

**Date:** 23 December 2020

## **PSP 1069.1 Shenstone Park**

**Part C – Submission 23 December 2020**

Planning Panels Victoria

## INTRODUCTION

1. This outline of submissions responds to the various position of the parties on issues raised throughout the course of the hearing. The submissions do not endeavour to respond to issues already addressed in the Part A and Part B submissions and so should be read in conjunction with those documents.
2. What is apparent after five weeks of hearing is that there is broad support for the Amendment and that the issues in dispute are relatively narrow.
3. The VPA's central submission is that the Amendment is sound and that the limited issues can be resolved in a manner that will see the Amendment progress and the benefits from this important amendment realised.

## COUNCIL ISSUES

### ICP matters

4. A key issue raised by the Council relates to the delivery of infrastructure and more particularly the relationship between the flow of contributions and the delivery of infrastructure. It first must be observed that it is proposed that the Shenstone Park ICP will be a Standard ICP.
5. It will be a standard levy ICP because the level of infrastructure required within the precinct is modest. There are no arterial roads within the precinct and only Koukoura Drive to the east of the precinct to be funded. A number of the intersections with Donnybrook Road are partially funded by the Donnybrook Woodstock ICP. The internal road network are connectors and these will be developer funded, consistent with the Ministerial guidelines.
6. Council expresses a concern about the impact of the Yarra Valley Water (YVW) water storage ponds and a concern that this land not be exempted from contributions.
7. Following a sensitivity analysis, the VPA is satisfied that even with the absence of development in the 200-metre blast buffer and the YVW land, there will be enough contributions to fund infrastructure identified in the Precinct Infrastructure Plan.
8. The VPA also observes, as was acknowledged by various witnesses, including Mr DeSilva who is recognised as an expert in this field, that it is common for items of enabling infrastructure to be constructed by developers in return for credits against the obligation to pay the monetary contribution. Clearly the intersections with Donnybrook Road constitute such enabling infrastructure. The VPA also observes that the Koukoura Drive arterial does not currently take traffic. On the assumption that development will extend from the north to the south (as

confirmed is the expectation from witnesses including Mr Hrelja and Mr Walsh) there is unlikely to be a short term need for the funding of this infrastructure item.

9. In their closing submission, Council made specific reference to the land equalisation and credit payments. The VPA makes the following observations:
  - 9.1. While the final land budget cannot be determined until the FUS is finalised after receiving the Panel report, initial calculations suggest that approximately 8ha of inner public purpose land will require a credit payment. This is compared to 27.6ha in the Donnybrook Woodstock ICP this is a relatively small amount.
  - 9.2. Section 46GW(2) of the Planning and Environment Act 1987 requires the collecting agency to pay the credit amount.
  - 9.3. Council's position is based on the assumption that land is non-developable. The VPA would suggest that the land will be developed, albeit some will be in the longer term.
  - 9.4. When the land is developed in the medium or longer term, there will be a requirement to pay ICP levies at that time. In this sense, the land credit payments become an issue of cash flow management (not a shortfall to Council) which is the same as every other DCP and ICP in the planning scheme.
  - 9.5. While some parcels have land which may be required early in the development a number of parks are situated at the south which on the evidence is at least 10-15 years away.
  - 9.6. It is always open to Council to negotiate the timing of its obligation to pay credits. The VPA provided a number of examples where developers have undertaken early delivery of assets as a marketing point such as Olvine and Woodlea<sup>1</sup>.
10. In summary, the VPA understands the nature of the concerns raised by the Council but considers that in respect of this PSP they are not concerns that require any specific action or recommendation from the Panel.

### **Open Space on Langley Park Drive**

11. The Council seeks the provision of a further park in the YVW land because of the proposed industrial zoning in the PSP<sup>2</sup>. The VPA observes that this location would have no through traffic

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<sup>1</sup> The Panel is encouraged to view the Woodlea website and see the way it has been marketed – the DJV submission is that this example which has seen active open space delivered early in the development life is not relevant to this case. Woodlea has seen development of active open space and commercial facilities within the first five years of building. Olvine on Donnybrook Road just a few kilometres away has active open space under construction in five years.

<sup>2</sup> Paragraph 39.

and would now, with the recent greater level of information provided by YVW, be unlikely to support a full industrial utilization and associated population. The VPA has considered this location and considers it is not an appropriate place for credited open space.

### LCCs<sup>3</sup>

12. The VPA accepts the evidence of Mr Lee in this particular matter. The decision to support an LCC or not requires consideration of individual circumstances of a matter. The VPA's position is not that no LCC can ever be appropriate or viable. However, in the specific location at the edge of urban growth boundary, and in the context of a relatively confined precinct, the VPA accepts that an LCC is not required in the circumstances.

### QUARRY ISSUES

#### Woody Hill Blast Buffer

#### 13. Barro

13.1. The VPA understands the position of Barro group regarding the Woody Hill blast buffer to be that a 200m blast buffer is appropriate (with flexibility as to development), and ought to be measured from a line taken within 20 metres inside of the parcel boundary. The VPA supports this arrangement (taken from 20m inside the zone boundary shown on the PSP, not the title boundary) and considers this view to be supported by the majority of expert witnesses.

13.2. A notable exception to this consensus was the evidence of Mr Moore. The VPA's view is that the evidence of Mr Moore should not be preferred and his evidence given little weight. The position presented in Mr Moore's witness statement was contrary to the position supported by the witness, and ultimately adopted, in the Mount Atkinson PSP. In that case his written evidence was:

*In my opinion, the main area of concern is the land between the gas pipeline easement and the QBB. The ground vibration levels from normal blasting are approaching potential minor damage levels in light framed buildings and maybe intolerable to humans. If human annoyance is ignored any buildings proposed for this zone should be reinforced or framed structures industrial and heavy commercial buildings. Therefore, they should be designed to resist the high vibration loadings anticipated. The human annoyance criteria suggests that large format retail is not appropriate in this zone. Windows should not be broken. Some heavy industry uses with a high level of noise generation may be appropriate.<sup>4</sup>*

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<sup>3</sup> Paragraph 83.

<sup>4</sup> Page 19-20 of Document 207.

- 13.3. The Panel surmised the blasting evidence as follows:  
*All relevant experts, as well as Boral, supported the VPA's proposal to prohibit buildings in the QBB (with some minor exceptions), but not works (such as car parks, access road and the like). The Panel agrees, and generally supports the VPA's proposed drafting of Clause 2.10 of the UGZ9.<sup>5</sup>*
- 13.4. In that case the PPV mm/s at the outer extremity of the blast buffer was between 18mm/s for 'special blasting' up to 26 mm/s for normal blasting. The charge mass for the special blasting zone in that case was as low as 37kg as the nearest point to the quarry blast buffer.
- 13.5. In the present case, Mr Moore's Table 2 at Page 10 calculates a 20 mm/s blast extending approximately 109 metres. At a minimum this suggests that if treated consistently with Mt Atkinson the first 100 metres would be intolerable.
- 13.6. However, further doubt is cast on Mr Moore's evidence by the evidence of Mr Marks. Both Mr Marks and Mr Moore utilised similar vibration methodologies in their assessments however Mr Marks only directly considered the Phillips Quarry. Mr Marks' evidence was plausible, fair and clear. In relation to the Phillips Quarry, Mr Marks suggested that Mr Moore's calculations utilised a 50th percentile blast rather than a 95th percentile blast. At paragraph 9.4 of his evidence statement he states:  
*Most site law determinations require that the 95th percentile of blasts (top 5 % of all blasts) comply with the requirements of AS 2187.2:2006. Hence knowledge of the 95th percentile vibration distances are required at Phillips Quarry before any relevant buffer zones can be established.*
- 13.7. In the case of the Phillips Quarry this led to a 71-metre differential for a 60 kg charge between the two experts. The VPA accepts this evidence from Mr Marks on the Phillips Quarry and has no way of understanding whether any defect in Mr Moore's evidence on the Phillips Quarry also infects the Woody Hill calculations. The VPA acknowledges the note from Mr Moore attached to the Barro reply. It expresses an opinion on Mr Marks approach but only adds to the uncertainty on this issue. This uncertainty supports a cautious approach.
- 13.8. The VPA also questions the practicalities of use configurations which may require substantial areas and developments to be evacuated during blasting. Obtaining the cooperation of surrounding landowners would represent a constraint on the quarries operation and limit the ability for this resource to be extracted in realisation of policy.

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<sup>5</sup> Document 209 – Mount Atkinson Panel Report – 9 December 2016 – para 4.4.2(i)

- 13.9. The VPA also supports the position advanced by Barro that the PSP should not show a blast restriction area on the Woody Hill quarry in proximity to the Yarra Valley Water treatment plant. The VPA submits that the quarry should be allowed to extract up to the permitted extraction boundary and the treatment plant designed (both structurally and in terms of micro siting) to ameliorate impacts on the facility from the quarry operations.

14. **Prattico Construction**

- 14.1. The submission on behalf of the owner of 75 Langley Park Drive primarily sought two changes in respect of the blast buffer:
- a. That the buffer should be taken from the boundary of the relevant activity area and subject to revision as the point of extraction moves away, and
  - b. That a range of non-sensitive developments (such as a construction depot, timber yard, or wholesale plant nursery, identified as being low capital uses with limited number of persons on site at any one time) should be able to establish within the blast buffer.
- 14.2. The submitter asserts that such changes would increase the developable potential of their property.
- 14.3. The VPA does not support the use of rolling buffers. The concept of rolling buffers has been suggested by submissions and witnesses in principle, without any witness advancing a coherent set of controls which could deliver this outcome. It is noted that evidence from experts in extractive industries disciplines acknowledged that (while in contrary to logical and orderly planning principles) extraction may cease for a time at a level, but may later return may return under amended work plans to extract stone from formally abandoned areas. For these reasons, the VPA does not support the concept of rolling buffers.
- 14.4. The VPA does, however, support taking the relevant 200-metre measurement from the activity boundary and observes that this change will result in a further increase in the developable area of PSP Property 6, 75 Langley Park Drive. This is consistent with the majority view of expert witnesses on buffer issues.
- 14.5. The VPA maintains the exhibited position regarding the construction of buildings within the blast buffer for non-sensitive uses. This is consistent with the prohibition on buildings within the 200-metre blast buffer in the Mount Atkinson & Tarneit Plains PSP. The VPA also observes there is no clear consensus amongst the various witnesses regarding whether the development of buildings within the blast buffers is appropriate.

- 14.6. Evidence such as that of Mr Moore suggests that buildings could be appropriately designed and the blast area evacuated at relevant moments. As noted above the VPA submits that these are not practical arrangements in an urban context and would restrict the freedom of the quarry to blast at intervals required to meet market demand. Planning processes do not have the authority to ensure that measures such as evacuation are complied with, leaving management measures to matters of negotiation and voluntary agreement that may further restrict quarry operations.
- 14.7. As with much of the quarry related evidence in this matter – there are detailed inherent assumptions in the material provided. Blast calculations from Mr Moore assume the particular configuration that a shot firer will adopt. While this constitutes a useful illustrative measure, it is not conclusive. The VPA prefers the range of potential charge sizes – as Mr Marks adopted in his approach.

## 15. **910 Donnybrook Road**

- 15.1. Submissions for 910 Donnybrook Road express concerns regarding the blast buffer to Woody Hill and question the fairness of controls which it says sterilise the land.
- 15.2. The position embodied in the exhibited PSP is one that appropriately reflects an appropriately conservative planning response to a risk to life and property by the Planning Authority. While buffer distances may be unavailable for urban development in the immediate future, this does not equal sterilisation forever and it is anticipated that once quarry uses cease the blast buffer may be removed and the land developed. Indeed, in the context of a long-term planning project, the impacts will be confined to a reasonable planning horizon for a PSP that may take 30 years or more to complete. The VPA notes the Barro reply submission from Paragraph 4 – 6 and observes that on that submission that the landowner entered into arrangements to purchase that land after the quarry extension process had commenced.
- 15.3. The VPA has effected some minor changes to the UGZ ordinance to make it clear that some ancillary activities such as car parking and landscaping could occur within the Quarry Blast Buffer in response to a criticism of the submitter.
- 15.4. The VPA does not agree with the view of expert witnesses such as Mr Woodland that it would be appropriate to locate infrastructure such as public roads within the blast buffer. The purpose of the blast buffer is to mitigate the risk of damage to life and property posed by blasting within the Woody Hill quarry. Indeed, the Panel has been taken to WorkSafe materials<sup>6</sup> which demonstrate that fly rock may escape the quarry

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<sup>6</sup> [https://www.worksafe.vic.gov.au/safety-alerts/rock-fragments-quarry-blast-impact-active-worksite-neighbouring-property?fbclid=IwAR2V4U-eQHGrHi7oiOmb4J7CracxDM-etLQC0s\\_8-fsGM\\_IEQ0q6qwI3ki4](https://www.worksafe.vic.gov.au/safety-alerts/rock-fragments-quarry-blast-impact-active-worksite-neighbouring-property?fbclid=IwAR2V4U-eQHGrHi7oiOmb4J7CracxDM-etLQC0s_8-fsGM_IEQ0q6qwI3ki4)

site and the damage that may be caused when this occurs. In the VPA's view, these risk factors make it inappropriate to have public roads within the blast buffer.

- 15.5. The VPA agrees with the submission that the blast buffer ought to be calculated from the extraction boundary, however the VPA does not agree with the proposed wording to the blast buffer restriction in clause 3.0 to UGZ7 advanced by 910 Donnybrook Road.
- 15.6. The Panel has been presented with two different approaches to the blast buffer through expert evidence and submissions. 910 Donnybrook Road advocates for changes to clause 3.0 to UGZ7 that would allow a risk assessment to be made at the permit application stage and could see the construction of buildings within the blast buffer in as little as 5 years' time (Barro indicate that this period should be 10 years). An alternative approach, is for the general prohibition to be reconsidered through the future reviews of the PSP. The rate of progress in obtaining statutory approvals is uncertain and the current process has not been assisted by the state of available information regarding the Woody Hill and Phillips quarries. However, the VPA submits that in 5 to 10 years' time further information will be known and this will enable a thorough review of the blast buffer to occur and if, at that point the prohibition is no longer required, the review would be an appropriate mechanism for that to be addressed.

## 16. **City of Whittlesea**

- 16.1. Submissions on behalf of the City of Whittlesea on buffer issues go primarily to land budgets for ICP purposes. The PSP reflects the ultimate land use configuration. While currently, in the VPA's submission, it is inappropriate to allow buildings to be established within the 200m blast buffer, it does not follow that this will be the case for the entire life of the PSP and the associated ICP. The VPA therefore considers it reasonable that the land use budget includes the land within the blast buffers, and these areas require contributions at the relevant time to fund infrastructure demands for those areas.
- 16.2. It would serve no useful purpose for the land within the blast buffers to be excluded from the ICP. Firstly, it is not necessary given the sensitivity testing that the VPA has undertaken with the ICP which confirms that for the land within the blast buffer there will still be sufficient funds within the ICP to fund the required basic and essential infrastructure. Secondly, the exclusion of the land from the ICP could only harm Council's finances. As noted above, there will remain some permissible activities in the short term and regular industrial activities in the longer term.



- 16.3. Furthermore, removing the land from the ICP would result in this land paying no contributions when the land is developed in the future.

