeks to prioritise the protection of human life over competing policy considerations by means which include directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
54. The requirements for settlement planning seek to ensure that there is no net increase in risk to existing and future residents, property or community infrastructure and that strategic planning documents, local planning policies and planning scheme amendments should not be approved if they will result in an introduction or intensification of development in an area that has a BAL rating greater than BAL-12.5 under *AS3959 – 2009 Construction of Buildings in Bushfire-prone Areas*.
55. This is further reinforced by the integrated decision-making provisions at Clause 71.02-3, which seek to ensure that the protection of human life is prioritised above all other policy considerations when making an integrated decision.



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56. The BNWPSP was informed by a bushfire assessment prepared by Terramatrix. That report identifies that the landscape is of low to moderate bushfire risk, with the bushfire hazard largely resulting from grassland. The report considers that bushfire behaviour can be moderated by implementing the requirements of the Australian Standard and that if dwellings were separated from hazardous vegetation, a BAL-12.5 rating could be achieved.
  57. The UGZ3 schedule requires applications for residential subdivision to address bushfire risk to enable development to achieve a BAL-12.5 rating.
  58. While I am not a bushfire expert, I am satisfied from a town planning perspective that the bushfire risk is capable of being managed and that the amendment has had appropriate regard to bushfire risk and bushfire policy.

#### Resourcing and Administrative Costs

59. I have not been presented with any evidence relating to the resource and administrative costs of the amendment by the planning authority.
60. Notwithstanding this, I note that several other parts of the municipality to the south of the amendment area are subject to precinct structure planning processes that have been completed and gazetted into the planning scheme.
61. While the facilitation of development as anticipated by the PSP is likely to increase the level of permit activity, I consider that the Council is likely to have established proper resources and processes to assess these applications.
62. The guidance set out in the proposed controls will provide an appropriate reference for the assessment of planning permit applications within the area affected by the amendment.



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63. In this regard, the controls will provide some level of certainty about appropriate development for the land for all stakeholders and will not unreasonably impact the resourcing and administrative costs of the responsible authority.

#### Summary of Assessment

64. Broadly, it is my view that the amendment is strategically justified. The implementation of the BNWPSP will provide appropriate guidance for development of this part of the northern growth corridor, consistent with its broad strategic planning settings.
65. Having reviewed the amendment in detail, I consider that the provisions have generally been drafted to reflect the strategic justification of the amendment.

#### **Are the exhibited controls appropriate?**

66. The BNWPSP is proposed to be primarily implemented by the application of a new schedule to the UGZ (UGZ3) and the incorporation of the BNWPSP into the planning scheme by listing it in the Schedule to Clause 72.04.
67. This mechanism of implementing a PSP within planning schemes is 'standard operating procedure' for the planning of growth areas and is supported by practice guidance outlined in PPN47 – Urban Growth Zone and the Practitioner's Guide to Victorian Planning Schemes.
68. The UGZ is the most appropriate zone to be applied to growth areas. To this extent, I note that the land is now mostly within the UGZ and this amendment seeks only to introduce Schedule 3 to that zone to implement the Structure Plan. In this regard, the question around implementation is not whether the UGZ is an appropriate zone, but rather whether the schedule to it has been drafted effectively, in conjunction with incorporating the BNWPSP into the planning scheme.



69. It follows that the key questions that arise are:

- Whether the proposed UGZ ordinance is appropriate? and
- Whether the proposed zone and controls for areas of identified landscape values are appropriate?

70. I consider both of these questions in this section of my statement through an examination of the form and content of each control and, in the case of the landscape areas, the selection of the identified controls (the RCZ and IPO).

Is the proposed UGZ ordinance appropriate?

71. I have reviewed the exhibited UGZ3 and have had regard to the submissions received by the planning authority, as well as the Ministerial Direction on the Form and Content of Planning Schemes.

72. I have made the following observations about the ordinance:

- The schedule is generally drafted to reflect the requirements of the Ministerial Direction on the Form and Content of Planning Schemes. While there is some language variation (see for instance introductory language for the Applied zones) from the guidance text, the adopted language is appropriate and assists in clarifying the operation of the Applied zone provisions table;
- The Applied zones are appropriate for each of the identified circumstances. The applied zones reflect the most appropriate zones to facilitate land use and development that is commensurate with the expectations of the PSP for each area;
- The Specific provisions – Use of land are generally appropriate but could be slightly modified to respond to submissions. For instance:
  - Minor corrections to the Shop requirements to allow a slight larger footprint for the Southern Local Town Centre, in response to Submission 22; and



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- The CFA submission identifies that an additional fire emergency facility will be required to be accommodated within the PSP area. Such uses should generally be facilitated, appropriately, by the controls that apply to land. Provided the facility was identified on the Future Urban Structure Map (or similar) within the PSP, I recommend that an Emergency services facility<sup>3</sup> be made a Section 1 use in the Use of land table, with a notation to reflect that it must be located on land identified on the relevant map. I note that the VPA supports this change being made;
  - The Specific provisions – Buildings and works are generally appropriate. Exempting identified community facilities and sporting reserves from requiring planning permission for use and development should assist with the timely delivery of those facilities;
  - The use of the Small Lot Housing Code and relevant permit exemptions is appropriate;
  - The Application requirements are generally appropriate. However, I consider that some could be clarified and others included, such as:
    - Greater specification could be included with regard to the ‘land use layout plan’ requirement. By my reading of the PSP, this requirement applies only to the Southern Town Centre and its Flexible Design Area. For clarity, the heading should identify that this requirement applies to that land. There should also be a stronger connection in the application requirement to the requirements outlined in Table 9 of Section 3.2.1 of the BNWPSP (the Town Centre Elements table);

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<sup>3</sup> I have recently been involved in two permit applications for Emergency services facilities being taken to the Victorian Civil and Administrative Tribunal by third party objectors – both appeals were overturned. Nevertheless, this led to considerable expense on behalf of the permit applicant (the CFA) as well as effort by the local Council.



- A requirement for a bushfire assessment should be outlined, in accordance with the CFA's requirements;
  - A new requirement for assessing affordable housing provision could be included (as discussed later in my evidence);
- The Conditions and requirements for permits section is appropriate; and
  - There are relatively few Decision guidelines identified in the schedule. This is appropriate, as many matters of substance are addressed by State and local policy and the decision guidelines of the header provision of the UGZ.
73. I also note that the VicRoads (now Department of Transport) submission (Submission 4) identifies the need for a requirement to be introduced into the UGZ3 schedule, similar to that found in Schedule 2 to the UGZ, to the effect that all subdivision applications (after a plan of subdivision containing the 1,100<sup>th</sup> lot of land within Lockerbie North, Beveridge North West and Beveridge Central) be referred to the Department of Transport.
74. It would be more appropriate for such a requirement to be introduced in the Schedule to Clause 66.04 of the Mitchell Planning Scheme. Any inclusion of that requirement should also address the omission of the requirement from the Beveridge Central PSP.
75. While I consider that the drafting of the referral requirement is clunky and the language could be improved for greater transparency to landowners and future applicants, I accept that that this wording is already found within the Mitchell Planning Scheme.
76. Subject to my observations outlined above, I consider that the UGZ3 ordinance, as exhibited, is appropriately drafted.



