

INTRODUCTION

This submission is made on behalf of [REDACTED] to Amendment C156.

Amendment C156 proposes to rezone land at 209-211 Carinish Road and 31-49 Browns Road, known as the PMP Printing site, and all of the land in neighbouring Bendix Drive, Clayton from the existing Industrial 1 Zone to a Comprehensive Development Zone. Council has worked closely with the Victorian Planning Authority (VPA) and the land owners over the past 4 years to develop a future land use and urban structure for the site.

Whilst generally supportive of Amendment C156, [REDACTED] has concerns with aspects of the amendment which are detailed below.

BACKGROUND – HISTORY OF THE AMENDMENT

The owners of the PMP Printing site approached the Victorian Planning Authority (VPA) in 2015 to facilitate the rezoning of their land after the land was identified as suitable for rezoning through [REDACTED] Industrial Land Strategy. [REDACTED] has worked collaboratively with the VPA on this project as part of the Monash National Employment and Innovation Cluster on a “without prejudice” basis.

[REDACTED] have worked closely with the VPA, the property owners and number consultants engaged by the VPA on behalf of the owners to develop a shared vision for the future of the site. In the initial stages, only the main PMP site was included in discussion, but this was later expanded to include all of the properties in Bendix Drive that were also in the Industrial 1 Zone. Amendment C156 has been drafted to reflect and implement the future vision for the site.

[REDACTED] on Amendment C156

[REDACTED] considered the proposed Amendment C156 to its meeting on 28th April 202 when it resolved that:

1. *Prior to proceeding further with proposed Amendment C156, that the amendment documentation be modified to:*
 - a. *Retain third party notice and appeal rights;*
 - b. *Include the Environmental Audit Overlay requirements in the Comprehensive Development Zone to require that prior to the commencement of use or development either:*
 - i. *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 190, or*
 - ii. *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the use.*
 - c. *Include a requirement in the planning provisions that the land owners must meet any subsequent costs Council may incur that are associated with peer and legal review of environmental contamination issues, including those related to compliance with the Environmental Audit Overlay on the site at permit stage incurred by Council.*

2. *Clarifies that any land proposed to be transferred to Council as the Public Open Space contribution pursuant to Clause 53.01 is to be unencumbered by contamination or appropriately remediated and must be unencumbered from any ongoing contamination management obligations, all to Council's satisfaction, or, if that cannot be satisfied, that a 10% cash contribution for Public Open Space would be required.*
3. *Requires written support from the 2 main land owners of the PMP Printing site to the provisions of the amendment package.*
4. *Requires the written agreement of the 2 main land owners to meet all costs associated with the Amendment and any subsequent costs for peer review of contamination issues as part of any planning permit process.*
5. *Once the documentation has been modified and agreements made in respect of the resolutions 1, 2 and 3, requests the Minister for Planning to authorise Council, pursuant to Section 8A of the Planning and Environment Act 1987, to prepare Amendment C156.*
6. *Authorises the Director City Development to prepare and finalise the planning scheme amendment documentation in accordance with this report.*
7. *Upon receiving authorisation from the Minister for Planning, prepares Amendment C156 and exhibits the amendment in accordance with Section 19 of the Planning and Environment Act 1987.*

VPA Authorisation

██████████ was advised in June 2020 that the Minister had authorised the VPA to be the planning authority for the amendment. This was despite ██████████ having considered the draft Amendment C156 in April and requesting authorisation to prepare and exhibit the amendment, subject to the resolution of some issues, highlighted in the Council decision outlined above.

We acknowledge and understand that Amendment C156 is part of the VPA's Fast-Track Program which is an element of the Victorian Government's response to the Covid-19 crisis, and the VPA are now responsible for running this amendment, and ██████████ role is as a submitter to the amendment.