**17. VPA position - Woody Hill Blast Buffer**

17.1. In summary the VPA submits that:

- a. The 200-metre distance is appropriate. The issue of a 200-metre blast buffer was interrogated as a part of the Mount Atkinson PSP where the PSP was adjacent to the Boral quarry at Ravenhall. For Amendment C162, the concept of a blast buffer and a sensitive use buffer was adopted by the Panel. The Amendment C162 Panel has informed the nature of the approach in this Amendment.
- b. As emerged through evidence such as that of Mr Antonopoulos, a smaller blast buffer may be feasible but only based on certain assumptions that are unable to be secured through this current process. The Panel has examples of how it may be possible but cannot feasibly establish a rule book through this process. Of the three blasting impacts, fly rock was not considered by Mr Antonopoulos but was a concern to Mr Marks. The only expert who calculated fly rock was Mr Moore. At his Paragraph 60 he determines for a 60kg charge at Woody Hill a 104metre area is the calculated distance of the minimum blast clearance distances. The primary contested matters regarding the blast buffer relate to what may establish within the distance, not whether the 200m is appropriate.
- c. In the absence of a workplan/permit/work authority, the PSP should assume a default extractive area boundary inset 20 metres from zone/cadastral boundary.
- d. A PSP review mechanism should be preferred over dynamic buffers. Multiple witnesses agreed with the proposition that quarry operators may return to abandoned parts of a quarry at a future stage which undermines the proposition that development will always be appropriate as soon as blasting moves away from an area. Further, although some witnesses preferred a system of dynamic buffers, no witness was able to articulate a feasible regulatory or compliance regime to deliver this outcome.
- e. Public roads and buildings should be located outside of blast buffers.

**Wood Hill and Phillips Quarries (Buffers and Separation Distances)**

**18. VPA position - Separation distances**

- 18.1. The Panel has heard extensive competing evidence regarding the correct buffers to apply from both the Phillips and Woody Hill quarries. Having heard the evidence the VPA submits that the weight of evidence favours:
- a. the calculation of buffers from the extraction boundary
  - b. a radial 200 metre blast buffer
  - c. a radial 500 metre sensitive use buffer
- 18.2. There are a range of contributing factors to the need for separation distances. These include protection in upset conditions from dust and odour (EPA Publication 1518), noise and blasting impacts (overpressure and vibration).
- 18.3. In the absence of a currently approved work authority, the VPA submits that a point 20m inside the zone boundary should be adopted as the 'extraction boundary' for the purpose of calculating buffers in the PSP. This point is adopted as an outermost point extraction could reach while providing the 20m setback in line with clause 52.09-6 of the Planning Scheme (which is variable only by permit but adopted as standard practice). The VPA does not consider the agreement between Barro and DJV to be determinative of the northern Phillips Quarry extraction limit (45m). Rather it is representative of a current intention of the parties.
- 18.4. The VPA supports the use of a 500-metre sensitive use buffer. 500 metres is the default figure for dust under EPA Publication 1518. The VPA accepts that the guidelines does not require a directional buffer through the use of meteorology in its proper interpretation (except for in respect of sewerage facilities which are separately addressed).
- 18.5. While it is acknowledged that some witnesses (such as Mr Tardio) have asserted a lesser buffer distance may be acceptable, it is of note that such assessments have proceeded on the basis of assumptions regarding the quarry operations. Those operating assumptions are not currently fixed given the Woody Hill expansion and Phillips Quarry are yet to obtain approved work authorities, in the case of the Phillips Quarry and amended permit and the Woody Hill expansion does not enjoy planning permission. Further, those operating models are not able to be secured through this process.
- 18.6. Submissions in particular from 1100 Donnybrook Rd assert that lesser distances set out in evidence ought to be adopted in this process. In the VPA's submission, this evidence ought give the Panel comfort that it would be possible to undertake extractive uses and manage buffers within the 500-metre distance and that with a discretionary control in R19 development may be possible, but it does not necessarily

follow that the lesser distance should be adopted in the PSP. The 500-metre distance reflects the default buffer distance under EPA Publication 1518 for upset conditions that relate to dust and odour (the latter being not relevant to the quarry) that may be increased or decreased as appropriate. Contrary to the view of GHD in the exhibited background report, the evidence before the Panel suggests that the buffer does not need to be greater than 500 metres. However, in the absence of an approved operating model being locked in, the Panel should be cautious to place weight on evidence suggesting a lesser distance is appropriate.

- 18.7. The VPA specifically refers to the work of Dr Cowan. Dr Cowan's evidence was that dust emissions would not impact on the residential areas in the 1100 Donnybrook Road property. It is observed that a number of conclave participants regarded his risk assessment as responding to the form required by EPA Publication 1518. The publication states that:

*Rather, the recommended separation distances are EPA's default minimum in the absence detailed site specific assessment for a proposed industrial or sensitive land use.<sup>7</sup>*

- 18.8. It is relevant to ask just what is the specific proposal in this case? Barro explicitly states at Paragraph 17 of the reply submission that its plans are not finalised.

- 18.9. The guideline states that:

*Where a variation from the recommended separation distance is sought, approval should not be given by the planning authority or other responsible authority until the relevant land use separation issues have been resolved to the satisfaction of EPA.<sup>8</sup>*

- 18.10. This process contemplates a specific proposal and a response from the authority at that time.

- 18.11. It is also observed that a 'sensitive use' for the purpose of the Guideline is:

*Any land uses which require a particular focus on protecting the beneficial uses of the air environment relating to human health and wellbeing, local amenity and aesthetic enjoyment, for example residential premises, child care centres, pre-schools, primary schools, education centres or **informal outdoor recreation sites**.<sup>9</sup>*

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<sup>7</sup> Section 7.

<sup>8</sup> Section 9.

<sup>9</sup> Section 13.

- 18.12. Clearly sensitive use incorporates public open space as a matter of the clear legal interpretation of the guideline.
- 18.13. The proper approach to varying a default distance is to put forward a specific proposal and to justify the variation in the context of that proposal (whether residential or the quarry). The VPA regards the use of the strategic process for this purpose to be the wrong vehicle for this means. In questions to the advocate for 1100 Donnybrook Rd the Panel asked for commentary on the buffers utilised at Sunbury South. The advocate stated that they were existing operations and that in the current case we have 'absolutely no idea about when it will start, in what manner it will proceed or when the stages will be completed'. The VPA agrees – there is uncertainty rather than a proposal that would justify the position.
- 18.14. The VPA also observes that Mr Cowan's modelling demonstrated a reasonably significant area of the residential properties to the north of Donnybrook Road may be affected by dust. The VPA understands from Mr Cowan's oral evidence that there is further work for Mr Cowan to do in his model by looking at the individually contributing components of the dust sources and looking at how these may be controlled to achieve 500 metres. He has not completed this work but is satisfied that 500 metres can be met. Ultimately the quarry bears the risk of demonstrating this can occur at the relevant time of a planning permit application.
- 18.15. Turning to acoustic impacts, the evidence generally suggests compliance, marginal compliance or marginal noncompliance within 500 metres of the quarry boundaries assuming sensitive receptors at this location. The VPA is satisfied that compliance could be achieved either through appropriate management at the quarry or the treatment of receptor dwellings. The evidence does not suggest that the level of compliance would be such that it can categorically be said that there will be compliance without careful consideration. For example, Mr Tardio requires modification of quarry practices in some periods and Mr Antonopoulos appears to rely on intervening buildings in the industrial area to achieve compliance.
- 18.16. The VPA is persuaded that compliance could occur with management and therefore a 500-metre buffer for noise is appropriate. The Acoustic application area decision guidelines of UGZ7 are proposed to allow this assessment to be undertaken at the permit application stage to ensure that this is addressed appropriately.
- 18.17. The configuration of buffers based on a 500-metre separation distance taken from 20 metres inside the zone boundary, results in substantially reduced buffer impacts on the land at 1100 and 1150 Donnybrook Road compared with the exhibited amendment, and improves the balance of competing interests.

## Phillips Quarry

### 19. Protection of the resource

- 19.1. The future extent of extraction within, and operational controls for, the proposed Phillips Quarry are matters beyond the scope of the PSP. However, the buffers and land use configuration within the PSP will have a bearing on the proposed quarry when Barro comes to the approval of a work plan and work authority under the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA) and, as required, any amended planning permit. The VPA's primary submission is that the Phillips Quarry is a site which policy and in particular the North Growth Corridor Plan, suggests ought to be protected and that this is to be achieved through controls that strike an appropriate balance.<sup>10</sup>
- 19.2. The Panel heard evidence from Ms Drochmann regarding the types of products that may be won from the development of the Phillips quarry and in cross examination she agreed with some rudimentary mathematics that suggested the resource has a life of up to 500 years. No party has seriously sought to rely on this hypothetical maths exercise. The VPA observes that as a mathematical exercise underlying the answer given by Ms Drochmann is correct however such an estimate is based on a series of assumptions and submits that the life of the resource is likely to be substantially less.
- 19.3. The 500-year estimate is based on the inferred mineral resource assessed by Ms Drochmann at Paragraph 10.3.6.1 of her evidence where she refers to the JORC Code (2012 edition). The JORC Code provides in respect of inferred resources:

*An 'Inferred Mineral Resource' is that part of a Mineral Resource for which quantity and grade (or quality) are estimated on the basis of limited geological evidence and sampling. Geological evidence is sufficient to imply but not verify geological and grade (or quality) continuity. It is based on exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes*

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*The Inferred category is intended to cover situations where a mineral concentration or occurrence has been identified and limited measurements and sampling completed, but where the data are insufficient to allow the geological and grade continuity to be confidently interpreted. While it would be reasonable to expect that the majority of Inferred Mineral Resources would upgrade to Indicated Mineral*

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<sup>10</sup> It is convenient to note at this point that the position of the Phillips Quarry is fundamentally different to the Conundrum quarry considered at Beveridge North West.

*Resources with continued exploration, due to the uncertainty of Inferred Mineral Resources, it should not be assumed that such upgrading will always occur.*

*An 'Inferred Mineral Resource' is that part of a Mineral Resource for which quantity and grade (or quality) are estimated on the basis of limited geological evidence and sampling. Geological evidence is sufficient to imply but not verify geological and grade (or quality) continuity. It is based on exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes.*

*An Inferred Mineral Resource has a lower level of confidence than that applying to an Indicated Mineral Resource and must not be converted to an Ore Reserve. It is reasonably expected that the majority of Inferred Mineral Resources could be upgraded to Indicated Mineral Resources with continued exploration.<sup>11</sup>*

- 19.4. Accordingly, the estimate is in line with industry practise but cannot be said to be a definitive statement of the extent of the resource.
- 19.5. In the VPA's submission this does not raise doubt that there is a substantial resource within the Phillips quarry but rather, goes to the confidence that may be placed in an estimate of the quarry having a 500 year life and in turn submissions which assert the protection provided by the PSP is unduly generous.
- 19.6. The Phillips quarry is also subject to constraints that may reduce the ability for the entire resource to be realised, with such factors including cultural heritage, electrical transmission and gas pipeline easements, groundwater and waterways. These factors may moderate the extraction of the inferred and actual resource.
- 19.7. In addition, the estimated the 500-year resource life was based on an initial 250 tonnes per annum extraction rate. While this is a reasonable initial extraction rate in the establishment phase, this is understood to represent only a fraction of the ultimate operating volumes that large quarries produce. Extraction rates are usually commercially sensitive information, but by way of example:
- a. materials in the public domain from the 2009 EES process concerning the Point Wilson Mountain View Quarry stated basalt extraction rates in the order of 1 to 1.4 million tonnes per year 12, or some 4 to 6 times the rate of extraction assumed to calculate the 500 year estimate.

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<sup>11</sup> Paragraph 21, Page 12 of JORC Code.

<sup>12</sup> MOUNTAIN VIEW QUARRY EXTENSION ASSESSMENT under ENVIRONMENT EFFECTS ACT 1978 Minister for Planning September 2009 – paragraph 1.3.

- b. At Boral Deer Park 'the quarry produces between two and three million tonnes of basalt-based aggregate each year'.<sup>13</sup>
  - c. The VPA understands from DJPR that between FY2015-16 and FY2018-19, there were 10 hard rock quarries in Victoria that produced on average between 1 and 3 million tonnes of hard rock per annum.
- 19.8. Therefore, if a 123,700,000 tonne inferred resource was, despite some obvious and some unknown constraints, converted to actual resource that was extracted at 1.25million tonnes per annum, it would be exhausted within 100 years, not taking into account a broad range of constraining and process/operational factors that would likely reduce the underlying resource potential. These factors suggest that the reservation is far less generous than indicated by the questions put to Ms Drochmann. It is submitted these factors support the VPA's position that the full extent of the Phillips site should be protected for extractive resources and the quarry should not be required to provide extensive internal buffers.
- 19.9. At this time, little is known by the VPA about the future Phillips Quarry. Barro's reply submission indicated that planning is still afoot.
- 19.10. The VPA accepts that access will continue to Donnybrook Road as contemplated by the Barro DJV agreement. It observes that a southern road is also contemplated. While it was said this was for the purposes of emergency access this is not evidenced in the agreement.
20. **R19**
- 20.1. Requirement R19 was contested primarily through submissions and expert evidence called by 1100 Donnybrook Rad and Donnybrook Unit Trust.
- 20.2. The planning scheme contains clear policy for the protection of extractive resources. This was recognised by the various planning witnesses throughout the hearing who all preceded on the basis that the resource ought to be protected but diverged on how that policy should be realised where sensitive use buffers will overlap with a planned residential area.
- 20.3. The VPA acknowledges there is uncertainty regarding the future extraction profile of Phillips quarry and that this uncertainty will remain until the work authority is granted.
- 20.4. The PSP has been planned to mitigate this uncertainty without future extraction. Early in the proceeding Mr Glossop opined that R19 should be reworded to provide a greater balance between the ability for the future residential area to establish and the protection of the quarry. In the broadest terms, the witnesses that followed

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<sup>13</sup> <https://www.boral.com.au/locations/boral-quarries-deer-park>

advised on a similar basis but advanced different wordings and considered a balance would be achieved at a varied point. For example, Ms Horsfield acknowledges that the 15-year timeframe specified in the VPA memorandum on this issue was an improvement but did not resolve all her concerns. In contrast Mr Barnes, supported wording of R19 in a way that that contained discretion to grant permit within the future residential area, and asserted that proposed development would not reach this area of the PSP for approximately 10 to 15 years.

## 21. VPA position - R19

21.1. R19 has been a key issue in dispute throughout the hearing. The VPA accepts expert planning evidence to the effect that exhibited R19 did not strike an appropriate balance between extractive resources and urban development. The VPA after consideration of the written evidence with DJPR agrees that there should be no prohibition on the making of a planning permit application for land within the PSP from the time of gazettal of the PSP and ICP. This was reflected in the draft wording first circulated to the parties on 26 November 2020.

21.2. To this end, the VPA would be surprised to learn if any party was proceeding on the assumption from that time that the VPA was pursuing a prohibition of development.

21.3. In its tracked changes PSP document circulated 18 December 2020, the VPA proposed the following wording of R19 (now R20):

*Development (including subdivision) in the “future residential area” identified on Plan 3 should not unreasonably reduce the ability to:*

- *extract stone resources within 480 metres of the future residential area within 15 years of gazettal of the PSP; or*
- *carry out any approved stone extraction operation for the Phillips Quarry.*

21.4. Notable changes compared to the revised R19 in document 196 are:

- a. The requirement is now discretionary, in that the provision is expressed as a ‘should’ rather than a ‘must’. This change is proposed in response to the evidence of Mr Barnes who expressed support for R19 in a discretionary form.
- b. The words ‘efficiently and practicality’ have been replaced with the words ‘unreasonably reduce’. These are qualitative measures that can be assessed by the responsible authority or Tribunal. While DJPR remains a determining referral authority for permit applications in the future



residential area, the decision of the determining referral authority is subject to review rights in the usual way.