Are the proposed zone and controls for areas of identified landscape values appropriate?

77. Areas of identified landscape values shown on the Future Urban Structure Plan within the BNWPSP are proposed to have the following controls applied:
- The Rural Conservation Zone; and
  - The Incorporated Plan Overlay – Schedule 4.
78. Some of this land is already within the RCZ.
79. The identification of the land as having landscape values is informed by the Landscape and Visual Assessment undertaken by Planisphere for the VPA. That assessment recommends land in the north of the PSP area marked as ‘potential conservation areas’ are “*areas of significant or sensitive slope changes could possibly be incorporated into a conservation zone of open space*”.
80. I have been asked to consider whether the application of the RCZ and IPO is appropriate within this context.
81. There are many tools within the Victoria Planning Provisions (VPPs) that can be used to protect areas identified for their landscape significance or for conservation value.
82. Most notably, those tools include:
- The Rural Conservation Zone;
  - The Public Conservation and Resource Zone; and
  - The Significant Landscape Overlay.
83. *PPN42 – Applying the Rural Zones* identifies that the RCZ ‘is primarily concerned with protecting and conserving rural land for its environmental features or attributes’ and



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that 'land use and development is controlled in the zone to safeguard the natural environment and conserve the identified environmental qualities of the land'.

84. The Purpose of the Zone includes:

- *To protect and enhance the natural environment and natural processes for their historic archaeological and scientific interest, landscape, faunal habitat and cultural values;*
- *To protect and enhance natural resources and the biodiversity of the area.*

85. Most uses require a permit under the Rural Conservation Zone.

86. The Public Conservation and Resource Zone includes the same purpose as the RCZ in relation to the protection and enhancement of the natural environment. Significantly, it is a 'public' land zone and is only appropriate to apply the zone where the land is within public ownership, which this land is not.

87. The Significant Landscape Overlay has a function in conserving and enhancing the character of significant landscapes. It is a tool that is commonly applied to rural land to protect significant rolling topography, hillsclapes and other features, similar to those found within this PSP area.

88. While the Significant Landscape Overlay would assist in the protection of these landscapes, it is a less effective tool than the zone mechanisms in a growth area, in my view.

89. This is because the application of the Significant Landscape Overlay, on its own, would not resolve the question of the underlying (or applied) zone that should guide land use and development within the sensitive landscape. It would be inappropriate to rely on the UGZ to nominate an applied zone, because the development potential of the land is limited and not consistent with the 'urban' and 'growth' outcomes anticipated by the zone and the ultimate applied zone provisions.

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90. Accordingly, the RCZ is the most appropriate tool to protect and enhance the areas identified for landscape values within the PSP area.
  91. The approach adopted here is similar to the approach used in Sunbury South (and other PSP areas), where the RCZ and IPO have been applied to the Redstone Hill cone and other significant features.
  92. The use of the IPO in tandem with the RCZ allows for conditions and requirements from the PSP to be appropriately included in permits and for an integrated outcome to be achieved for the land.
  93. It follows that I find that the amendment incorporates the most appropriate planning scheme implementation mechanisms available within the VPPs.

**Is the exhibited PSP's approach to the proposed quarry strategically justified?**

94. The VPA prepared the Beveridge North West Draft Background Report (August 2019) ('the Background Report'). The Background Report summarises the key findings presented by the technical reports that informed the preparation of the Beveridge North West PSP; and explains how this information guided the preparation of the future urban structure (FUS) plan.
95. At page 29, the Background Report notes that:

*A quarry has been proposed in the Beveridge North West precinct on the western side of Spring Hill Cone. A works authority number has been allocated to the quarry proposal (WA 1473); however, the planning permit application for the quarry was refused by Mitchell Shire Council and, accordingly, a Works Authority approval has not been provided.*

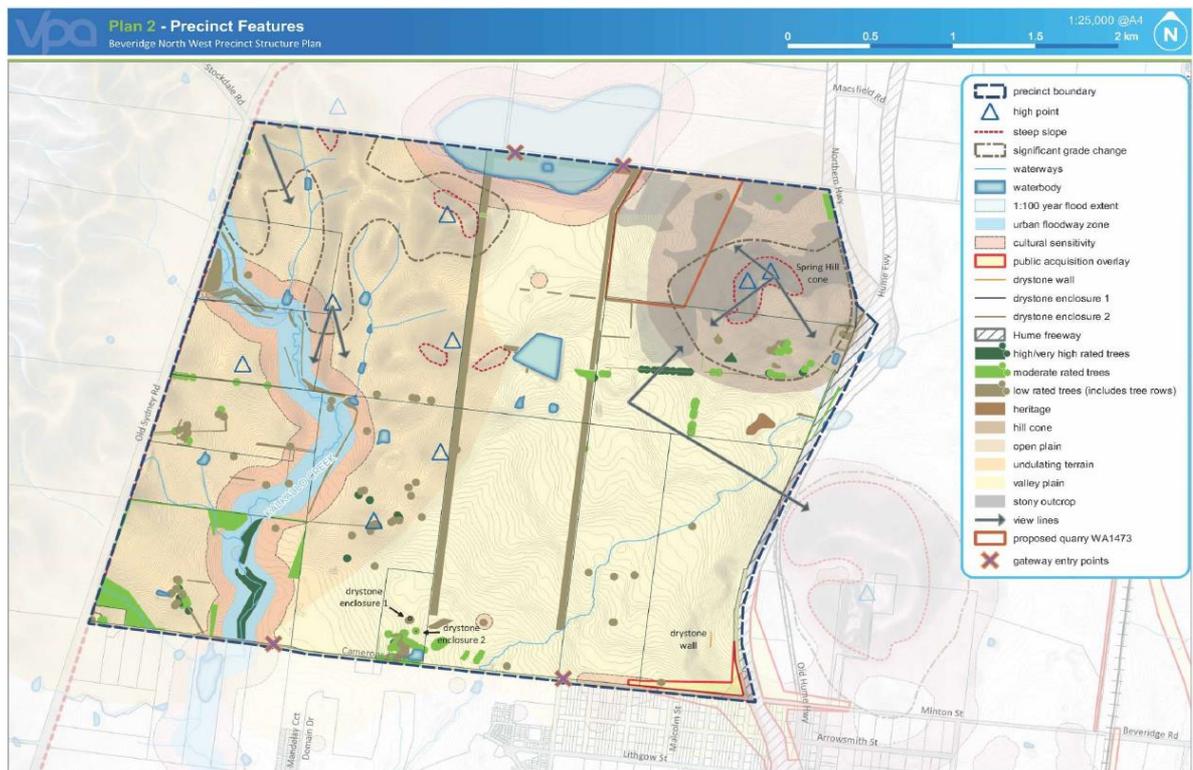
*The Department of Jobs, Precincts and Regions (DJPR) has considered the underlying resource identified by works authority number WA1473 (see Wallan/Beveridge Extractive Resource Analysis, Coffey Services, 2017). DJPR recognises the value of the resource and recommends that the resource should be extracted. DJPR recognises the competing demands of urban development and*



resource extraction and defers to Plan Melbourne's Policy 1.4.2 regarding extracting resources before urban development.