ISSUES RAISED IN THE ██████████ RESOLUTION 28 April 2020

There were a number of issues outlined in the ██████████ report and resolution of 28th April 2020 that required resolution before the draft Amendment proceeded to authorisation and exhibition.

Third party notice and appeal rights

The Schedule to the Comprehensive Development Zone proposed by Amendment C156 includes exemptions from the notice and appeal provisions of the Planning and Environment Act 1987, if the proposal is generally in accordance with the endorsed Comprehensive Development Plan.

Given that planning in Victoria includes the principle of third party rights and engagement in the planning process Council does not support the exclusion of notice requirements and requests that

the amendment be modified to delete the Exemption from notice and review requirements in section 2.0 (Use of land) and section 3.0 (Subdivision) of Clause 37.02 Schedule 2.

EAO requirement for all non-sensitive uses included in the Comprehensive Development Zone

As a current and long operating printing facility the site is considered potentially contaminated. As part of the planning for the site, an Environmental Site Assessment was undertaken by Senversa. This report concluded that:

“Based on the information reviewed, the site is likely to be considered suitable for a sensitive use provided further site assessment and remediation is undertaken as a part of environmental audit. As such, an Environmental Audit Overlay (EAO) should be imposed on the precinct to allow a planning scheme amendment. The environmental audit can be undertaken after imposition of the EAO so that the condition contained within the final Statement of Environmental Audit can be tailored to the proposed development. The conditions will therefore be able to address the development specific environmental risks and not require overly onerous conditions to be placed on the site that may unnecessarily restrict the proposed development.”

The key issue here is that the report states that the site *“is likely to be considered suitable for a sensitive use provided further site assessment and remediation is undertaken as a part of environmental audit.”* The proposed solution is to apply an EAO that requires contamination to be dealt with prior to the commencement of a sensitive use such as residential or child care.

The exact type of remediation or contamination management required will not be known until the current print works ceases operations and the site is subject to further more extensive testing. In addition, no testing of the properties in Bendix Drive has been undertaken to [REDACTED] knowledge.

Officers have previously advised the land owners and the VPA that in accordance with the Ministers Direction No.1 – Potentially Contaminated Land, [REDACTED] experiences with the proposed rezoning of the Talbot Quarry site in Centre Road, Clayton, and the uncertainty around the exact nature and level of contamination on the site, that the audit should be required prior to exhibiting any amendment to rezone the land.

Whilst this approach covers off on the development of sensitive uses ahead of resolving contamination, it still allows a use deemed “non-sensitive” to establish on the site, such as office and basement car parking. There are instances where basement car parks have been constructed but rendered unusable due to vapours and as emissions pooling in the basement car parks as a result of contamination not being addressed in the construction as the building was deemed “non-sensitive”. This is a situation that should be avoided.

To this end the proposed Comprehensive Development Zone schedule should be modified to transfer the EAO requirements that apply for sensitive uses into the zone schedule provisions so that they apply for any use of development of the site. This would allow for the issue of a permit for an office, but also require contamination to be addressed prior to the commencement of any works for the development.

Clarify that any POS to be handed to [REDACTED] to be unencumbered by contamination or in lieu – a 10% contribution

Amendment C156 provides for a contribution of 10% of the site area to be provided as public open space. Based on the Future Urban Structure included in the Comprehensive Development Plan, the design was developed on the basis that the site can and will be remediated to an appropriate level, no encumbered by contamination or an ongoing, unreasonable need to manage contamination through usage constraints, vapour barriers, vents and the like.

Should the land identified as Public Open Space on the site not be able to be delivered unencumbered, appropriately remediated or is beset by ongoing contamination management obligations that are not to [REDACTED] satisfaction, then the Public Open Space requirement would need to be met through a 10% cash in lieu contribution. If this was to occur, the land proposed as park land would remain as part of the overall redevelopment via a body corporate structure and not vest in [REDACTED]

Other aspects of the [REDACTED] resolution related to gaining agreement and written support for the amendment from Landowners are no longer relevant. The matters outlined above and [REDACTED] resolution remain valid.