- c. Consistent with the VPA's position on buffer distances, the revised requirement references a 480-metre distance – being a distance of 500 metres taken from a deemed extraction boundary 20 metres inside the zone boundary.

21.5. The VPA submits that, in conjunction with the reduced buffer distance (extending 70 metres less when compared to the exhibited position), the revised drafting of R19 (now R20) will achieve the balance sought by the various planning witnesses. On the VPA's drafting, development within the sensitive use buffer is permissible and may be assessed through a permit application process and, if necessary, on review to the Tribunal.

21.6. This opportunity is to be assessed against the evidence that:

- a. It is estimated to be 10-15 years before development reaches the impacted land (Barnes) noting that services will come from Donnybrook Road.
- b. The housing stock in Shenstone Park is substitutable with stock in other local precincts (Barnes).
- c. The VPA's revised position on buffers will reduce the amount of affected land. Even with evidence based the exhibited plan the evidence did not suggest that any loss of housing would prevent the activity centre from establishing or make it unviable.
- d. Mr Hrelja's written evidence suggested an impact of 300 dwellings (on the exhibited) to 83 dwellings (Addendum). It cannot sensibly be contended that a potential *delay* of delivery of this number of houses will on any relevant scale impact the delivery of housing through the north growth corridor.

21.7. The VPA's revised position is pragmatic and a concession that allows consideration of a permit application. This will create appropriate tension in the system that will encourage the operator to be in and out and will permit development to occur provided it does not reasonably impact the quarry.

## Woody Hill expansion

### 22. Barro Group

- 22.1. Submissions on behalf of Barro Group seek changes to the FUS to allow Woody Hill Quarry to expand north and east to the full extent of the proposed WA6437. The VPA agrees with the characterisation of policy on extractive industries but does not agree with the implementation of that policy, sought by Barro.
- 22.2. As the VPA understands it, the position advanced by Barro is that the quarry should be allowed to expand further north than is shown on the exhibited PSP and should be allowed to expand east but only to the current title boundary – the difference in the VPA and Barro positions on the expansion area is therefore that Barro would see expansion further north than the VPA position, while the VPA would see expansion further east than is sought by Barro.
- 22.3. In response to evidence and submissions the VPA proposes further revisions to the FUS that extends the future extraction area for Woody Hill further north, although not all the way to the boundary of WA6437.
- 22.4. The northern extent of the expansion area in the exhibited PSP was designed to ensure that buffers did not encroach upon sensitive uses within the approved Donnybrook Woodstock PSP area – a future residential area which is already establishing. The evidence before the Panel is that buffer distances can be less than the conservative approach adopted in the background reports which informed the PSP.
- 22.5. The majority of witness on amenity issues consider the buffer distances should be calculated from the extraction boundary and not from the title boundary – the VPA does not oppose this position. Further, submissions from Barro Group assert that while there is no currently approved work plan for the Woody Hill expansion, the extraction area is likely to be at least 20m inside the work authority boundary. The combination of reduced buffer distances (500m down from 550m) and the setback of extraction from the work authority boundary acknowledged by the quarry operator (20m) suggests that the extent of extraction may be able to extend further north than shown on the exhibited PSP, without buffers overlapping with sensitive uses within the Donnybrook Woodstock PSP area.
- 22.6. However, the VPA notes that the ability to extend the quarry to the north is limited by the alignment of the Tributary of Merri Creek. Accordingly, the VPA proposes to extend the expansion area only so far as the exhibited tributary alignment, which is more than 480 metres (being a 500-metre buffer, less a 20 metre setback of extraction from the zone boundary) from the northern side of Donnybrook Road. This expansion extends the area of extraction through much of the area sought by Barro. However, it would not prevent a permit application for a further northern expansion (for that part of WA6437 not within the extension) should the waterway be relocated through

detailed design in association with Melbourne Water, given extractive industry is a section 2 use under the applied Industrial 1 Zone.

- 22.7. It would be a matter for the permit application stage and any concisions to assess whether the operating model proposed (and appropriately conditioned) would result in an acceptable safety and amenity outcome.

23. **Donnybrook Joint Venture (DJV)**

- 23.1. Submissions advanced by DJV regarding the quarry expansion give priority to the northern expansion of the Woody Hill quarry while asserting that the expansion to the east of the existing cadastral boundary should be limited to land required for the construction of a bund and, in respect of the south-eastern corner, access between the Phillips and Woody Hill quarries. This arrangement is reflected in the agreement between DJV and Barro and the DJV FUS.

- 23.2. It is appropriate to address the unevidenced claims from DJV about the need for the eastern expansion to the quarry being a product of planning error in the preparation of the Donnybrook Woodstock PSP to account for the northern expansion. The barest research debunks the speculation:

- a. WA6437 was submitted on the 20 February 2018.
- b. Donnybrook Woodstock was exhibited over two years earlier on 19 November 2015.
- c. Barro did not submit to the PSP process.

- 23.3. Below is an extract from the publicly available register of work authorities.

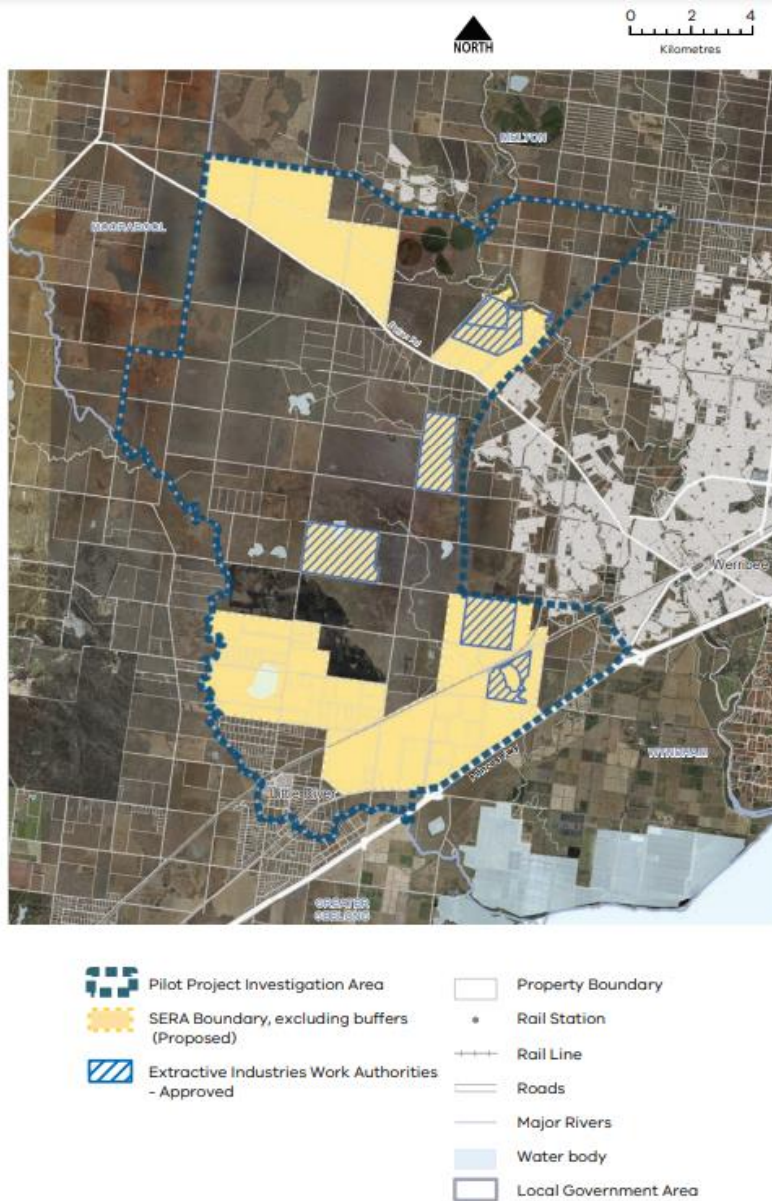
Tenement Type	Tenement No	Applicant	Plan No	Plan Stage	Plan Currently With	Submitted Date	Statutory Endorsed Date	Cumulative Days with Dept	Cumulative Days with App
<b>Work Authority</b>									
Work Authority	WA211	Defor Pty Ltd	PLN-000739	Applicant Info	Applicant	23-Jun-17		136	708
Work Authority	WA284	Burdett Sands Pty Ltd	PLN-000753	Statutory Endorsed	Applicant	29-Nov-18	12-Feb-19	45	737
Work Authority	WA312	A1 Sand Supplies Pty Ltd	PLN-000851	Applicant Info	Applicant	15-May-12		61	2,882
Work Authority	WA318	K & R J Matthews Quarries Pty Ltd	PLN-000603	Applicant Info	Applicant	9-May-17		27	1,107
Work Authority	WA346	Keilor Melton Quarries Pty Ltd	PLN-000819	Applicant Info	Applicant	19-Feb-14		50	833
Work Authority	WA385	Hanson Construction Materials Pty Ltd	PLN-001121	New	Applicant			0	320
Work Authority	WA410	Rigby Brothers & Co Pty Ltd	PLN-000923	New	Applicant			0	474
Work Authority	WA440	Central Pre-Mix Concrete Pty Ltd	PLN-000669	Applicant Info	Applicant	19-Oct-16		262	746
Work Authority	WA484	Waterfall Quarries Pty Ltd	PLN-001205	Submitted	Earth Resources Regulation	8-Jan-19		84	129
Work Authority	WA492	Barro Group Pty Ltd	PLN-000720	Applicant Info	Applicant	21-Feb-18		58	842
Work Authority	WA517	Co Va Trois Nominees Pty Ltd	PLN-000895	Applicant Info	Applicant	29-May-14		866	993
Work Authority	WA558	BQ Nominees Pty Ltd	PLN-001222	Applicant Info	Applicant	15-Feb-19		47	99
Work Authority	WA618	Lima South Quarry Pty Ltd	PLN-000771	New	Applicant			0	782
Work Authority	WA637	K & J Baker Quarries Pty Ltd	PLN-000820	Applicant Info	Applicant	11-Jan-18		91	560
Work Authority	WA827	Grand Ridge Plantations Pty Ltd	PLN-000852	Applicant Info	Applicant	21-Aug-18		27	802
Work Authority	WA1149	Gregory James Newton	PLN-001114	Agency Referral	Applicant	14-Feb-19		42	287
Work Authority	WA1390	Porter Excavations Pty Ltd	PLN-001185	Agency Referral	Agency	1-Apr-19		62	135
Work Authority	WA1395	Industrial Sands & Gravels Pty Ltd	PLN-000796	Submitted	Earth Resources Regulation	29-Mar-19		74	608
Work Authority	WA1401	Bulmans Garden Supplies Pty Ltd	PLN-001238	New	Applicant			0	94
Work Authority	WA1443	Yea Sand & Gravel Pty Ltd	PLN-000241	New	Applicant	26-Jun-13		0	1,013
Work Authority	WA1504	Goldfield Gravel Pty Ltd	PLN-001278	Submitted	Earth Resources Regulation	12-Jun-19		19	5
Work Authority	WA1515	Lalrobe Valley Sands Pty Ltd	PLN-000271	Applicant Info	Applicant	9-Feb-17		123	1,149
Work Authority	WA1525	Western Quarries Pty Ltd	PLN-000623	Submitted	Earth Resources Regulation	15-Mar-18		46	1,056
Work Authority	WA1528	Central Highlands Excavating Pty Ltd	PLN-001220	Applicant Info	Applicant	8-May-19		36	110
Work Authority	WA1553	MJ de Fries Nominees Pty Ltd	PLN-000845	New	Applicant			0	829
Work Authority	WA006052	Barro Group Pty Ltd	PLN-000412	New	Applicant			0	1,467
Work Authority	WA006067	Northern Grampians Shire Council	PLN-000430	Applicant Info	Applicant	16-Aug-17		182	1,270
Work Authority	WA006211	Beth-Eden Pty Ltd	PLN-000522	Statutory Endorsed	Applicant	22-May-15	19-Feb-16	0	1,258
Work Authority	WA006250	Macalister Earthmoving Pty Ltd	PLN-000523	Applicant Info	Applicant	14-Nov-18		27	1,223
Work Authority	WA006382	South Coast Lime Pty Ltd	PLN-001242	New	Applicant	2-Apr-19		0	90
Work Authority	WA006382	Barro Group Pty Ltd	PLN-000928	New	Applicant			0	440
Work Authority	WA006386	Moree Quarries Pty Ltd	PLN-000670	Agency Referral	Agency	8-Feb-18		190	813
Work Authority	WA006432	juhdelkato	PLN-000728	Applicant Info	Applicant			0	878
Work Authority	WA006437	Barro Group Pty Ltd	PLN-000723	Agency Referral	Agency	28-Feb-18		114	775
Work Authority	WA006440	Nagambie Resources Ltd	PLN-001230	New	Applicant			0	124
Work Authority	WA006643	David William McClure	PLN-000916	Submitted	Earth Resources Regulation	19-Sep-18		107	363
Work Authority	WA006712	Swan Hill Rural City Council	PLN-000913	New	Applicant			0	504
Work Authority	WA006766	Krouse Bricks Pty Ltd	PLN-001115	Submitted	Earth Resources Regulation	30-Oct-18		106	223
Work Authority	WA006788	Paul Robert Lester	PLN-001177	Applicant Info	Applicant	21-Feb-19		41	196
Work Authority	WA006789	Paul Robert Lester	PLN-001178	Statutory Endorsed	Applicant	26-Feb-19	18-Apr-19	66	175
Work Authority	WA006790	Paul Robert Lester	PLN-001179	Applicant Info	Applicant	26-Feb-19		86	158
Work Authority	WA006791	Paul Robert Lester	PLN-001180	Applicant Info	Applicant	21-Feb-19		41	203

Earth Resources Regulation- Work Plans / Work Plan Variations in the regulatory system as at 30 June 2019

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- 23.4. What has happened over the period since Donnybrook Woodstock was exhibited is that many of the documents relating to stone resource policy that the VPA and Barro have taken the Panel to have been prepared and associated policy formulated.
- 23.5. At agency consultation in April 2019 DJPR submitted that it was important to achieve security that would 'allow for current and future expansion opportunities for long term extraction at the sites'. It is the need to secure both quarries as long-term opportunities that informs the eastern and northern expansion.
- 23.6. It is plain that Barro consider there to be rock to the north. The extent of the northern expansion is governed by buffer and other features. Barro also propose to expand to extract to their current eastern boundary. It is also plain on the evidence that the valuable rock formation extends further to the east. This is clear on the Drochmann evidence and the evidence of Mr Maltby for DJV.
- 23.7. There is something to be said about the Maltby evidence for DJV. Mr Maltby's principal work is in landfills and has been for some time. He made a series of broad assertions that were unsupported or that require consideration:
- When he indicated that there was no 'strategic justification' for an eastern expansion this was not a planning assessment – that would be beyond his expertise.