The Minister for Planning has determined that the PSP will be exhibited without the quarry shown on the Future Urban Structure and this has been communicated to land owners and affected parties.

96. The Precinct Features Plan of the BNWPSP identifies the western part of 175 Northern Highway (within the PSP area) as "Proposed Quarry WA1473"<sup>4</sup>. The PSP also identifies that 'a basalt flow containing a high quality hard rock resource has been identified to the west of Spring Hill'.



Plan 2 – Precinct Features (BNWPSP)

<sup>4</sup> A works approval (WA1473) has been approved for this land.



97. While the quarry is identified on the Precinct Features Plan, the Future Urban Structure Plan makes no reference to the quarry. Instead, the land is identified as a predominantly residential area, with an east-west band through the middle of the site being identified for landscape values and proposed to have the RCZ applied.
98. I am instructed that a planning permit application for a quarry on this land is currently being considered by the Mitchell Shire Council. Public notice of the application is yet to occur.
99. The effect of the approval Amendment C106mith as it has been exhibited would be to prohibit the use of land for a quarry in this location. I have been asked to consider whether the VPA's approach is appropriate from a land use planning perspective.
100. Several submissions support the exclusion of the quarry from the future urban structure within the PSP, while others (notably Submission 20)<sup>5</sup> seek to have the PSP facilitate the delivery of the quarry. Simply put, these positions are irreconcilable.
101. My assessment of policy settings around this issue is set out below.
102. Policy 1.4.2 of Plan Melbourne seeks to:
- Identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs.*
103. The accompanying text recognises that a small number of extractive industry interest areas are within the urban growth boundary. It seeks for the extraction of the resource to occur ahead of urban development in the area.
104. At a broad level, State policy at Clause 14.03-1S 'Resource exploration and extraction' contains the following objective:

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<sup>5</sup> Tract Consultants on behalf of Conundrum Holdings PL. Conundrum Holdings PL has entered into a lease agreement with the landowner of 175 Northern Highway and is the owner of the Statutorily Endorsed Work Plan WA 1473 to facilitate the extraction of rock resources at the land.



- *To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards.*

105. To realise that objective, the following strategies are listed, which relevantly, provide:

- *Provide for the long-term protection of natural resources in Victoria.*
- *Protect the opportunity for exploration and extraction of natural resources where this is **consistent with overall planning considerations and acceptable environmental practice.***
- *Recognise the possible need to provide infrastructure for the exploration and extraction of natural resources.*
- *Ensure planning schemes do not impose conditions on the use or development of land that are inconsistent with the Mineral Resources (Sustainable Development) Act 1990, the Greenhouse Gas Geological Sequestration Act 2008, the Geothermal Energy Resources Act 2005, or the Petroleum Act 1998.*
- ***Develop and maintain buffers around mining and quarrying activities.***
- *Ensure planning permit applications clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.*
- ***Determine buffer areas between extractive activities and sensitive land uses on the following considerations<sup>6</sup>:***
  - *Appropriate limits on effects can be met at the sensitive locations using practical and available technology.*

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<sup>6</sup> Emphasis added.



- *Whether a change of land use in the vicinity of the extractive industry is proposed.*
- *Use of land within the buffer areas is not limited by adverse effects created by the extractive activities.*
- *Performance standards identified under the relevant legislation.*
- *Types of activities within land zoned for public use.*

106. The second dot pointed strategy (above) says that planning should 'protect the opportunity for exploration and extraction' where this is 'consistent with overall planning considerations'.

107. The Victoria Planning Provisions (VPP) do not set out what these overall planning considerations' might be, but I would expect that the overall content and direction of the Precinct Structure Plan and the process for its development and implementation would fit within that term.

108. A relevant 'planning consideration' would also include an assessment of the Mitchell Planning Scheme, which I have undertaken as part of this review.

109. The Mitchell Planning Scheme contains Clause 71.02-3 Integrated decision making, which says that:

*Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.*

110. Clause 71.02-3 requires planning decision makers to have regard to a broad range of factors when making decisions. Only the threat of bushfire to human life is set outside



of this decision making framework<sup>7</sup>. In practice, what this means is that competing demands (the need for stone vs the need for housing) need to be determined and balanced in favour of net community benefit and sustainable development for the benefit of present future generations. The placement of this 'test' in the Operational part of the VPP (and not in policy as it once was) by the Department of Environment, Land, Water and Planning 'elevates' this consideration.

### 175 Northern Highway and its planning context

111. The *Melbourne Supply Area – Extractive Industry Interest Areas Review (Geological Survey of Victoria Technical Record, 2003/2)* is a policy document at Clause 14.03-1S. The land is within the Extractive Industry Interest Area, as identified below:



<sup>7</sup> That 'risk' has priority over all other policy considerations.



112. In relation to Extractive Industry Interest Areas, PPN89 'Extractive Industry and Resources; notes:

*Extractive Industry Interest Areas (EIAs) are applied to land that has been identified as likely to contain stone resources of sufficient quantity and quality to support commercial extractive industry operations and where limited environmental and social constraints apply. EIAs have been defined for the Melbourne, Ballarat, Bendigo, Geelong and Latrobe supply areas.*

*EIAs do not imply that a quarry can be established 'as-of-right' in these areas, nor do they preclude extractive industry from being established outside EIAs. EIAs should not be regarded as totally inclusive of all attainable stone resources in Victoria.*

113. Clause 14.03-1R Resource exploration and extraction - Hume, contains one further strategy:

*Support the availability of construction materials locally and consider measures to facilitate and manage their extraction.*