CHANGES TO THE AMENDMENT SINCE THE COUNCIL RESOLUTION

Since [REDACTED] consideration of proposed Amendment C156 in April this year, there have been a number of changes made to the amendment by the VPA.

Building heights along Browns Road frontage

The VPA has made changes to the proposed heights in the Browns Road Residential Sub-Precinct (now known as the Residential interface – Browns Road), increasing the height from a maximum of 3 storeys to a maximum of 6 storeys with a 3 storey podium. [REDACTED] does not support this change as it represents a departure from the scheme that was considered and developed over a number of years. It can only be assumed that this proposed increase in heights is in response to the built form outcomes proposed by the Clayton Precinct Plan.

During the time that background analysis was being undertaken on the PMP Printing site, the Clayton Activity Centre Precinct Plan was being developed and consulted upon, and was adopted in January 2020 by [REDACTED]. This Plan sets out a framework to guide the growth of Clayton into the future and includes principles and urban design policies to guide future land use changes within the Centre, and future built form controls and policies. The western side of Browns Road is at the most eastern edge of the Clayton activity centre plan area, and has been identified as an area for residential intensification with potential building heights of up to 6 storeys. Browns Road is considered an appropriate boundary to delineate the “edge” of the Clayton Activity Centre.

At this stage, the Clayton Precinct Plan has not been implemented as [REDACTED] awaits further details on the development of the Suburban Rail Loop and the Superhub station planned for Clayton. Final

decisions on the Superhub station will impact Clayton Precinct Plan and may result in changes to precincts, land use and built form outcomes.

The aspirational maximum building height proposed by the Clayton Precinct Plan for the Browns Road area has not been integrated into any planning or built form controls and its achievement would be dependent upon the implications of the Clayton Superhub station, site consolidation, impact modelling and perhaps, most importantly future demand.

The heights initially identified for the different precincts across the PMP Printing site were arrived at following extensive urban design analysis, traffic modelling and consideration of various options. All parties were in agreement with these heights, so to have changes at this late stage in the process is unreasonable and not supported by the underlying analysis and background reports. Monash [REDACTED] opposes the proposed 6 storey height for the Residential Interface - Browns Road Precinct in Amendment C156.

On a detail level it is noted that the revised block model with the 6 storey heights orientates the bulk of this height towards Brown Road, away from the central areas of the site.

There is also real question over the feasibility and market uptake for 6 storey apartment living in this location as officers understand that the former owner of the northern parcel had a strong preference for the development of 3 storey townhouse dwellings rather than a taller apartment form.

Recognition of trees for retention

Trees of medium and high retention value have been identified in the Comprehensive Development Plan with recommendations for their retention. [REDACTED] had resolved to commence an amendment to implement the Monash Urban Landscape and Canopy Vegetation Strategy by introducing a suite of Significant Landscape Overlays (SLO) across the municipality (Monash Amendment C153). It was anticipated that by the time an amendment to rezone the PMP Printing site was being consulted upon, that Amendment C153 would have progressed further. As this has not occurred, it is appropriate to identify and include medium and high retention value trees in the Comprehensive Development Plan.

CONSULTATION & PROCESS ISSUES

The amendment process being undertaken by the VPA for Amendment C156 is different to the standard amendment exhibition process. The VPA who are responsible for all aspects of the amendment, have advised affected landowners within 500 metres of the site in both Monash and Kingston, with a letter and brochure, and virtual information sessions have also been organised. All enquiries and submissions are to the VPA.

The VPA determined that notification of the amendment would take place for a 5 week period from late September to late October 2020, effectively during the caretaker period for the Victorian Local Government elections. Officers expressed their concerns to the VPA about the timing of the notification, noting that it also coincided with Victorian school holidays and was impacted by the effect of Covid-19 lockdown restrictions.