- b. He had undertaken no more than that a 'back of the envelope' cost benefit analysis for the revenue and costs of the eastern expansion.
  - c. When he asserted that the 'cost and time to obtain permits to extend the Woody Hill Quarry to the east and to negotiate a new agreement between the parties would not be justified' he did not know how long the existing agreement had taken, what the cost could be and acknowledged that there is a still an approval process to occur at Woody Hill. If there is still a process the VPA considers the extension could be included in that process avoiding duplication.
  - d. He did not know and made no enquires about when the Phillips Quarry would operate from meaning the impact of any time delay cannot be evaluated.
  - e. Extraction is possible if quarry expansion were planned in a way to realise this resource (by, for example, not first constructing bunds on this footprint but accommodating such attenuation to reflect an ultimate extraction limit).
  - f. In summary, that evidence did not provide persuasive, if any support for the DJV proposition against the eastern expansion.
- 23.8. The VPA does not agree with the proposition put before the Panel that strategic planning should proceed on the basis of private commercial agreements between parties but rather submits that strategic planning ought to be driven by policy considerations. Mr Milner agreed in cross examination that as a principle cadastral or work authority boundaries should not determine strategic planning outcomes, acknowledged there is policy support for maximising stone resource extraction in the area, and accepted it was appropriate to facilitate expansion of the extraction area both north and east of the current work authority boundary.
- 23.9. Strong policy exists for the protection of the extractive resource. Against this, DJV relies on a commercial agreement between two parties that by its operation limits the extent of the eastern expansion. The VPA submits the resource ought to be protected to the extent possible without sensitive use buffers overlapping with the planned residential areas in the east of the PSP.
- 23.10. The principle of identifying potential future extractive industry operations on land outside of work authority boundaries in a core principle of the proposed State Resource Overlay for extractive industries proposes (the SERA project) exactly that:



**Figure 17** Wyndham: Proposed SERA pilot boundary

- 23.11. This is the time to make strategic decisions about resources and to establish a policy framework that will encourage the outcome that strategic planning seeks – this is all that strategic planning can do. The VPA continues to support the identification of an extended area for resource extraction. The market will determine the availability of that area, but the direction of strategic planning will be an influence on that market.
- 23.12. In short, there is consistent evidence before this Panel that:
  - a. Quarries expand both vertically and laterally with variations and additions.

- b. There is rock to the north and east of the Woody Hill Quarry.
  - c. Both quarries are long term quarries.
  - d. There are a potential 2-3 benches in the area identified by the VPA (Drochmann).
  - e. There is strong policy support for the protection and realisation of stone resources at a general level in Victoria and at this location in the North Growth Corridor Plan.
- 23.13. Against this there is the agreement between the parties and the presented stated intentions it represents.
- 23.14. It is relevant, that the agreement between Barro and DJV has been revised even in the course of this proceeding (see, e.g. document 201 regarding the term sheet dated 18.11.2020, and document 164 regarding the agreement dated 30.08.2020). Agreements can and do change in line with the commercial interests of the parties and often in response to strategic planning. Natural resources, in contrast, exist in situ and are not readily replaced.
- 23.15. Submissions have also questioned the justification for the eastern expansion shown on the exhibited PSP and whether it is planned in the nature of ‘compensation’ for not showing expansion over the whole of WA6437. For the avoidance of doubt, the VPA repeats its earlier submission that the eastern expansion of the quarry is not a response to the limits placed on the northern expansion. The VPA considers both are warranted . The exhibited position is consistent in respect of both the northern and eastern expansion areas. That is, the expansion should be facilitated to the maximum extent possible without sensitive use buffers overlapping with residential areas. In the case of the northern expansion limit these are residential areas within the Donnybrook Woodstock PSP area and within the Shenstone Park PSP area these are the planned residential uses located consistent with the North Growth Corridor Plan.
- 23.16. The VPA disagrees with the DJV FUS for many reasons previously stated, including the overlap of sensitive use buffers with residential areas, where these uses are taken from the extent of the expansion area (the latest DJV FUS (document 227) – measures a 500 metre buffer from a point inset 50m from the property boundary). The Panel has not heard evidence that sensitive uses should be allowed to establish inside the relevant separation distance (although that number is the subject of contested evidence).

## 24. **910 Donnybrook Road**

- 24.1. 910 Donnybrook Road expressed support in submissions for the exhibited extent of the northern expansion of the Woody Hill quarry. This was consistent with the evidence of Mr Woodland on the issue regarding the balancing of policy which seeks to protect the resource against other policy promoting the Urban Development of land within Melbourne's urban growth boundary, the need to ensure that sensitive used buffers do not overlap with planned residential within the Donnybrook Woodstock PSP area. The VPA acknowledges that increasing the extent of the northern expansion area would increase the extent of 910 Donnybrook Road that is within the 200-metre blast buffer. This would be partly offset by taking the 200-metre measurement from a point 20 metres inside the zone boundary.

## 25. **VPA position**

- 25.1. In summary the VPA acknowledges:
- a. Various draft plans have been tabled with the Panel or considered by experts. Despite this there remain many unknowns about the quarry operations. In part this is because WA6437 does not have an approved work authority, nor a planning permit.
  - b. In the absence of a permit or work authority, the PSP should assume a default extractive area boundary inset 20 metres from zone boundary.
  - c. The resource in and around Woody Hill is valuable and ought to be protected, in line with policy for the protection of extractive resources, to the maximum extent possible without creating land use conflicts with sensitive uses.
- 25.2. Accordingly, the VPA submits that the:
- a. Eastern expansion should be shown to the maximum extent possible while maintaining a 480-metre separation distance from residential sensitive uses to the east. The VPA proposes that extent of residential land be maintained as per the Part A PSP, and the expansion area be extended by the extent of the reduced buffer. This results in an additional 70 metres of extraction area (the result of changing from a 550-metre buffer taken from the zone boundary, to a 480-metre buffer taken from 20 metres inside the zone boundary). This will provide additional land & rock for extraction, allowing the quarry to move into higher quality materials to the east in line with the evidence of Ms Drochmann. The additional extent of expansion will also improve the viability of this expansion, taking the



expansion width from approximately 100 metres to approximately 170 metres.

- b. Northern expansion boundary should be shown as far north as possible in light of the constraints of buffers and the waterway. Given the quarry expansion is proposed after the approval of the Donnybrook Woodstock PSP, the VPA considers that the quarry is the agent of change and accordingly must respond to the existing planned sensitive uses north of Donnybrook Road. The quarry operator may be able to demonstrate, through a permit application for land within the applied Industrial 1 Zone, that lesser buffers are appropriate. To the extent that evidence before this Panel has demonstrated a lesser buffer is appropriate, the VPA submits that this evidence should be given limited weight given it is predicated on future operational assumptions that are not able to be secured through this process.
- c. Consistent with this rationale, the VPA proposes to maintain the general approach of the exhibited PSP by showing the northern extent of WA 6437 as far North as possible without buffers overlapping with Donnybrook Woodstock PSP or the expansion area conflicting with the exhibited waterway alignment. Consistent with the position of the VPA as set out elsewhere in this submission on buffer distances, this will result in the extent of the quarry and SUZ shown on the future of infrastructure being positioned further North than the exhibited version.

### **Employment Area East and North-East of Woody Hill Quarry**

#### **26. Barro**

- 26.1. Submissions for Barro Group seek to reduce the area of industrial land north of the Woody Hill quarry and instead extend the special use zone to the maximum extent of work authority WA6437. The VPA acknowledges the intent of this submission but does not consider the case has been made that such an expansion could be conducted in a way that ensures sensitive use buffers do not overlap with residential development within the Donnybrook Woodstock PSP. Barro's current assessment by Dr Cowan suggests that the existing modelling for upset conditions to the north extends into the residential areas. His evidence, accepted by the VPA, is that this could with further work and investigation potentially reduce the buffer to 500 metres. There is no justification for a distance of less than 500 metres from the northern sensitive uses. This position now appears to be adopted by Barro.

#### **27. DJV**

27.1. The DJV FUS proposes significant revisions to the future urban structure shown on the exhibited PSP. Despite this, the DJV FUS employs industrial land in proximity to the Woody Hill quarry in much the same way as the exhibited PSP. In closing submissions, DJV stated:

*The need or desire to protect extractive industries can be put to one side. DJV takes no issue with providing employment land in the buffers for the Woody Hill Quarry, whatever the buffers are determined to be.<sup>14</sup>*

27.2. Indeed, despite the extensive planning evidence called before the panel the use of the applied Industrial 1 Zone surrounding the quarry has not been substantively challenged.

27.3. The case has been put on the basis that the quarry should be curtailed to the extent of the DJV/Barro agreement and the industrial land set further to the west with the resulting additional land be accommodated to expand the residential area further west.

27.4. There has been no assessment of residential demand made to quantify a shortage of residential land in this particular area or that the increase sought by the submitter would make a material difference on a broader scale. Mr Quick was briefed to undertake detailed analysis of industrial supply but no analysis of residential supply.

27.5. The VPA agrees with Mr Quick that in this location it is not anticipated that the largest industrial users are likely (but not definitively) to be attracted to other industrial parks. Table 6 of his evidence at Page 25 evaluates the success factors for 'Major industrial Development'. As he fairly agreed his ratings would differ (and improve) for other employment uses.

27.6. The VPA's criticism of the DJV position is that it has based its employment need analysis on one type of employment generator. This in the context of an evolving employment market. The VPA considers that Mr Quick's analysis simply underplays the basic planning strengths of this location. The location has:

- a. Population on the doorstep.
- b. The PPTN in a train station.
- c. Access to major roads to the east and the west.
- d. Access to materials.

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<sup>14</sup> Document 228 – DJV closing submission, para 28.

e. Planned buffers.

- 27.7. The Panel in deliberating is invited to revisit Mr Quick's Table and look at these factors not for 'Major Industrial' but for the uses permitted under the C2Z, the INZ1 and the INZ3. These uses include office and other non 'industrial uses'. The VPA submits that this location has the ingredients, on any basic planning assessment to be a successful employment centre.
- 27.8. In contrast the evidence of Dr Spiller recognised the importance of providing abundant industrial land, the structural vulnerabilities in the economy exposed through the COVID-19 pandemic and the dangers associated with "chipping away" at the provision of employment land.
- 27.9. Dr Spiller notes the role and purpose of MICLUP to 'put in place a planning framework to support state and local government to more effectively plan for future employment and Industry needs, and better inform future strategic directions.
- 27.10. Consistent with MICLUP (state policy on industrial and commercial land use), the VPA submits that the industrial and broader employment areas within the PSP will provide a logical use of 'buffer' zones between the quarry and sensitive uses while providing land for employment uses to establish in the short and long term.
- 27.11. DJV criticised the MICLUP policy document. It is and remains the most recent expression of State government policy on employment land uses. It is highly relevant to the Panel's consideration and the VPA adopts Mr Spiller's position above.
- 27.12. In response to DJV's assertions:
- a. At Paragraph 42 of the DJV submission, the submission asserts MICLUP does provide a concept of 'regionally significant industrial precincts'. The definition of these was not included in the DJV submission but it is:

*These are key industrial areas that contribute significantly to local and regional economies. Some of these areas are well established and support a range of industrial uses while others are transitioning and supporting new uses. They include future employment areas identified through Growth Corridor Plans. These areas need to be planned for and retained either as key industrial areas or locations that can transition to a broader range of employment opportunities.*

*Criteria has been developed as a basis for identifying these locations.<sup>15</sup>*

- b. DJV at Paragraph 43 state that the plan contemplates introducing new policy into the Scheme. It is correct to note that the report identifies further actions but these are actions to implement the report – they are not actions that seek to take away from the report or change its operation.
- c. At Paragraph 44 DJV quotes from page 33 of the Strategy. The Panel is referred to the very next following paragraph which confirms the relevance and importance of the strategy in decision making:

*All planning agencies will need to give weight to the classification of the land in the hierarchy and the directions in this plan and other state policy when considering future land use and development opportunities. A classification of state, regional, or local significance reflects the policy aspiration for the area or precinct. The classification may arise because either a location has been assigned a level of significance through a strategic land use plan, or because of the location's existing attributes. State government will be responsible for designating state and regionally-significant industrial and commercial land when undertaking metropolitan, or regional wide planning.<sup>16</sup>*

- d. At Paragraph 45, DJV are critical of the public consultation. There is no basis for this criticism. Many important policy documents at State Government level are ascribed weight and were not tested at a Panel. For example, the Marine and Coastal Policy or the extraction policies referred to in this matter. It would be incorrect to read down MICLUP on this basis.

27.13. The VPA rejects the notion that MICLUP is anything but a policy in its own right. As a new policy it will over time reshape existing policies around it, but this does not derogate from the importance of the policy itself.

## 28. **910 Donnybrook**

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<sup>15</sup> Page vi

<sup>16</sup> Page 33.

- 28.1. The VPA observes that much of the case of 910 Donnybrook Road turns on the realignment of the waterway and road network, which is not agreed for the reasons set out in the Part A and B submissions and addressed later in this submission.
- 28.2. The VPA notes, however, the evidence of Mr Woodland that irrespective of the road or waterway alignment land shown as light industry east of the connector road at IN-02 should be shown as 'business'. The VPA supports this change to the applied zoning, but proposes to retain the road & waterway network, as well as the industrial zoning in the south-east corner of the site.

**29. VPA position**

- 29.1. The VPA respectfully requests the Panel recommend the PSP be adopted without revisions to the extent of industry/employment land, save for showing land east of the north-south connector on 910 Donnybrook Roads as business.

**YARRA VALLEY WATER FACILITY AND LANGLEY PARK DRIVE LAND USE**

**Potential future road connection to land south of the PSP**

**30. Landream**

- 30.1. The Panel has heard submissions on behalf of Landream (noting submissions were not advanced on behalf of Austral Bricks) regarding the provision of potential future road connections to the south. In particular, the submission seeks to ensure that, if as a result of a future planning process for land south of the PSP area, a connection into Langley Park Drive is desirable, the construction of Langley Park Drive is not blocked by, and is considered generally in accordance, with the Shenstone Park PSP.
- 30.2. The VPA supports the general intent of this submission and agrees that the PSP should recognise an opportunity for a potential future connection, although the actual connection itself should not be shown in the PSP. This is due to the planning for land to the south being in its preliminary stages, as well as the constraints represented by the BCS area and the utilities easement.
- 30.3. In submissions, various potential solutions were advanced such as showing a potential future connection with an arrow, or including a guideline that referenced a potential future connection, with the proposition advanced that either would ensure that the future development of a road was considered generally in accordance with this PSP.

**31. VPA position**

- 31.1. The VPA has considered these suggestions as well as the broader submissions regarding Langley Park Drive and proposes to show a dashed line with an arrow into the transmission easement but stopping short of the conservation area. The VPA also propose to include a notation “Possible future connection if required to support development to south, subject to approval by the Responsible Authority, transmission authority and DELWP MSA. Cost of development for road south of connector to be fully apportioned to development south of the PSP”
- 31.2. The VPA submits that such wording would appropriately balance the desire for a potential future connection to be recognised through this process, with the delivery of the road being subject to the strategic justification, resolution of constraints, and funding of that connection being resolved through a further strategic process for the land to the south.
- 31.3. The VPA understands that this position resolves the submission by Golina.