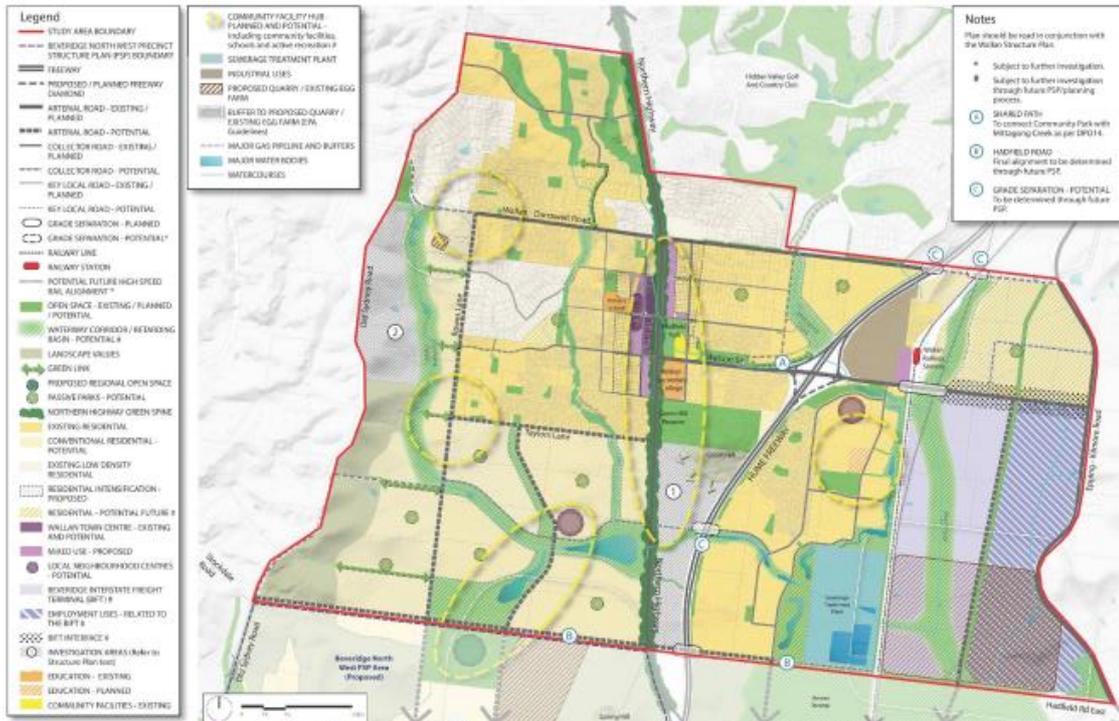
114. What I take from State and regional policy and the accompanying practice guidance is that decisions about where (and when) quarrying and resource extraction activities should occur need to be considered within the broader strategic planning context that applies to its location. The overarching planning direction for that location becomes the relevant context under which a decision should be made about whether the land use is appropriate at a statutory or strategic level.

115. It is trite to observe that land uses such as quarrying and extractive industry have off-site impacts. These impacts can be manageable where complementary land uses are located nearby but become problematic when the use is located adjacent to uses which may be sensitive to those impacts, such as dwellings.

116. Victoria's statutory and strategic planning frameworks seek to manage land uses to avoid land use conflict and their associated amenity and safety impacts.



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117. It is State policy at Clause 13.07-1S to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure and other uses with potential off-site amenity impacts.
118. The strategies at this clause recognise that, primarily, the use and development of land should be compatible with adjoining nearby land uses and that incompatible land uses should be avoided in proximity to one another.
119. These directions seek to address both existing urban and greenfield situations. In the case of the former, existing land use conflict can be difficult to manage and the need to provide a buffer to industry can run counter to (or indeed thwart) other strategic objectives which may be sought for a particular area.
120. In greenfield situations, land use conflict can be much more appropriately managed before development occurs by establishing an appropriate zoning and land use mix at the precinct structure planning stage (or before).
121. The precinct structure planning for the Beveridge North West precinct has not taken place within a vacuum. The broader strategic context is informed by the Northern Growth Corridor Plan (NGCP), prepared by the (then) Growth Areas Authority (GAA).
122. Notably, that Plan identifies the coordinated vision for the northern growth corridor. It includes several quarries to the south-east of the BNWPSP area (in Donnybrook and Wollert), as well as in Sunbury South. Relevantly, a quarry is not identified within the BNWPSP area. While that may not be determinative (of itself) it demonstrates that the current amendment aligns with that plan. In my view, that is relevant.
123. Notwithstanding that the quarry is not identified in the NGCP, Clause 21.11 'Local areas' of the Mitchell Planning Scheme includes the Wallan Town Centre Master Plan and Urban Design Framework. That Master Plan and Urban Design Framework identifies the land as a 'potential quarry'.



**Wallan Town Centre Master Plan and Urban Design Framework (Clause 21.11)**

124. While the quarry is identified on the Framework, I note that it sits outside the Study Area Boundary that the Master Plan and Framework provide guidance for. There is also no reference to the quarry in the relevant policy or direction in the clause, nor in the Master Plan and Urban Design Framework itself or the Wallan Structure Plan, both of which have been endorsed by the Council<sup>8</sup>.

125. The setting aside of land for a quarry within the BNWPSP area would have significant land use planning consequences, in that it:

- Would likely require a 500 metre 'buffer area' to be provided. Land within the likely buffer area is currently identified for residential land uses at varying densities, the

<sup>8</sup> I understand that the Mitchel Shire Council considers that this aspect of the plan is an error and that it will pursue an amendment to correct it.



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provision of a local town centre, a future Government school and community facilities.

- Would create a land use conflict within the buffer area, having regard to the anticipated land use mix.
- Has the potential to undermine the ability of the PSP to deliver anticipated housing and population targets<sup>9</sup>.
- May impact on the landscape values and significance of the Spring Hill cone and its surrounds.
- May undermine some of the physical layout and other assumptions relied upon in the preparation of the PSP.

126. On the other hand, the development of the quarry will create employment and provide an important resource. The Conundrum Holdings submission says that the economic assessment report accompanying the PSP did not contemplate a quarry and that population growth rates will be slower than expected meaning that the quarry can be delivered without significant impediment to the residential settlement of the area.

127. This is a difficult issue for the Panel to resolve.

128. On the one hand, it may be argued that the inclusion of the quarry in the PSP could be timed or staged so that it 'goes first' and once the resource is extracted, then it and the land around it could be developed for residential purposes. Perhaps the UGZ schedule should make the quarry a Section 2 use and then leave the appropriateness of the quarry to the permit process? There is a simplicity to this position that is superficially attractive (eating one's cake and having it too). However, and for the reasons I set out below, I am not attracted to it.

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<sup>9</sup>Or at least to delay them, in the event that a rehabilitated quarry could later be used and developed for residential purposes.



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129. Firstly, I do not think that this is a case where decision makers need to effectively choose which activity is 'best' (i.e. a housing development or stone extraction) but rather to consider whether the current planning process (as discussed in the Background Report) is appropriate<sup>10</sup>.

130. There are economic benefits associated with the extraction of the resource. There may also be negative externalities associated with the quarry too. There are planning benefits associated with the development of the land for residential purposes and of course, the cost of that may be that the landowner (and indeed the community) cannot realise the benefits of that stone resource.

131. The following sections explore the options available to the Panel to resolve this issue. It seems to me that , there are (broadly) four available options:

- Amend the PSP to facilitate the quarry;
- Delay the adoption of the PSP until after the planning permit process has been resolved (and then amend the PSP to reflect the planning permission if granted);
- Abandon the PSP and await the outcome of the planning permit application; or
- Maintain the exhibited PSP.