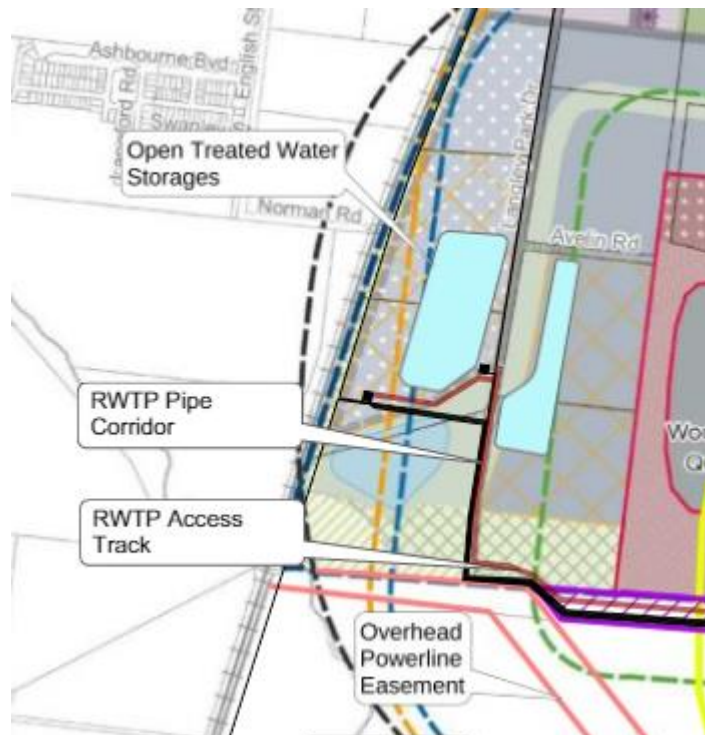
#### **Yarra Valley Water Treatment Facility**

32. The VPA sought to engage with Yarra Valley Water during the preparation of the PSP and prior to the start of the Panel hearing. In the Part A PSP, the VPA proposed changes that omitted the odour buffer and conceptual shape of the proposed facility. This was proposed on the basis that the planning for the facility had not reached a point of adequate certainty for the facility to be meaningfully represented in the PSP. Similar concerns were raised in the Council’s submission to this Panel.
33. Since the Part A PSP was circulated, Yarra Valley Water has filed substantial material with the Panel, including expert odour evidence based on a more detailed, although conceptual, design of the potential future water treatment facility. The VPA also notes the Golina submission (Document 277) states:
- Golina and Yarra Valley Water have been able to arrive at a commercial agreement in respect of the siting of this facility, which generally aligns with the originally exhibited location and we would request that the PSP reflect this (paragraph 17)*
34. Yarra Valley Water have advanced submissions in favour of recognising the future recycled water treatment plant. The VPA proposes the following revisions to the PSP regarding the plant:
- 34.1. Update terminology to reference the facility as the “Wollert Recycled Water Treatment Plant”.
- 34.2. Replace the green asterisks shown on the Part A PSP with a conceptual shape as provided in the Yarra Valley Water submission.

- 34.3. Include an odour buffer to Plan 15 of the PSP, in line with the evidence of Mr Pollock.
- 34.4. Include a note on Plan 15 setting out the underlying assumptions (volume) of the facility.
- 34.5. Update clause 2.5 of UGZ7 to exclude a utility installation from the building prohibition within the Woody Hill blast buffer.
35. Consistent with the evidence of Mr Glossop, Mr DeSilva, Mr Milner, and Mr Ramsay the VPA proposes to include Secretary to the Department administering the Mineral Resources (Sustainable Development) Act 1990 (in essence, DJPR) as a determining referral authority for "An application to develop land for the purpose of a utility installation on land identified as 'potential future water treatment facility' on Plan 3 of the Shenstone Park PSP".

### Langley Park Drive Use

36. The exhibited amendment included the YVW land parcels along Langley Park Drive with an applied industrial 1 Zone for land identified as 'utility'.
37. Document 117 constitutes the level of detail that has been provided to date by YVW with respect of the water storage ponds. An extract of this document is included below.



38. It depicts substantial areas outside of the water ponds within the yellow 'hatched' area. The YVW submission identifies that there is uncertainty in the layout for these areas (it is based on a 'preliminary understanding'<sup>17</sup>)
39. It is the VPA's view that at this level of certainty it would be inappropriate to place all the land within a PUZ at this time. The proposed uses are section 1 uses and no permit will be required. It is appropriate that any ancillary land is utilised for appropriate urban purposes and that this land has no advantage to other land within the PSP.
40. The VPA maintains the Part A PSP position that the PSP should show applied zones to Yarra Valley Water owned land along Langley Park Drive. Consistent with the submission from Yarra Valley Water, utility installation is shown as a section 1 use under UGZ7 on the land identified for the holding ponds.
41. The land identified as holding ponds by YVW (as shown in Document 117) will be excluded from infrastructure contributions. The remainder of YVW's holdings on Langley Park Drive will be liable for infrastructure contributions. If additional land is required for holding ponds, there can be an exemption to the monetary levy, but they will still be required to pay any Land Equalisation amounts.

#### **SODIC AND DISPERSIVE SOILS AND THE POTENTIAL RISK OF EROSION**

42. The VPA relies on the evidence of Dr Sandercock on these issues which was largely uncontested before the Panel.
43. The VPA acknowledges the detailed and sensible submissions of the Merri Creek Management Committee. The chief criticism of the VPA appears to be the timing of its report into sodic soils. The VPA accepts that commentary and notes that recent panels have shone a light on these issues. This is likely to mean that work programs for future PSP background documents will more thoroughly address the issues.
44. The VPA also observes that the work undertaken by Jacobs did directly consider the FUS in preparing its assessment and concluding that the development proposed could be managed.
45. Lastly the VPA observes that it is the urbanisation of land that stimulates investment in waterways that would otherwise not occur. The VPA refers to a document it submitted in the Beveridge NW Panel where its position on Sodic Soils was supported that demonstrates some examples of this transition.

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<sup>17</sup> Paragraph 38 of the YVW Submission (Document 246) states "The storages indicated on Panel document 117 are based on a preliminary understanding of the amount of Class B recycled water required to be kept in buffering storage, and geotechnical considerations. They provide a good indication of the likely location and extent, but unlike the activity boundary for the RWTP itself, it is not possible to conclude with certainty that the storages will be located only in those areas indicated on that document".



## VISION, OUTCOMES AND GENERAL MATTERS

46. The VPA observes that the Panel had heard limited submissions and evidence on general matters.
47. Barro submission support the proposition that strategic planning very clearly prioritises extractive industries over urban development in this location.
48. VPA has put forward drafting of the Vision Statement (in submission 18 December) that borrows from the expert evidence of Mr De Silva This wording (contained in the Part C PSP filed 18 December) will aid the interpretation of the PSP and further contextualise the PSP's approach to extractive resources.

## IMAGE, CHARACTER, HERITAGE AND HOUSING

### 49. Walkable catchments and density

- 49.1. Walkable catchments and density were raised incidentally in the conduct of the hearing. As set out in the Part A and Part B submissions, the walkable catchment within the PSP is constrained by the quarry sensitive use buffers and high-pressure gas pipeline measurement lengths. The VPA submits that the Part A FUS and walkable catchment should be preferred over the DJV FUS or the exhibited catchment.
- 49.2. Density targets were raised in particular through the evidence of Ms Horsfield who asserted the density targets in the draft PSP guidelines ought to be preferred, in part on the basis that a higher density target better supported the provision of affordable housing. The VPA notes that the draft PSP guidelines remain subject of consultation and have no formal status at present. Accordingly, the VPA maintains that the exhibited density targets are appropriate, and that higher density could in any event be provided at the discretion of developers through the concept of generally in accordance.
- 49.3. The VPA accepts the position of the Council that a PSP planned on the existing guidelines should not be transitioned to the draft guidelines. This would require a more fundamental assessment of the available infrastructure needs.

### 50. Cultural Heritage

- 50.1. Table 7 of the Part A PSP identifies LP-04 as having the following attribute: *Central to surrounding community, protects tree group and stony knoll*. The submission from Donnybrook Unit Trust identifies a tension that may exist between the CHMP for this site allowing the removal of the stony knoll.

- 50.2. The submission states that the submitter's CHMP supports a removal of stony knolls. VPA has reviewed the CHMP and found no explicit reference that supports this. In contrast, the submitter's CHMP emphasises the importance of stony knolls. The submitter's CHMP chapter 1.1 and 1.2 suggest supporting a reference to the protection of the stony knolls. This evidence is in line with VPA's own Cultural Heritage Assessment.
- 50.3. In addition, VPA's position is grounded on key aims and recommendations of the Open Space Strategy by the City of Whittlesea, namely sections 6.4 to 6.6.7. VPA has raised this issue with council, which has noted stony knolls are protected and incorporated into open space and supported by its Open Space Strategy.
- 50.4. The VPA does not support revising the description in Table 7, consistent with the views of City of Whittlesea. It is submitted that retaining the exhibited description will allow the retention to be assessed at the subdivision stage.

51. **Post Contact Heritage (1030 Donnybrook Road and Dry-Stone Walls)**

51.1. **Drystone Walls**

- a. Submission 12 (Donnybrook Unit Trust) sought revisions that would allow the removal of Dry-Stone Walls of medium retention value to be removed without a planning permit under Clause 52.33. This proposition is not supported by the Council. Notably, it is also not supported by the witness called by Donnybrook Unit Trust. Ms Horsfield instead sought to allow flexibility for the road authority to remove drystone walls located within the public acquisition overlay but did not support a provision that allowed the removal of any wall of medium retention value without a planning permit.
- b. The VPA agrees with Ms Horsfield that there is a danger that, in permitting walls of medium retention value to be removed, the control would see walls removed unnecessarily. However, the VPA does not agree that drystone walls within the public acquisition overlay ought to be able to be removed without permit. A permit application would form but a small part of the design process for the Donnybrook Road upgrade, but would encourage the retention and preservation of walls where possible – unnecessary removal should not be fostered whether by private or public bodies.

51.2. **Heritage Overlay – 1030 Donnybrook Road**

- a. Council and DJV presented opposing submissions, and led contradictory evidence, regarding the heritage values of 1030 Donnybrook Road and

whether the application of the Heritage Overlay is warranted. The owner, relying on the evidence of Mr Raworth asserts that the property is not important enough, is not rare enough, and is not in a sufficient condition to warrant retention. In contrast, Council, relying on the evidence of Mr Helms, asserts that the site is indeed rare enough and is important enough to satisfy Criteria A, B and E, and that condition of the heritage fabric should not be determinative of whether the application of the heritage overlay is appropriate.

- b. The VPA supports the position of the Council. The application of the heritage overlay will ensure a subsequent more detailed analysis is conducted regarding the future re-use or removal of the heritage buildings. It is submitted that this is an appropriate use of the overlay in the circumstances.

## 52. Affordable Housing

52.1. The VPA has considered the findings of the Beveridge North West panel report as well as the support for affordable housing within the PPF and relevant provisions in the Planning and Environment Act 1987. The VPA notes that one key difference in this Planning Scheme as opposed to the Mitchell Planning Scheme under which Beveridge North West was considered is the presence of local provisions in the Whittlesea Planning Scheme.

52.2. It is a policy guideline under the Planning Scheme to consider as relevant:

*Achieving the inclusion of 5 per cent social housing and 10 per cent affordable housing (that is not social housing) in the structure planning of any established or greenfield housing development.*<sup>18</sup>

52.3. The Panel has, in its email of 14 December 2020, identified the drafting of the Affordable Housing guidelines in the PSP (G14 and G15) and the Affordable Housing application requirements and decision guidelines in the UGZ7 among the key drafting issues.

52.4. In its exhibited form, the PSP provided the follows Guideline's regarding affordable housing:

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<sup>18</sup> Clause 16.01-2L – Housing affordability

*G14 - 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).*

*G15 - Land for affordable housing should:*

- *be provided within walkable catchments provide for a range of housing typologies to meet demonstrated local need*

52.5. The VPA did not propose any revisions to G14 or G15 in the Part A PSP.

52.6. In its exhibited form UGZ7 did not address affordable housing. In the Part A Ordinance, the VPA proposed the following provisions of UGZ7 in respect of affordable housing:

**Application requirements**

*Affordable Housing Assessment*

*An application to develop or subdivide land for residential purposes should demonstrate how it is providing affordable housing by submitting a report, prepared by a suitably qualified person, which includes:*

- *Anticipated demographic characteristics of the suburb;*
- *Anticipated household composition (i.e. singles, couples, families with dependants);*
- *What proportion of housing is estimated to be provided for the income ranges specified at 3AA(4) of the Act; and*
- *A response to matters addressed in the Ministerial Notice under 3AA(2) of the Act.*

**Urban Growth Zone Schedule – Decision guidelines**

*Affordable Housing*

*Before deciding on an application to develop or subdivide land for dwellings, the responsible authority must consider, as appropriate:*

- *Whether the proposed subdivision application has demonstrated that the proposal will contribute towards the provision of affordable housing;*
- *The Ministerial Notice under 3AA(2) of the Act, as amended from time to time.*

52.7. The UGZ7 provisions proposed in the Part A ordinance drew upon the draft provisions proposed in the VPA's submissions before the recent C06mith, Beveridge North West PSP panel hearing.

- 52.8. In the without prejudice Part C PSP filed 18 December 2020, the VPA proposed further revisions to the PSP in line with the final position put by the VPA in submissions in Beveridge North West. The Part C PSP guidelines are as follows:

**G14** *Applications for residential subdivision or development should provide an equivalent of up to 10% of the total number of dwellings forecast to be provided as affordable housing (and may be provided as constructed dwellings or land or otherwise).*

**G15** *Land for affordable housing should:  
be provided within walkable catchments;  
provide for a range of housing typologies to meet demonstrated local need; and  
provide for very low, low, and moderate income households.*

- 52.9. These were proposed for consistency with the position put by the VPA before the panel considering the Beveridge North West PSP. The equivalent provisions to the proposed G14 and G15 were G17 and G18 in the Beveridge North West PSP.

- 52.10. The C106mth Panel report made the following recommendations on Affordable Housing:

*[7] Delete Requirement 5 in the revised Precinct Structure Plan (Document 267).*

*[8] Replace Guideline 17 in the revised Precinct Structure Plan (Document 267) with the following text “An application for subdivision of land into residential lots or development of land for residential or mixed use purposes should provide affordable housing as defined by the Planning and Environment Act 1987. The affordable housing should be located within walkable catchments and provide for a range of housing typologies to meet demonstrated local need”.*

*[9] Delete the application requirement relating to affordable housing from the revised Urban Growth Zone Schedule 3 (Document 265).*

*[10] Insert a new bullet point under “Subdivision – Residential development” at Clause 3.0 of the revised Urban Growth Zone Schedule 3 (Document 265) that requires an application for subdivision or development of 10 or more lots or dwellings be accompanied by a written statement outlining how the proposal will contribute to the delivery of affordable housing in the precinct, including proposed delivery mechanisms.*

[11] Replace the words "...has demonstrated that the proposal will contribute..." with "...contributes..." in the decision guideline in the revised Urban Growth Zone Schedule 3 (Document 265) relating to Affordable Housing.