132. I discuss these options below.

133. It would be 'poor planning' to amend the PSP to include the quarry (and effectively recast significant elements of the plan 'on the run') at this Panel. While clearly many (and perhaps all) stakeholders are aware of the quarry proposal, the extent of changes required to facilitate the quarry are likely to be significant and far reaching. Moreover, there is likely to be a number of planning issues that require resolution and the

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<sup>10</sup> Noting that if the amendment is approved, the use of the land for quarrying purposes will be prohibited and a planning scheme amendment will be required to facilitate it.



consideration of these are probably beyond what is reasonable for a Panel of this nature to resolve.

134. It also follows that I do not support the inclusion of the quarry as a Section 2 use. A quarry has significant land use impacts and its approval and use will necessarily disrupt the delivery of aspects of the PSP. The Panel's decision to make quarry a Section 2 use is not a benign decision in itself nor is it a policy neutral one.
135. Moreover, the issue is unlikely to be as simply resolved as including the land use term Extractive industry in Section 2. In effect, providing the discretion to allow such a use likely (and at this stage) requires an Option A and Option B planning scenario to be contemplated. For instance, if the quarry proceeded (Option A), changes to the current road layout, activity centre and open space networks and infrastructure funding models may be needed. If the quarry didn't proceed (Option B), the current frameworks will suffice.
136. Delaying the PSP to await the outcome of the planning permit process would create uncertainty for all landowners and (effectively) places the resolution of the PSP itself into the hands of third parties. Delaying this planning process to wait for another to be resolved may have consequences for other Panels and their planning process in the future. For instance, what would stop another landowner in another matter in the future from lodging their own planning permit for a permitted use and then seeking to put on hold an important strategic planning process? I think that there are important public policy reasons that argue against the process being 'delayed' in that way.
137. The third option (to abandon the amendment) is essentially a variation on the previous outcome (delay) but has even more significant implications in that it implies that the planning process must 'start again' presumably because it was found to be so fundamentally flawed as to justify that approach. Again, and for the reasons that I outlined previously, I do not support that outcome.



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138. The fourth option, maintaining the exhibited PSP's position on the quarry, will provide an acceptable planning outcome and is strategically justified, as I discuss below.
139. As I identified earlier, State policy at Clause 13.07-1S 'Land use compatibility' seeks to protect human health, community amenity and safety, while facilitating appropriate commercial, industrial or other uses with off-site amenity impacts.
140. It is a central tenet of 'good' strategic planning that land use conflict is avoided in the first instance, rather than having to be 'managed'. This is consistent with the direction sought by strategies at Clause 13.07-1S.
141. The BNWPSP process provides an opportunity for land use conflict to be avoided, rather than needing to be managed throughout the life cycle of the quarry (if one were to be approved in this location) and the implementation of the PSP and development of the precinct over time.
142. This is not an operating quarry. The proposed quarry has no town planning approval nor is it mentioned in the applicable growth corridor plan. There is broad strategic support in the Planning Scheme for stone extraction but that is not specific to this quarry. While I note that the plan at Clause 21.11 refers to a proposed quarry in this location, I do not consider that that reference, in and of itself, elevates the status of the quarry on this land, noting that the land was outside the area that the framework applies to. The PSP, on the hand has gone through a detailed planning process and is about to be considered by a Panel.
143. While it is open to the Panel to recommend delaying or abandoning the PSP amendment until such time as the planning permit application has been considered, I do not support that approach.
144. Instead, a more logical approach is to proceed with the exhibited PSP.



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145. The quarry proponent is able proceed with the permit application process or else it could pursue a planning scheme amendment process (down the track) should it wish to. A package or material can be put forward that attempts to resolve how the quarry and development of the rest of the PSP would be planned to co-exist in a manner that avoids land use conflict; what changes are required to the PSP and its supporting documents. The planning authority is then able to determine whether (or not) these adjustments are appropriate. In that way, all of the strategic and other consequences of the quarry can be considered as part of a detailed and stand-alone planning process.
146. That said, the selection of a residential outcome for the northern part of the PSP area is a legitimate strategic decision for the planning authority to make.
147. It follows that I support the approach taken in the exhibited PSP.

**Are the proposed affordable housing provisions appropriate?**

148. The BNWPSP includes two guidelines which generally seek to provide for affordable housing, as follows:

*G16: Subdivision of land should provide up to 10% of the NDA for the provision of affordable housing as defined by the Planning & Environment Act 1987 (as amended).*

*G17: Land for affordable housing should:*

- *Be provided within walkable catchments.*
- *Provide for a range of housing typologies to meet demonstrated local need.*

149. Several submissions have commented on the affordable housing provisions and many of these ask for the 'guidelines' (which are discretionary) to be made into 'requirements' (which are mandatory).



150. The *Planning and Environment Act 1987* also includes a specific objective to facilitate the provision of affordable housing in Victoria.
151. Strategic directions that support the provision of affordable housing are set out at Direction 2.3 of Plan Melbourne 2017-2050 and State policy at Clause 16.01-4S 'Housing affordability' seeks to deliver more affordable housing closer to jobs, transport and services. One of the strategies to improving housing affordability at this clause is by encouraging a significant proportion of new development to be affordable for households on very low to moderate incomes. Further, State policy for growth areas recognises that Precinct Structure Plans are to "create greater housing choice, diversity and affordable places to live" (among other considerations).
152. There is high level strategic support in planning schemes and elsewhere for the provision of affordable housing. However, there is a contest of ideas about which planning tools should be used to give effect to these policies and direct affordable housing outcomes. Given that affordable housing is not an issue specific to the Mitchell Shire, a government-led approach to the resolution of this issue is to be preferred over local approaches. That said, there may be local circumstances where such an outcome is acceptable.
153. In that absence of clear, State government direction, many planning authorities have sought to direct more affordable housing outcomes through various measures, including policy, the use of the Development Plan Overlay and tailored zones and schedules that require either mandatory or discretionary outcomes.
154. The application of some of these tools has been the subject of criticism for the ad-hoc manner in which they are implemented and that they apply affordable housing requirements on some areas of Melbourne, but not others. Indeed, I have been critical of some of these approaches.
155. I have supported affordable housing provisions in planning controls that 'require' the provision of affordable housing in conjunction with market incentives (such as the



ability to increase height or floor area), which provide a benefit to developers who provide it or where these are treated as discretionary measures where the circumstances make affordable housing impractical, or would have a significant economic impact and so on<sup>11</sup>.

156. In my view, including an affordable housing 'guideline' within the PSP can be an acceptable response to the relevant policy directions provided it is properly worded. Allowing discretion to be applied in decision-making allows for the provision of affordable housing to be most effectively considered in areas which enjoy good access to jobs, transport and services is also desirable. Broadly speaking, that approach is consistent with State policy at Clause 16.
157. In addition , there are some elements that require further consideration in this case:
- What is the justification for 10%? Why not 5% or 15%?<sup>12</sup>
  - What are the affordable housing requirements of this municipality and what part of the Shire's housing needs profile is this guideline seeking to address?
  - What is 'affordable housing' in the context of this PSP and the municipality more broadly?
158. It does not appear that the BNWPSP has been informed by a study or process that provides clarity on this issue. to that extent, I am cautious about including a metric that specifies an affordable housing rate in the ordinance or in the PSP.
159. I am instructed that the VPA is proposing to replace Guideline 16, which seeks for residential subdivision applications to read 'provide a range of affordable housing for low income households and very low income households<sup>13</sup>, commensurate with demand, to the satisfaction of the responsible authority'.

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<sup>11</sup> See for instance, Amendment GC81 to the Port Phillip Planning Scheme.

<sup>12</sup> I note that Clause 22.15 in the Port Phillip Planning Scheme requires 6% of housing to be affordable.

<sup>13</sup> As defined by the *Planning and Environment Act 1987* and for which income ranges are specified.



160. While the revised guideline is more appropriate, I am concerned that the use of the words “commensurate with demand” is vague and likely to result in conflict between the responsible authority and applicants about what the true level of demand is for affordable housing. For instance, it could be that the ‘demand’ for affordable housing proves to be much higher than the 10% figure contained in the exhibited control. If so, what then?
161. An approach might be to draft the ordinance in a way that encourages developers to provide affordable housing and that the wording in the PSP and the UGZ schedule provide the responsible authority with a mechanism to ‘have a conversation’ about the topic.
162. That approach can still lead to good outcomes as it becomes an issue that is ‘in the mix’ in the planning application and is still a factor that VCAT on appeal could consider. If it doesn’t work in practice, there remains the ability for the VPA or the Council to do further strategic work to justify introducing a numerical rate into the planning scheme.
163. I recommend that Guideline 16 be amended as follows:
- Subdivision of land should make a contribution towards affordable housing for low income and very low income households as defined by the Planning and Environment Act 1987 (as amended).*
164. This guideline should be accompanied by modifications to the UGZ3 schedule that would require applications to provide material that demonstrates an appropriate demand and response to affordable housing with any application for subdivision.



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## Is the proposed layout of the PSP consistent with notions of 20-minute neighbourhoods and good place-making?

165. I have been asked to consider the proposed layout of the PSP and particularly matters concerning:

- Walkable catchments and dwelling densities;
- The provision of the two north-south arterial roads;
- The location of open space; and
- The location of commercial uses.

166. From a planning perspective, these matters are notionally all concerned with whether the PSP delivers good 'placemaking' outcomes, consistent with notions of 20-minute neighbourhoods and delivering a master planned outcome.

167. Central to the PSP is the provision of 'walkable catchments', with increased dwelling densities within the walkable catchment areas. Although the term is not defined, I note that Principle 3 of the Local Town Centre Design Principles seeks to ensure that '80-90% of households are within a 1km walkable catchment of a local or higher order Town Centre'. Further, the VPA's response to submissions says that:

*The extent of the walkable catchment areas shown on the Plan 3 will be amended to reflect a 400m/5min walkable catchment from planned activity centres and the future Principal Public Transport Network.*

168. It would be appropriate to set out the definition of the walkable catchments and its aims within the PSP document.

169. Having reviewed the PSP, I have formed the view that the PSP is consistent with policy which seeks to deliver 20-minute neighbourhoods and with good place-making. I say this for the following reasons:



- Having regard to my comments above about walkable catchments, the highest densities are encouraged within a 400m or 5 minute walkable catchment of services and proposed public transport. At a high level, a significant amount of State and regional policy is directed towards achieving this outcome;
- The majority of residential land is within a 400m catchment of local parks and sports reserves and a large proportion of residential land (with the exception of land in the north-west) is within a 1km catchment of the four larger sporting reserves. In this regard, the provision of open space is generous and well-sited to achieve a high level of accessibility;
- From a town planning perspective, the alignment of the two north-south roads appears logical. The arterial roads are sited in proximity to the local town centres, open space and services; and
- From a town planning perspective, the location of the town centres appears appropriate. In this regard, they are generally co-located with government and non-government school sites and community infrastructure. They form reasonable connections to the arterial road network and shared path links.

170. At a high level, I consider that the PSP appropriately responds to the policy direction that seeks to create 20-minute neighbourhoods.

171. My conclusions and recommendations are set out at Section 3 of this Statement.



### 3. CONCLUSION

172. My conclusions are summarised below:

- The amendment is strategically justified.
- The UGZ ordinance has been drafted effectively to give effect to the BNWPSP;
- The use of the RCZ and IPO is appropriate to protect the areas of identified landscape values;
- I support the exhibited PSP's approach to the quarry land. There is an inherent land use conflict that would emerge if the PSP elevated the status of the quarry. The appropriateness of the quarry can be resolved via separate processes;
- The concept of an affordable housing provision is supportable, however, a revised provision is required; and
- The PSP generally reflects good the 20-minute neighbourhood concept.

173. Save for these observations, I consider that the Amendment will deliver a net community benefit and sustainable development. The amendment is appropriate and should be supported, subject to the considerations I have outlined above.

174. I have made all inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.

**John Glossop MPIA**  
**Director**  
**Glossop Town Planning Pty Ltd**  
**July 2020**



#### 4. REQUIREMENTS UNDER PPV'S GUIDE TO EXPERT EVIDENCE

175. This statement is prepared by John Glossop, Glossop Town Planning Pty Ltd, Level 5/111 Cecil Street, South Melbourne. I am a Director of the firm. The firm has been in business since 1997.
176. I have a Bachelor of Arts (Urban Studies) Hons. I have been engaged in the following positions and roles in my career as a planner including:
- Former planner with the Shire of Newham and Woodend (prior to its amalgamation with the Macedon Ranges Shire).
  - Strategic and Social Planning Manager, Shire of Melton until 1997.
  - Sessional member, Planning Panels Victoria between 1997-2012.
  - Member of the ResCode Advisory Committee 2000.
177. I have sat as a Chairman or member on a number of planning scheme amendments, dealing with a broad range of issues from high-rise housing in Williamstown, the redevelopment of Pentridge Prison and the application of flooding overlays in the Mornington Peninsula Shire.
178. I was a sessional lecturer and tutor in strategic, statutory planning and urban studies at Victoria University of Technology (1996-99) and lecturer in statutory planning Latrobe University Bendigo (2000- 02). I am currently a sessional lecturer in Statutory Planning and Environment at the Royal Melbourne Institute of Technology University.
179. I have considerable experience in statutory and strategic planning and new format planning schemes.
180. My expertise to make this statement is based on a combination of my experience working in metropolitan Melbourne and regional Victoria, an understanding of the site and my experience as a planner in both the private and public sectors. I have been instructed by Harwood Andrews to provide an opinion on the planning merits of Amendment C106m to the Mitchell Planning Scheme.