## TOWN CENTRE AND EMPLOYMENT

### 53. The Local Town Centre and DJV FUS

- 53.1. The VPA observes that the Panel has heard much about the DJV FUS both in submissions and in evidence, but that the point was ultimately not pursued with great vigour once the evidence was complete.
- 53.2. Indeed, it emerged through the testing of expert evidence that the primary benefit for the DJV FUS over the Part A town centre location would be an increased number of residents within the walkable catchment.
- 53.3. However, as was acknowledged in the DJV closing submission, *"if the part A PSP had an increased residential area, or if the DJV plan had a reduced residential area, the advantage in the DJV plan as to the walkable catchment largely evens out."*<sup>19</sup>
- 53.4. The DJV FUS in effect achieves greater population within the walkable catchment by confining the eastern expansion of the Woody Hill quarry and reducing the area of employment land. If the Panel agrees with the VPA on eastern expansion, then the key benefit of the DJV FUS is unable to be realised. The opposite applies. If the Panel disagrees with the VPA and put this additional land within a residential zone then both town centre plans would enjoy larger walkable catchments.
- 53.5. Without the benefit of increased population, the virtues of the DJV FUS are stated as being reduced overlap in catchment with Donnybrook Woodstock PSP, road network changes and proximity to the conservation area.
- 53.6. In relation to road network changes Mr Walsh agreed that both road networks would work. Indeed Mr Walsh's main criticism was the absence of a straight road to the north. The VPA joins with Council in its support for this road formation which will have the advantage, acknowledged by Mr Walsh, of reducing speed. In any case the DJV submission concedes that a northern local town centre could accommodate a straightened road, so the issue does not go to the relocation of the town centre.<sup>20</sup>
- 53.7. On the issue of catchment overlap, the Panel is referred to the exchange with Mr Sheppard about catchment overlap and the fact that while there is an overlap to the

<sup>19</sup> Document 228, paragraph 86.

<sup>20</sup> Paragraph 89 of closing submission.

north in the VPA plan there is a significant overlap to the south over the conservation area in the DJV plan.<sup>21</sup>

- 53.8. In the VPA's view these are far from compelling reasons to so substantially alter the exhibited future urban structure. With such marginal benefits for the DJV FUS, the Victorian School Building Authority's (VSBA) views on the issue are, in the VPA's submission, instructive. The VSBA does not support the proposed future government school location advanced by DJV which, compared with Part A location, poses greater constraints and will require substantial earthworks.<sup>22</sup> The VPA requests the Panel recommend the PSP be adopted including the Part A local town centre location and configuration.
- 53.9. The VPA notes that in its closing submissions (tabled 22 December 2020), Whittlesea City Council supports the location of the LTC, its road structure and its preference for the VPA position over the proposal by DJV.
- 53.10. In all this boils down to a position where there is no good reason at all to support the relocation of the town centre.

#### 54. **Location and 'role' of Local Convenience Centres**

- 54.1. Donnybrook Unit Trust, supported by the evidence of Mr Lee and Ms Horsfield, requests the removal of the eastern LCC. In contrast, City of Whittlesea submitted the eastern LCC should be retained to provide a convenience offering to future residents and supports the revised location shown on the Part A PSP.
- 54.2. The VPA agrees with Donnybrook Unit Trust that the eastern LCC should be removed from the PSP. This is consistent with the evidence of Mr Lee both in respect of the exhibited location and also potential alternate sites. In evidence Mr Lee outlined several factors that have informed his view that the eastern LCC will not be viable and agreed with the proposition that passing traffic is the only factor which would be improved by an alternate location.
- 54.3. It is not the case that there should never be an LCC in PSPs, but it is not justified in this particular PSP.

### **EDUCATION, COMMUNITY FACILITIES AND ACTIVE OPEN SPACE**

#### 55. **Education**

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<sup>21</sup> Slides 6 and 7 of the Sheppard Power Point, document 218.

<sup>22</sup> The DJV submission sought to rely on topography as a constraint in relation to the eastern expansion but abandon topography in relation to the town centre where it was said the entire area would be subject to large earthworks.

- 55.1. The location of the education, community facilities and active open space has been the subject of competing submissions and evidence in the context of the DJV FUS.
- 55.2. On education issues, the VPA notes that the town planning and urban design experts called by DJV had not engaged with relevant authorities to test feasibility of alternative FUS in respect of the future government school. The VPA maintains the position that the Part A future urban structure should be preferred over the DJV FUS.

**56. Community Facilities**

- 56.1. Satterley were not present during the panel and so were unable to elaborate on their submission for why a reduction of the Community Activity Centre (CAC) from 1.2ha to 0.8ha was sought.
- 56.2. The VPA supports the position of Council that the exhibited size of the CAC is appropriate. The VPA notes the size and configuration is supported by the Community Infrastructure and Open Space Needs Analysis (2019), which identified a gap in the provision of a Neighbourhood House in the Donnybrook Woodstock PSP.

**LOCAL PARKS AND OPEN SPACES**

**57. Barro Group**

- 57.1. Submissions on behalf of Barro Group seek the removal of LP01 from the PSP.
- 57.2. The VPA maintains the position that LP01 should be retained in the PSP. While the proximity to the quarry hall road does detract from the amenity of the park, the park has been sited to protect established River Redgums.
- 57.3. Under cross examination Mr Harvey acknowledged these are best protected in public ownership.
- 57.4. As with the VPA position regarding the east-west connector road, the VPA submits the PSP represents a long-term plan under which the PSP represents the future, ultimate, urban fabric. Provision of the park in the exhibited location will ensure a centrally located open space is planned for the business and industrial area in the north-western corner of the PSP.

**58. Donnybrook Joint Venture**

- 58.1. VPA supports the linear open space as shown in the PSP and does not believe acoustic wall treatments (considered by Shepherd) to the road interface are appropriate to an integrated precinct environment.



58.2. VPA notes the use of open space for the provision of a buffering element between industrial and residential land uses have been adopted in other PSPs:

- a. Tomson Road (2016)
- b. Mt Atkinson Tarneit (2017)
- c. Melton (2016)
- d. Wollert (2017)

## 59. **City of Whittlesea**

59.1. Council primary submission is that that LP-08 should not be a designated and credited Local Open Space reserve. The primary purpose of the land is as a design response to provide a buffer between the employment and residential precincts. It says that the strip of landscaping does not provide a practical and usable area for Public Open Space at the dimensions proposed and should not be considered as credited. The Council position is that LP-08 as reconfigured at a width of 10 metres should also include a 3-metre shared path on the eastern side instead of the 1.6 metre footpath given it will likely be used as a key linear link for pedestrians and cyclists.

59.2. VPA is not opposed to sections of the linear space being widened to 10m (and 3m SUPs) to accommodate open space outcomes in line with City of Whittlesea Open Space Strategy but core purpose is the buffer and north south link as exhibited.

59.3. The space is usable and would provide an excellent interface and resource for housing fronting this park. the road at that area of the PSP is not a through road as the PSP and urban development terminates in the south. It is therefore likely to have a good standard of amenity as well as performing a buffer purpose.

59.4. Council requests that additional open space on property 8 to ensure open space reserve and protect scattered trees. The VPA considers that this location is not an appropriate location for a park at the end of urban development. While in theory the accommodation of trees within parks is sensible, it cannot be that credited parks are located for this purpose irrespective of the other qualitative attributes of a location.

## **BIODIVERSITY AND BUSHFIRE MANAGEMENT**

### **Biodiversity Provisions**

#### 60. **Barro**

- 60.1. Barro have submitted that a secondary consent should be included for R45 (extract below).

*It is acknowledged that R44 provides a secondary consent mechanism, but R45 does not, and as currently worded would require 20m of publicly managed land in addition to the bund and access road proposed to run alongside the interface between Barro's land and CA28. A secondary consent mechanism is the minimum amendment that should be made to R45.*

- 60.2. The VPA has obtained the views of DELWP and understands the department does not object to the inclusion of a secondary consent mechanism in R45 to facilitate the bund interface.

- 60.3. This change was not captured in the Part C PSP. Relevant drafting could read:

*Development must provide for a minimum public land buffer of 20 metres between Conservation Area 28 boundary and the nearest residential, commercial, or industrial lot, unless otherwise agreed to by the Department of Environment, Land, Water and Planning. The public land buffer area may include roads, paths, open space and drainage infrastructure.*

## 61. **Donnybrook Unit Trust**

- 61.1. The VPA does not contest the evidence of Mr Galbraith regarding Trees 162 and 25. On the basis of this evidence the VPA propose that those trees should be marked as 'able to be removed' on Plan 8 of the PSP.

- 61.2. Donnybrook Unit Trust also raised issues regarding the provisions of UGZ7 concerning the requirement to enter into a Land Management Co-operative Agreement. The exhibited condition is a standard provision required by DELWP MSA as the administrator of the Melbourne Strategic Assessment areas.

- 61.3. The VPA has consulted with DELWP MSA who has provided the revised wording contained in the Part C Ordinance. The VPA would welcome comment from the Panel on the drafting of this revised wording.

## 62. **DELWP MSA**

- 62.1. The VPA has formally requested the boundary to Conservation Area 28 (CA28) be changed. The boundary change provides for no-net loss to conservation area as a result of the precinct planning for a primary arterial road (Koukoura Drive) in the Shenstone Park PSP to the southern boundary of the PSP.

- 62.2. The VPA makes this application in respect to the criteria for a boundary change of the BCS as found in the [Guidance Note: Implementing the Biodiversity Conservation Strategy in Melbourne's Growth Corridors](#) Working Document (p.14), specifically, the application criteria 1, sub point 3.
- 62.3. The criteria are as follows:
- “to address issues necessary to meet the urban planning objectives of a precinct structure plan, such as appropriate urban form or the construction of roads, bridges, water management and other infrastructure, where no feasible alternatives are available. DELWP will require confirmation from the MPA in determining whether this criterion has been met.”*
- 62.4. VPA consider that the criteria for the boundary change, as it relates to the urban planning objective of a precinct structure plan, has been met.
- 62.5. The VPA has obtained the following response from DELWP:
- To assist VPA with the planning panels process I can advise that DELWP supports in-principle the boundary change concept shown in the application.*
- 62.6. The VPA has reached an agreement with YVW to provide the offset that will meet the no net loss requirement to the south of Langley Park Drive.

## TRANSPORT AND MOVEMENT

### General

#### 63. Barro Group

- 63.1. Submissions by Barro Group advanced three key propositions in respect of transport and movement:
- a. The east-west connector and the north-south access street level 2 depicted on Barro's land should be deleted
  - b. The fully directional access to Barro's land permitted as part of the Trade Supplies approval should be depicted in the PSP
  - c. The agreed access point between the two quarries should be noted in the PSP
- 63.2. The VPA agrees with the 3rd point, and proposes revisions to the FUS accordingly, but disagrees with the first 2 propositions.

- 63.3. Regarding the removal of the East West connector and North South access street level 2, the VPA submits that these roads represent an appropriate full development scenario road network and therefore ought to be shown on the PSP. Barro Group is not required to construct these roads in the short term. Indeed, while the area occupied by these roads is used for other purposes such as trade supplies under an existing planning permit or quarry activities, the owner will not be required to construct this infrastructure at all.
- 63.4. However, showing these roads in the FUS will provide for the establishment of a logical road network as the site transitions away from its current and immediately planned uses into urban development in line with the PSP. Taking it to an extreme, if during the operation of the PSP the land was never developed then there would be no obligation to construct the road and as the road is developer funded, not ICP funded, there is no difficulty with this proposition. However, if intentions change and the area is developed then development would be generally in accordance with the PSP.
- 63.5. The panel has heard mixed opinions from expert planning and traffic witnesses regarding the appropriateness of showing these roads, and in particular the appropriateness of showing the east-west connector.
- 63.6. The VPA submits that the view of Mr Humphries, who acknowledges that modelling forecast shows low future volumes on the connector road but still supports the inclusion of the road for broader road network resilience and planning reasons, should be preferred. On this point, it is instructive that Mr Woodland in cross examination expressed support for the inclusion of the connector road on planning grounds, consistent with the 2009 PSP guidelines.
- 63.7. Under cross examination from Mr Gobbo, Mr Turnbull also volunteered that an east west connection should be shown despite its construction would likely be many years away.
- 63.8. It remains the VPA's view that while Donnybrook Road will provide a functional connection to the east, the level of amenity afforded by this road in the ultimate scenario will be low and the east west connector within the PSP will be a better route for access to the train station, and employment areas within the PSP.
- 63.9. In respect to fully directional access to Donnybrook Road at the entrance to the quarry site, the VPA adopts a whole of government position with the Department of Transport. The Department of Transport is the road authority for Donnybrook Road which is planned to be a divided 6 Lane arterial. While a signalised, multi-directional intersection in this location may be possible subject to appropriate coordination, it is

submitted that this is not a desirable outcome for the road network, and a preferable outcome is a left-out access as supported by the Department of Transport.

**64. DJV**

- 64.1. DJV seek to adopt a change to the exhibited road network embodied in the DJV FUS to show a single east-west connector road network, in contrast to the two east-west connector roads shown on the exhibited and Part A PSP's. It is observed that the northern connector is a local access street in the eastern quarter of the precinct and as Mr Turnbull noted, will be present in that form irrespective of how the FUS is configured. The road becomes a connector road as it approaches the town centre.
- 64.2. The VPA submits that a reduction in the connector road network in the precinct will reduce support for active transport. Based on preliminary analysis by VPA, the connector road network proposed by DJV may also reduce accessibility and flexibility for the bus network and accordingly increase car dependency within the precinct. The VPA notes that in its closing submissions (tabled 22 December 2020), Whittlesea City Council supports the northern east west connector road within the PSP, explaining the function of such roads as 'fundamental building blocks for place making and the cohesiveness of new communities'.
- 64.3. The VPA refutes the evidence of Mr Walsh regarding the bus network. Mr Walsh appeared to suggest that because a particular route was adopted for modelling this meant that the bus route would be the same in the ultimate PSP. DoT advises the VPA that bus routes are only ever planned out in the years immediately prior to the provision of the road. The provision of a bus capable network permits flexibility in the future provision of the road network.
- 64.4. The VPA also notes discussion before the Panel of downgrading connector roads in proximity to the proposed Donnybrook Railway Station car park. The whole of government position on this issue is that railway station car park access should be provided via connector roads. The VPA understands the connector status of these roads is no longer in dispute following the closing submissions from DJV and the road network shown on document 227.
- 64.5. Mr Walsh raised a concern regarding the public acquisition overlay along Donnybrook Road as exhibited the PSP assumed the existing PAO configuration along Donnybrook Road and the Parcel Specific Land Budget Section 4.1 detailed land budget at 4.1 of the PSP reflected this fact.

**65. 910 Donnybrook Road**

- 65.1. Traffic and transport issues raised by this submission, and experts called by 910 Donnybrook, addressed matters such as the East West connector road, road alignments and service road treatments.
- 65.2. The VPA does not agree with the proposed connector road alignment sought by the submitter, which was acknowledged through expert evidence as being contingent on the realignment of the Merri Creek Tributary. Given Mr Turnbull acknowledged that the exhibited road network with curvilinear roads were acceptable (and indeed the particular curvature was well within the accepted margins), it is submitted there is no traffic engineering reason why the exhibited road network is deficient. Changes to 'square up' the road network following detailed drainage design may be contemplated at the subdivision stage.
- 65.3. The VPA does, however agree that access to buildings fronting Donnybrook Road should be able to be provided from a service road and proposes changes to the PSP accordingly.
- 65.4. In respect of the east-west connector road, the VPA notes that Mr Woodland and Mr Turnbull expressed support for retaining the road across 910 Donnybrook and onto the Barro Land. This is an ultimate configuration shown on a long-term strategic plan that, in the VPA's submission ought not be removed on the request of the current landowners' position and opposition to short term development in this area.