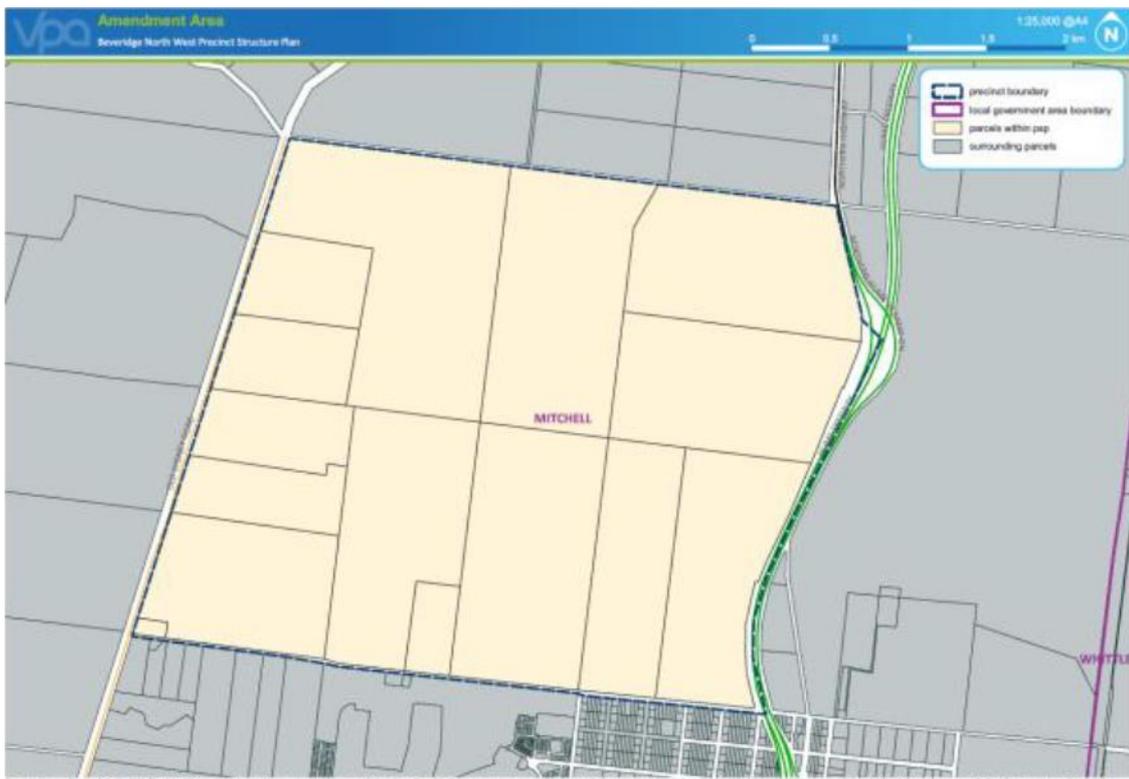
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181. I have relied on the documents referred to in the introduction section of my statement. There were no tests undertaken in the preparation of this statement. I was assisted in this statement by Matthew Gilbertson, Senior Associate of my office.



## 5. APPENDIX A: THE AMENDMENT

182. Amendment C106mith to the Mitchell Planning Scheme applies to land within the Beveridge North West Precinct Structure Plan area, as shown on the map below.



Extract of Map from Explanatory Report (Planning Scheme Amendments Online, July 2020)

183. The exhibited explanatory report for the amendment records:

*The amendment proposes to implement the Beveridge North West Precinct Structure Plan (PSP) by introducing a new Schedule 3 to the Urban Growth Zone to the Mitchell Planning Scheme (the Scheme) and applying it to the precinct.*

*More specifically, the amendment proposes the following changes to the Mitchell Planning Scheme:*

**p.43**



- *Rezones land in the amendment area from Urban Growth Zone, Rural Conservation Zone and Urban Floodway Zone to UGZ3 and Rural Conservation Zone (RCZ).*
- *Inserts Schedule 3 to Clause 37.07 Urban Growth Zone (UGZ) into the Mitchell Planning Scheme.*
- *Inserts Schedule 4 to Clause 43.03 Incorporated Plan Overlay (IPO) into the Mitchell Planning Scheme.*
- *Deletes the Erosion Management Overlay (EMO) and Vegetation Protection Overlay Schedule 1 and Schedule 2 (VPO1, VPO2) from land in the amendment area.*
- *Incorporates the “Beveridge North West Precinct Structure Plan, August 2019” into the planning scheme by listing it in the Schedule to Clause 72.04.*
- *The Beveridge North West Infrastructure Contributions Plan (ICP) will be introduced via a separate amendment and will introduce the associated schedule to the Infrastructure Contributions Overlay applying to the land within the amendment area.*



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## 6. APPENDIX B: MY INSTRUCTIONS

Our ref: 21906268  
Contact: Aaron Shrimpton  
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Principal: Greg Tobin  
Your ref:

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2 July 2020

John Glossop  
Glossop Town Planning

Email: [john@glossopco.com.au](mailto:john@glossopco.com.au)

***Subject to legal professional privilege***

Dear John,

**Amendment C106mith to the Mitchell Planning Scheme (Amendment)  
Beveridge North West Precinct Structure Plan (PSP)**

We continue to act for Victorian Planning Authority (**VPA**) in relation to the upcoming panel hearing that will consider the Amendment which seeks to incorporate the PSP into the Mitchell Planning Scheme (**Planning Scheme**).

**Background**

1. The PSP is located at the northern end of the Northern Growth Corridor Plan area.
  - 1.1. The PSP is adjoined to the north by the Wallan South & Wallan East (Part 1) PSP area<sup>1</sup>, the Urban Growth Boundary to the west (along Old Sydney Road), the Hume Freeway to the east and Camerons Lane to the south.
  - 1.2. The future Beveridge North East and Northern Freight PSP's lie east of the Hume Freeway from the PSP. The Mandalay estate, the approved Beveridge Central PSP and the future Beveridge South West PSP are situated south of Camerons Lane.
  - 1.3. The Land within the PSP is primarily used for grazing and has undulating topography, particularly in the north-west, and north-east (Spring Hill).
2. The Amendment was exhibited in August 2019. The VPA received submissions from 34 submitters (including one late submission dated 31 March). In general terms the submissions raise issues related to:
  - 2.1. Affordable housing
  - 2.2. Technical details such as the content of the appendices and plans
  - 2.3. The arterial road network & connections to the Hume Freeway
  - 2.4. Background reports

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<sup>1</sup> The preparation of that PSP is at the background study stage.