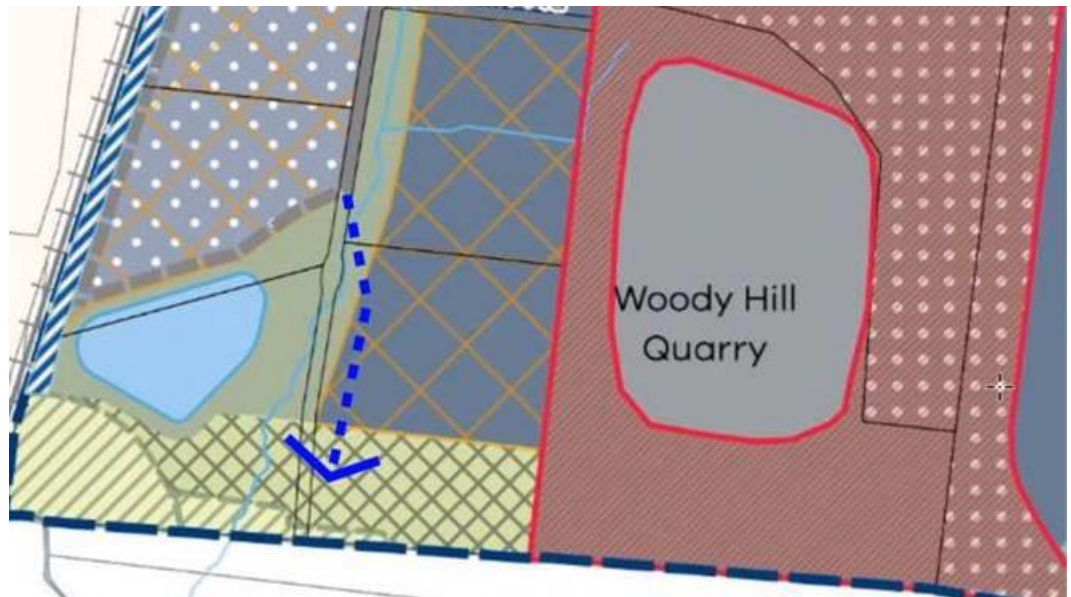
66. **Golina holdings**

- 66.1. The VPA position on the potential future Langley Park Drive connection south of the PSP is set out elsewhere in this submission.
- 66.2. In response to the Golina Holdings submission, the VPA has considered:
- a. Modelling and expert evidence by Mr Humphries for the Langley Park Driver extension scenario which found the PSP's proposed network and road classifications do not limit the future extension of Langley Park Drive to the south.
  - b. The submitter's expert evidence (Mr Orgon – ecological and Mr Hunt - traffic) which includes traffic considerations and a conceptual alignment for a future connection south of Langley Park Road. The evidence from Mr Orgon correctly notes that approvals will need to be sought from DELWP for changes to Conservation Area 28.

- c. Submissions by YVW which indicate a future access track connection through their land to provide access to a future sewerage treatment facility from Langley Park Drive.
- d. DELWP MSA indication that it currently does not support road access through Conservation 28 and/or 34 or the indication of a possible future connection.

66.3. In weighing up this evidence and correspondence, the VPA is prepared to provide conditional support for a possible southern connection, noting that the ability of this connection to service land to the south of Shenstone Park may be limited (in terms of capacity). The VPA proposes to make the following changes to the FUS (Plan 3):

- a. Show a dashed line with a south pointing arrowhead stopping inside the transmission easement (east of the waterway) (see image below).
- b. Include an annotation to the dashed line to read: 'possible future connection if required to support development to south, subject to approval by the Responsible Authority, transmission authority and DELWP MSA. Full apportionment of costs to development south of the PSP'.



## 67. Landream

- 67.1. Submissions on behalf of Landream (noting that Austral Bricks did not advance oral submissions before the Panel) addressed the issue of future road connectivity south of the PSP area.

- 67.2. The VPA agrees in general with the crux of the Landream submission - "Shenstone Park PSP needs to take into account the future urban development of ... [land south of the PSP], or at least not preclude it through insufficient road connections".<sup>23</sup> However, as Landream acknowledges, the detailed structure planning for this area is yet to commence and ecological values represent a constraint on the ability to extend Langley Park Drive to the southern boundary of the PSP. Recognising both the merit of not precluding a potential future connection and these constraints, the VPA proposes revisions to the Future Urban Structure indicating a possible future connection subject to ecological assessment.
- 67.3. To the extent that the submission seeks one or more future road connections south of the PSP, the VPA notes the BCS area, presence of Phillips Quarry, proximity to Woody Hill Quarry, proposed access between Phillips and Woody Hill Quarries means that Langley Park Drive (along with Koukoura Drive) represent the only practical opportunities to provide such connectivity.

#### **Donnybrook Road PAO**

- 67.4. In response to the exhibited PSP, the VPA received submissions on the Donnybrook Road PAO (PAO2) from Mirvac (submission no. 4.003), Department of Transport (submission no's 30.002, 30.028, 30.064) and City of Whittlesea (submission no. 32.008). Submissions noted the existing PAO in place along Donnybrook Road did not align with ultimate intersection requirements for the PSP or the requirements for the future duplication of Donnybrook Road to a 6-lane primary arterial road. During the panel hearing, evidence provided by Mr Walsh recommended that plans and particulars be provided by the VPA to allow review of the PAO amendments.
- 67.5. The VPA as part of the Part A submission made corrections to the PAO2 area and land use budget table to reflect the location of intersections that service both the Donnybrook-Woodstock PSP and Shenstone Park PSP. The ultimate plans for intersections along Donnybrook Road were circulated on 13 November 2020 to provide transparency as to how the ultimate road alignment and intersections, and the associated land use budgets, have been calculated in the PSP, in particular the IPPL required for intersections.
- 67.6. However, given Amendment C241wsea did not introduce changes to the existing PAO2 when exhibited under section 19 of the P&E Act in October to November 2019, the VPA has decided to remove this element of changes so as not to result in procedural defect. Further the VPA considers that introducing such changes to PAO2

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<sup>23</sup> Document 236 – submission on behalf of Landream, para 14.



and the PSP could prevent the VPA Board to adopt the amendment or approval by the Minister, as set out in section 19(6)(a) of the P&E Act.

- 67.7. The VPA will undertake further discussions with DOT regarding how the PAO amendment can be approved by the Minister and gazetted concurrent to this Amendment C241wsea.

## **INTEGRATED WATER MANAGEMENT AND UTILITIES**

### **Amendments to the Drainage and Waterways Network**

#### **68. 75 Langley Park Drive - Pratico Construction**

- 68.1. Submissions regarding 75 Langley Park Drive (PSP property 6) supported the revisions to the future urban structure circulated in the Part A PSP, so far as they relate to RB03. This relocation was acknowledged in submissions as providing increased NDA (subject to the constraints of the 200-metre blast buffer). The relocation of RB03 to the south-western corner of the PSP area was also acknowledged by Ms Mag in cross-examination as being a more equitable distribution of the burdens of waterway and drainage infrastructure, as well as providing a more logical outcome given the basin would now be located at the bottom of the catchment.
- 68.2. Regarding the alignment of the Merry Creek Tributary, submissions and the evidence of Ms Mag asserted that the waterway should be located on the eastern boundary of Property 6 before crossing Avelin Road and running east west along the Yarra Valley Water owned property at 95 Langley Park Drive (PSP Property 7).
- 68.3. The VPA's position on waterway and drainage matters remains that the issues are primarily to be resolved between Melbourne Water and landowners.
- 68.4. Melbourne Water has expressed concerns regarding the multiple right-angle bends required to deliver the alignment set out in Ms Mag's witness statement, which was described in evidence as a high level or conceptual design. Although Ms Mag did not share the same extent of concern as Melbourne Water regarding the potential impacts of these right angles on asset life and maintenance costs, Ms Mag did not dismiss the potential impacts but rather asserted such impacts could be managed. Ms Mag also acknowledged that the impact of sodic soils had not been expressly considered in preparing the easterly conceptual alignment. This is relevant given Ms Mag's acknowledgement that the proposed eastern alignment would require a greater extent of cut than a more westerly alignment.
- 68.5. Further, Ms Mag in cross-examination indicated that the design preferred by Pratico Construction has not been discussed with Yarra Valley Water and she was uncertain

as to YVW's position on the issue, which is understood by the VPA to be opposed to the location of the tributary on the northern boundary of their land. The potential for conflicts to arise between the waterway and the indicative basin plan presented by YVW was also acknowledged in response to questions from the Panel.

- 68.6. Noting the above, VPA has engaged in further discussions with Melbourne Water after hearing the evidence. Melbourne Water have provided in-principle support to change the alignment east of the exhibited position as set out in the below image.



- 68.7. The Melbourne Water in-principle alignment maintains the same entry and exit points for the waterway as the exhibited alignment, but provides an area of NDA with frontage to Langley Park Drive - in turn responding to concerns about the need to construct Avelin Road to provide access to commence development. VPA believes the revised alignment represents a compromise between the exhibited version and the alignment presented in evidence by Ms Mag, and recommends this alignment to the Panel.
- 68.8. Utilising the alignment above would not prevent alternate, more easterly, alignments being subjected to detail design and consultation at the development stage, with construction governed by the flexibility afforded by the principle of 'generally in accordance'. However, to adopt the easterly alignment advanced by the submitter would be to commit the PSP to an outcome that is not the position of the drainage authority, has not been the subject of a full design, and does not enjoy the support of the owner to the south – Yarra Valley Water.

69. **910 Donnybrook Road**

- 69.1. The VPA defers to the position of Melbourne Water regarding the alignment of the Merri Creek Tributary on 910 Donnybrook Road.

- 69.2. As set out in the Part B submission, Melbourne Water has requested the owner undertake further design work and provide the following materials to support the requested revision to the PSP and DSS alignment:
- *Appropriate concept functional designs of both the current alignment and the proposed realignment, in accordance with Melbourne Water's Constructed Waterway Design Manual and Constructed Waterways in Urban Developments Guidelines. This must be accompanied by appropriate modelling and a memo detailing the relevant design assumptions.*
  - *Compliance with the Deemed to Comply Checklist (Concept and Functional Items) in Melbourne Water's Constructed Waterway Design Manual. Noting the bend in the proposed realignment, specific consideration of the Planform criteria is essential.*
  - *Civil Estimates of both the current alignment and the proposed realignment based on the concept functional designs proposed.*
  - *Written confirmation on company letterhead from the current owner of the land, that they will fund the difference in design and construction costs between the current alignment and the proposed alignment, including all costs associated with the potential localised widening of the waterway cross section and additional rockwork to suit the realignment proposed. This should also include specific wording stating that this obligation would sit on any contracts associated with sale or transfer of the land.*
  - *Written support from Council for the proposed change in the future urban structure.*
- 69.3. The VPA understands this work has not been undertaken by the owner notwithstanding its high level of participation in the panel process. The owner did not call any drainage evidence.
- 69.4. In these circumstances the VPA considers the most appropriate outcome is to retain the exhibited alignment through 910 Donnybrook Road. This may then be varied through detailed design at the subdivision stage.
- 69.5. The VPA note that the DSS provides flexibility in the design of assets at the time of subdivision. Melbourne Water and the VPA propose revisions to the wording regarding waterways to provide greater flexibility to the concept of 'generally in accordance' for waterways, and in turn allow a greater departure from the PSP alignment to be approved at the subdivision stage, following the approval of Melbourne Water. To ensure this flexibility is recognised by the PSP, the VPA propose a note on Plan 10 (Integrated Water Management) consistent with the

findings of the Sunbury South and Lancefield Road Planning Panel. That Panel stated:

*The Panel heard from several drainage experts on site-specific changes to the PSPs with respect to water and drainage assets sought by submitters. There was little cross-examination of these witnesses and the VPA and Melbourne Water generally accepted their evidence. However, as noted by the VPA, there is an accepted process for amending PSPs with respect to water and drainage infrastructure, which involves firstly that proposed infrastructure changes are submitted to Melbourne Water for assessment and, if accepted, incorporated in the relevant DSS. Only then is the VPA in a position to amend the PSP to reflect the final DSS approved by Melbourne Water.*

<sup>24</sup>

- 69.6. The proposed note supported by the Sunbury South and Lancefield Road Planning Panel, was included in the Part C PSP filed 18 December 2020, and is as follows:

*“The stormwater quality treatment assets are subject to refinement through detailed design, to the satisfaction of Melbourne Water and the responsible authority”.*

- 69.7. VPA consider this note will provide the flexibility (and assist in the meaning of generally in accordance as it relates to drainage assets) required to make amendments to drainage after appropriate design has been undertaken at the time of subdivision.

## 70. **Barro**

- 70.1. The VPA relies on the comments of Melbourne Water regarding the Barro Group submissions to realign Tributary of Merri Creek. Accordingly, any realignment at the detailed design stage will need to be appropriately designed in accordance with Melbourne Water's Constructed Waterway Design Manual, would need to appropriately mitigate on-site conditions (including soil types and erosion) and would need to align with the outcomes identified in the future urban structure, including any potential/proposed expansion of the Woody Hill Quarry. The VPA considers revisions to the waterway alignment in the exhibited PSP are not required to facilitate the specific changes sought by Barro Group.

- 70.2. Should Barro wish to ultimately amend the alignment of the waterway then this can occur as provided for above.

## 71. **1100 Donnybrook Rd and Donnybrook Unit Trust**

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<sup>24</sup> Paragraph 4.9(iv).

71.1. The VPA observes that there appears to be an alignment between the approach of 1100 Donnybrook Road and Donnybrook Unit Trust on drainage matters. Although the expert witness statements filed on behalf of both parties identify particular issues in respect of the depth of the water assets at the boundary between these two properties, advocates for both parties have indicated that these are matters of detailed design to be resolved at the subdivision stage. To this end 1100 Donnybrook Rd did not call drainage evidence and same position was adopted by Donnybrook Unit Trust. These positions on detailed design matters correspond with the views of Melbourne Water.

71.2. The VPA notes the submissions of Melbourne Water in stating:

*Further discussions between the consultants acting on behalf 1100 Donnybrook Road, 1150 Donnybrook Road and Olivine Estate need to occur to determine that a shared approach to the design assumptions for the major drainage infrastructure within this part of the catchment is adopted. This level of detail is not within the scope of the PSP planning process and should be discussed and agreed separate to this process, between all relevant parties, including Council and Melbourne Water.*

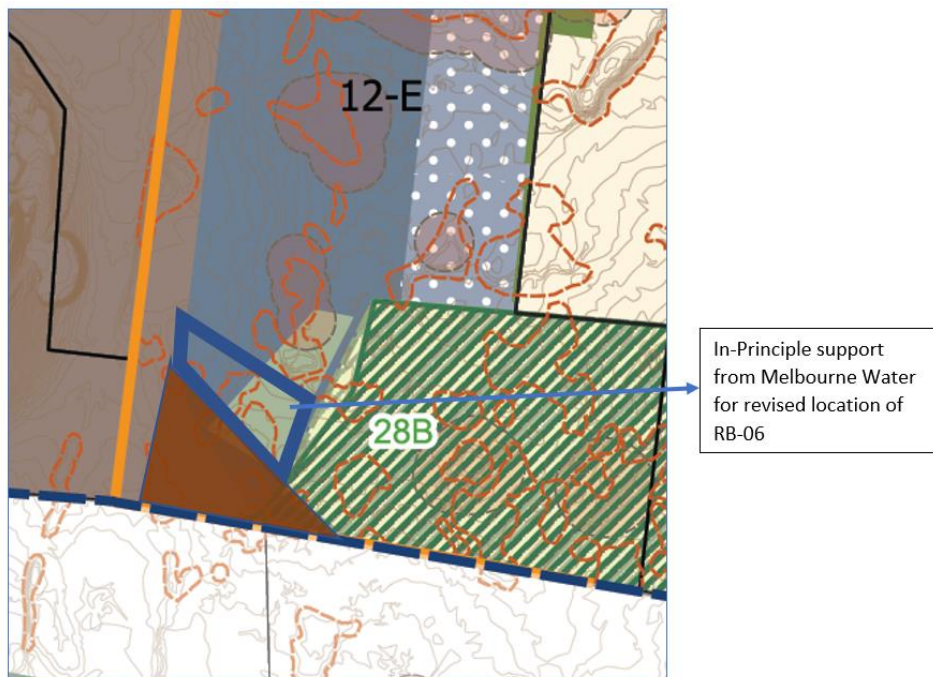
71.3. The VPA also notes the submissions on behalf of Donnybrook Unit Trust on issues regarding culvert project CU-01. The VPA maintains the position that the culvert position shown on the Part A PSP remains appropriate. At this stage in the planning process it is necessary to identify the location of culverts, however given the ICP which will fund the construction of these culverts is expected to be a standard levy ICP, detailed drawings or costings for these culverts are not required. The culvert projects in the ICP will be funded by the standard levy, costed against the VPA benchmark costings & standard drawings for projects of this kind. Any particular site-specific variation would be a matter of detailed design for the delivery of ICP infrastructure, governed by the concept of generally in accordance.

## 72. **DJV**

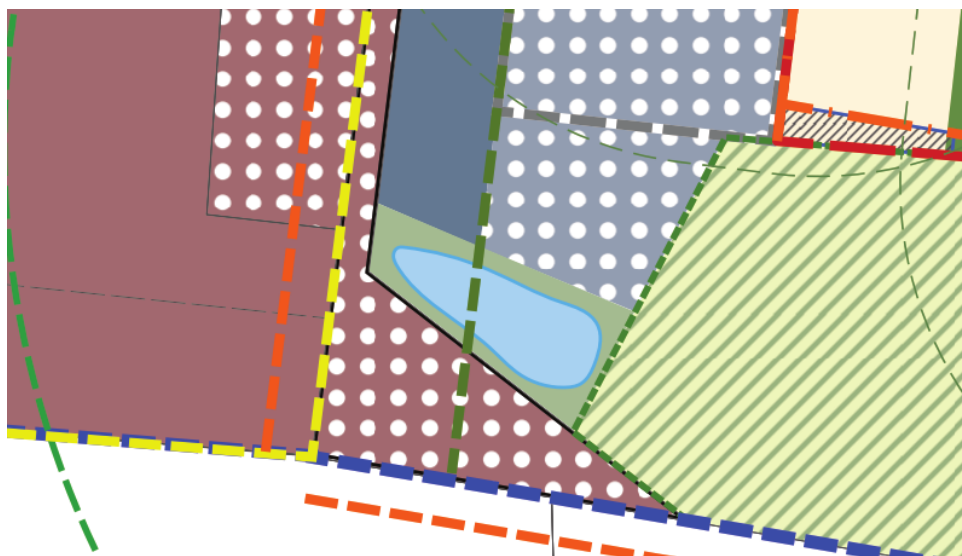
72.1. Submissions by DJV seek to relocate RB-06 from the Part A PSP location with the effect of orienting the basin from a north-south orientation to an east-west orientation. The VPA does not support the location of the basin suggested by DJV because it would impact on the eastern expansion (Special Use Zone) of the Woody Hill Quarry as advanced by VPA. The DJV proposed location would also impact the location of the road which separates the conservation area and development which may have implications for Bushfire Attack Level (BAL) in the PSP area.

72.2. After further discussion with Melbourne Water, VPA propose a compromise position on the location of RB-06. Melbourne Water have provided in-principle support for an

alignment which locates the wetland in a largely east-west orientation whilst ensuring the footprint is located outside the VPA Special Use Zone and BCS Conservation area. Importantly, the road located along the eastern boundary of the wetland would be retained to achieve bushfire requirements. The size of the wetland supported by Melbourne Water (VPA revised position) is consistent with the size proposed by DJV. The conceptual location which Melbourne Water has provided in-principle support is shown below.



- 72.3. This compromise position is very similar to the orientation set out in the latest iteration of the DJV FUS (document 227) which is exacted below – the basin on the DJV FUS is longer (east-west) taking into account the reduced quarry extent, while the in-principle basin set out above is wider (north-south).



72.4. It follows that the basin location supported in principle by Melbourne Water may be realised regardless of whether the Panel supports the VPA’s position on the Woody Hill eastern expansion.

**Other drainage matters**

73. The Panel made enquires last week on the issue of the impact of waterways and how future changes with the alignment may impact land budgets.

74. It is frequently the case that the alignment of a waterway or the width of a waterway will change during detailed design which is to the satisfaction of Melbourne Water as compared to the conceptual design that informs the DSS.

75. The Panel is directed to the Parcel Specific Land Use Budget at 4.1. This table outlines the various types of land use within the PSP.

**4.1 Parcel Specific Land Budget**

PSP PROPERTY ID	TOTAL AREA (HECTARES)	Transport		Community & Education		Open Space						Other		Total Net Developable Area (Hectares)	Net Developable Area % of Property	
		Arterial Road		Government School	ICP Community Facilities	Uncredited Open Space				Credited Open Space		Quarry (including existing and expanded area)	Utilities Sub-stations / facilities (acquired by relevant authority)			
		Arterial Road - Public Acquisition Overlay	Arterial Road - New / Widening / Intersection Flaring (ICP land)			Conservation Reserve	Waterway and Drainage Reserve	Heritage Reserve - Post Contact	Utilities Easements - Public Acquisition Overlay	Utilities Easements	Local Sports Reserve (ICP land)					Local Network Park (ICP land)
1	15.05	-	-	-	-	5.01	6.93	-	0.25	2.85	-	-	-	-	0.00	0.00%
2	12.19	-	-	-	-	-	2.10	-	-	-	-	-	-	-	9.05	74.30%

76. It can be seen that waterways are a subset of uncredited open space. Therefore, changes to the NDA heralded by changes to the waterways do not influence land equalisation or credits. Sometimes there may be a slight increase in NDA, sometimes a reduction. It does not however impact upon the delivery of credited open space.

**Donnybrook Unit Trust – Sewer**

77. Submissions on behalf of Donnybrook Unit Trust asserted the location of the sewer pump station remains unresolved. Having heard the submissions and obtained the view of Yarra Valley Water, the VPA supports the change requested by the submitter and will update PSP Plan 13 to reflect the shape files for the sewer rising main pump station.

**PRECINCT INFRASTRUCTURE AND STAGING**

78. **Donnybrook Unit Trust**

- 78.1. Donnybrook Unit Trust has expressed concerns that the land area shown in the land use budget does not match the area identified by a survey obtained by the submitter.
- 78.2. In preparing PSPs and ICPs the VPA relies on Vicmap Property made publicly available through the Data.Vic platform. This data is managed by Land Use Victoria (**LUV**) and represents an accessible, timestamped, complete and exhaustive dataset.
- 78.3. The VPA appreciates the submitters concern on this issue and acknowledges that there is no legal requirement under the act to draw on Vicmap data, it is submitted that the consistent administration of the PSP and ICP regimes supports the use of a consistent dataset to undertake spatial mapping across this PSP area and other PSP areas.
- 78.4. The VPA has consulted with LUV and understands the Vicmap dataset is updated upon the registration of a Plan of Subdivision. On the VPA's request, DELWP have compared the Boundary Plan of the survey provided by 1150 Donnybrook Road with the Vicmap boundaries and found discrepancies are within the published spatial accuracy. The LUV limits for spatial accuracy of Vicmap Property is currently between 0.1m and 25m.
- 78.5. Even if the proponent was to prepare a Title Plan under the Transfer of Land Act, the VPA understands it would still be up to LUV officers to determine if Vicmap is required to be updated to the dimensions of the boundary plan.
- 78.6. The VPA will continue to work with the submitter on this item and will update the land budget in the PSP to reflect the property areas recorded in the Vicmap Property dataset at the time of adoption.

#### **SUMMARY OF RECOMMENDED CHANGES**

79. The VPA has prepared the following summary of the main recommended changes to the Amendment.
80. The VPA's primary submission is that the Panel should recommend that the Amendment be adopted including the changes proposed in the Part C PSP and Ordinance.
81. **Recommended Changes to the PSP**
82. The key recommended changes to the PSP are as follows:
- 82.1. Plan 3 – Future Urban Structure – should be updated to:



- a. Depict the Special Use Zone for the Woody Hill Quarry/ “future extractive industries” area:
    - i. Extending as far north as the Merri Creek Tributary.
    - ii. Extending to a point 480 metres from the exhibited residential area (being approximately 70 metres further east than the exhibited alignment), except for where this expansion would conflict with the location of the retarding basin (RB-06).
    - iii. Extending south-east to provide access to the Phillips Quarry.
  - b. Show the revised Local Town Centre configuration as shown on the Part A PSP.
  - c. Reposition connector roads to a position outside the 200-metre blast buffer.
  - d. Replace the green asterisks with a conceptual shape for the Future Wollert Recycled Water Treatment Plant.
  - e. Retain the applied light industry and industry land use designations for the Yarra Valley Water land along Langley Park Drive.
  - f. Remove the Eastern LCC.
- 82.2. Update clause 2.1 – Vision – to include additional text regarding the Woody Hill and Phillips Quarry.
- 82.3. Omit the exhibited R19 and replace it with the R20 shown on the Part C PSP as follows:
- Development (including subdivision) in the “future residential area” identified on Plan should not unreasonably reduce the ability to:*
- *extract stone resources within 480 metres of the future residential area within 15 years of gazettal of the PSP; or*
  - *carry out any approved stone extraction operation for the Phillips Quarry.*
- 82.4. Revise G14 and G15 regarding affordable housing as shown on the Part C PSP.
- 82.5. Update Plan 8 – Native Vegetation Retention & Removal – to show Trees 162 and 25 as able to be removed.

- 82.6. Plan 10 – Street Network – should be updated to:
- a. Regarding 1100 Donnybrook Road:
    - i. Show left in left out access from Donnybrook Road.
    - ii. Depict Local Access Street Level 2 to continue over the waterway and connect to the street network on the northern side of the waterway.
  - b. Regarding Langley Park Drive:
    - i. Include the following notation.
 

*Possible future connection if required to support development to south, subject to approval by the Responsible Authority, transmission authority and DELWP MSA. Cost of development for road south of connector to be fully apportioned to development south of the PSP*
    - ii. Show a dashed line with an arrow into the transmission easement but stopping short of the conservation area.
- 82.7. Plan 12 – Integrated Water Management – should be updated to:
- a. Depict RB-06 outside the SUZ but in the lowest point of the catchment in an east-west orientation.
  - b. Revise the Merri Creek Tributary alignment through 75 Langley Park Drive to follow the existing alignment of the drain shown on Plan 2 and in the conceptual alignment shown in the Part C submission.
  - c. Include additional note:
 

*Stormwater quality treatment assets and waterways are subject to detailed design generally in accordance with the relevant Development Services Scheme to the satisfaction of Melbourne Water'*
- 82.8. Plan 15 – Buffers, Noise Amenity Area and Measurement Length
- a. Update base layer to reflect the revised Plan 3, including the updated Woody Hill possible extraction expansion area extending further east and north.

- b. Woody Hill buffers
  - i. Retain the 200m Woody Hill blast buffer but depict the buffer 180 metres from the revised expansion boundary.
  - ii. Remove the Woody Hill existing noise buffer and Woody Hill expansion noise buffer.
  - iii. Insert a new Woody Hill Sensitive Use Buffer of 480 metres from the zone boundary.
  - iv. Insert an 'Acoustic Application Area' which applies to all sensitive uses west of the LTC eastern boundary.
- c. Phillips quarry
  - i. Remove the 300m Phillips noise buffer.
  - ii. Reduce the Phillips sensitive use buffer from the exhibited 550m to 480m taken from the southern boundary of the PSP.
- d. Future Wollert Recycled Water Treatment Plant
  - i. Omit the sewage treatment plant odour buffer from the exhibited PSP.
  - ii. Insert an odour buffer from the proposed plant in accordance with the evidence or Mr Pollock.
  - iii. Include note stating the volume assumptions of the plant contained in Mr Pollock's evidence.

83. **Recommended Changes to the Ordinance**

84. The key recommendations in respect of the Ordinance are as follows:

84.1. SCHEDULE 7 TO clause 37.07 URBAN GROWTH ZONE

- a. Update Plan 1 to reflect the revised Future Urban Structure under the PSP.
- b. Revise the table to clause 2.3 in line with recommendations from expert evidence.

- c. Insert revised wording of “Requirement – Land Management Co-operative Agreement“ as provided by DELWP MSA.
- d. Update decision guidelines to omit references to development within the Woody Hill existing noise buffer or Woody Hill expansion noise buffer, and in its place insert reference to the Acoustic Application Area.
- e. Insert additional decision guidelines regarding applications within the Phillips Quarry sensitive use buffer.
- f. Include revised affordable housing provisions as set out in the Part C Ordinance.

84.2. SCHEDULE 8 TO CLAUSE 43.03 INCORPORATED PLAN OVERLAY

- a. Insert revised wording of “Requirement – Land Management Co-operative Agreement“ as provided by DELWP MSA.

84.3. SCHEDULE TO CLAUSE 66.04 - referral of permit applications under local provisions

- a. Include the “Secretary to the Department administering the *Mineral Resources (Sustainable Development) Act 1990*” as a determining referral authority for “An application to develop land for the purpose of a utility installation on land identified as ‘potential future water treatment facility’ on Plan 3 of the incorporated Shenstone Park Precinct Structure Plan”
- b. The “Secretary to the Department administering the *Mineral Resources (Sustainable Development) Act 1990*” should remain (in line with the exhibited position) as a determining referral authority for:
  - i. “An application for subdivision, to use land, or construct a building or carry out works on land within the ‘Woody Hill sensitive use buffer’ identified on Plan 15 of the incorporated Shenstone Park Precinct Structure Plan.”
  - ii. “An application for subdivision, to use land or construct a building or carry out works on land identified as ‘future residential area’ on Plan 3 of the incorporated Shenstone Park Precinct Structure Plan for” specified uses including accommodation, leisure and recreation, place of assembly and retail premises

85. Subject to these changes, the VPA commends the Amendment to the Panel.

Greg Tobin and Aaron Shrimpton

**HARWOOD ANDREWS**

on behalf of

Victorian Planning Authority

23 December 2020

**APPENDICES**

86. Appendix 1: Submissions Response Table

Note: Blue text represents updates to the Submission Response Table filed with the Part B Submission.

**ATTACHMENTS**

87. Attachment 1: Beveridge North West PSP Panel Hearing Document 266 – Sodic Dispersive Soils Development Precedents
88. Attachment 2: Mountain View Quarry Extension Assessment under Environment Effects Act 1978 Minister for Planning September 2009
89. Attachment 3: Joint Ore Resources Committee (JORC) Code 2012 Edition
90. Attachment 4: Letter from DJPR to VPA – Resource Groups Submission, 4 April 2019