- 2.5. Biodiversity
  - 2.6. Cultural heritage
  - 2.7. Drainage and waterways
  - 2.8. ICP matters
  - 2.9. Interfaces
  - 2.10. Upgrades to Old Sydney Road which are not included in the PSP or funded by the draft ICP
  - 2.11. Public transport
  - 2.12. Applied zone boundaries, especially in respect of Spring Hill
  - 2.13. The drafting of the exhibited ordinance
  - 2.14. Public transport
  - 2.15. Schools
  - 2.16. Slope/topography
  - 2.17. Utilities
  - 2.18. Walkable catchment & density.
3. A planning panel (Nick Wimbush (Chair), John Hartigan and Sarah Auld) has been appointed to consider and hear submissions (**Panel**).
  1. The Panel hearing will commence on Monday 20 July 2020 and continue until Thursday 13 August 2020.
  2. The hearing timetable schedules the VPA's case for Monday 20, Tuesday 21 and the morning of Wednesday 22 July. We anticipate you will be required to provide evidence on the afternoon of Tuesday 21 July or morning of Wednesday 22 July, but will confirm closer to the hearing. Please let us know if you have any constraints 20-22 July. The Panel hearing will commence on Monday 20 July 2020 and continue until Thursday 13 August 2020.
  3. A copy of the Panel's primary directions are included in your brief. Item 24 of the direction sets out requirements for the witness reports and includes a link to the Planning Panels guide to expert evidence which sets out further requirements for your witness statement.
  4. Witness reports are required to be circulated by 4 pm on Monday 6 July 2020. We would appreciate a draft for review as soon as possible.
  5. The VPA will call expert evidence in traffic matters from Reece Humphries of GTA, sodic soils from Peter Sandercock of Jacobs, and landscape evidence from Frank Hanson.

### **Background – proposed quarry**

6. One submitter, Conundrum, is the proponent of a proposed quarry, west of Spring Hill, near the northern boundary of the PSP area.
7. The exhibited background report provides the following summary:

*A quarry has been proposed in the Beveridge North West precinct on the western side of Spring Hill Cone. A works authority number has been allocated to the quarry proposal (WA 1473); however, the*

*planning permit application for the quarry was refused by Mitchell Shire Council and, accordingly, a Works Authority approval has not been provided.*

*The Department of Jobs, Precincts and Regions (DJPR) has considered the underlying resource identified by works authority number WA1473 (see Wallan/Beveridge Extractive Resource Analysis, Coffey Services, 2017). DJPR recognises the value of the resource and recommends that the resource should be extracted. DJPR recognises the competing demands of urban development and resource extraction and defers to Plan Melbourne's Policy 1.4.2 regarding extracting resources before urban development.*

*The Minister for Planning has determined that the PSP will be exhibited without the quarry shown on the Future Urban Structure and this has been communicated to land owners and affected parties*

8. The proposed quarry is not shown on the Northern Growth Corridor Plan and was not included in the exhibited PSP. A proposed quarry is, however, shown on the Wallan Structure Plan that is included in local planning policy.
9. A copy of the Coffey Services report referenced in the above extract from the background report was exhibited with the amendment and is included in your brief.
10. The Panel's directions also require the VPA to coordinate the preparation of a statement on certain issues related to the propose quarry. The final version of this document will be provided to you once filed.

### **Instructions**

We are now instructed to brief you to:

11. Review the exhibited amendment and background materials (as relevant), submissions and the VPA's response to submissions (to be tabled 26 June);
12. Prepare an expert witness statement;
13. Appear at the panel hearing to provide expert evidence.

Your expert witness statement should, in addition to any other relevant matter, address the following issues:

14. Is the exhibited PSP's approach to the proposed quarry strategically justified?
15. Are the proposed affordable housing provisions appropriate?
16. From a planning perspective, are the two north-south arterial roads shown on the PSP appropriate?
17. The appropriateness or otherwise from a planning perspective of the siting of the commercial, school and community land uses; location, size and type of open space; density targets and walkable catchments shown on the exhibited PSP?
18. Is the exhibited ordinance appropriate?
19. As the proposed zone and controls for areas of identified landscape values appropriate?

### **Your fees**

Our client will remain responsible for your fees in accordance with the procurement arrangements agreed between the VPA and yourself.

### **Legal professional privilege**

We confirm that your professional opinion is sought in the context of us providing legal advice in relation to the Panel hearing for the Amendment.

Our advice, and your advice by virtue of your engagement by us, attracts legal professional privilege. Our client is therefore not required to disclose any advice provided by you to any other party unless that legal professional privilege is waived.

To ensure that legal professional privilege is maintained, we request that you do not advise anyone, other than our client or Harwood Andrews, that you have been requested to provide independent advice in relation to this matter.

We will notify you if legal professional privilege is waived in respect of your advice. We expect that this will not occur until just prior to the anticipated Panel hearing at the time when expert witness reports are due to be filed and served.

**Contact**

If you have any queries or require any further information, please contact Greg Tobin ([gtobin@ha.legal](mailto:gtobin@ha.legal) or 5225 5252) or Aaron Shrimpton ([ashrimpton@ha.legal](mailto:ashrimpton@ha.legal); or 5225 5248).

Yours faithfully,

*Harwood Andrews*  
**HARWOOD ANDREWS**

Encl.

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21.	Ordinance <ul style="list-style-type: none"> <li>• Schedule 3 to Clause 37.07 Urban Growth Zone</li> <li>• Schedule 4 to Clause 43.03 Incorporated Plan Overlay</li> <li>• Schedule to Clause 72.04 Documents Incorporated in This Planning Scheme</li> <li>• Instruction Sheet</li> <li>• Explanatory Report</li> </ul>
22.	PSP
23.	Background studies <ul style="list-style-type: none"> <li>• Land Capability - Groundwater Quality Assessment - Jacobs - June 2014</li> <li>• Economic Assessment - Ethos Urban - July 2019</li> <li>• Arboriculture Assessment - Tree Logic - November 2013</li> <li>• Bushfire Development Report - Terramatrix - July 2019</li> <li>• Scattered Tree Assessment - Ecology and Heritage Partners Pty Ltd - November 2013</li> <li>• Aboriginal Heritage Impact Assessment - AHMS - February 2014</li> <li>• Post Contact Assessment - AHMS - February 2014</li> <li>• Targeted Cultural Values Assessment - Wurundjeri Corporation - October 2014 (Revised 2019)</li> <li>• Landscape and Visual Assessment - Planisphere - October 2014</li> <li>• Site Suitability Assessment - Jacobs - July 2014</li> <li>• Wallan Beveridge Extractive Resource Analysis - Coffey - 15 November 2017</li> <li>• Utilities Servicing and Infrastructure Assessment - Cardno - March 2014</li> <li>• Strategic Transport Modelling Assessment - GTA Consultants - December 2018</li> </ul>
24.	Background summary – August 2019
<b>Other</b>	
25.	<a href="#">Wallan Structure Plan and Urban Design Framework</a>
26.	Draft – proposed agreed statement regarding quarry issues (previously provided)
27.	<a href="#">PPV Guide to expert evidence.</a>
<b>Panel Documents</b>	
28.	Direction and Timetable 13 March 2020.
29.	Revised hearing timetable and distribution list 22 April 2020
30.	Panel directions 26 June 2020
<b><u>Submissions</u></b>	
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2	TBC
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4	Department of Transport

5	Family Care
6	Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation
7	The Kilmore & District Hospital
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16	ASKK Investments Group Pty Ltd
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20	Conundrum Holdings Pty Ltd - Submission A - Submission B
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