

# PSP 1068- Craigieburn West

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Part B Submission



23 April 2021

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# 1 Introduction

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This Part B submission is made on behalf of the Victorian Planning Authority (VPA). The submission is intended to supplement the VPA's Part A Submission filed Monday 12 April 2021. Where an issue is not addressed in this submission but was addressed in the Part A submission, the VPA maintains the position set out in the Part A Submission.

This Standing Advisory Committee (SAC) process follows the public consultation period on the draft planning scheme Amendment (**Amendment**) for the Craigieburn West PSP (PSP). Public consultation for Craigieburn West PSP ran for 4 weeks from 17 November until 18 December 2020. A total of 42 submissions were received. The VPA has worked to resolve as many of the submissions as practicable, engaging with stakeholders where required.

The VPA's approach to community consultation for this project mirrored the key elements of the planning scheme amendment notice and submission process required under Section 19 of the *Planning and Environment Act 1987* (the Act). It ensured that the surrounding community, local businesses, key stakeholders, government agencies and site landowners had ample opportunity to understand the proposed planning changes for the Craigieburn West PSP and discuss the planning concepts with the VPA.

The VPA observes that the Committee's directions do not direct the specific matters to be addressed in this Part B Submission. This submission will focus on the issues raised through the consultation process, organised around the following 12 themes identified by the VPA:

- Theme 1 – Housing and Subdivision
- Theme 2 – Transport and Movement
- Theme 3 – Drainage and Water
- Theme 4 – Education and Community Infrastructure
- Theme 5 – Town Centre
- Theme 6 – Open Space
- Theme 7 – Bushfire Management
- Theme 8 – Biodiversity and Vegetation
- Theme 9 – Kangaroo Management Strategy
- Theme 10 – Land Capability
- Theme 11 – Melbourne Airport
- Theme 12 – Precinct Infrastructure

This submission by the VPA represents a whole of government position, unless otherwise indicated. The VPA received submissions from several State Government agencies and departments. This document provides the agreed position (unless otherwise stated) of the following:

- Department of Transport (DoT)
- Department of Education and Training (DET) - Victorian School Building Authority (VSBA)
- Melbourne Water
- Yarra Valley Water (in its capacity as utility provider)
- Department of Environment, Land, Water and Planning (DELWP) – Melbourne Strategic Assessment
- DELWP – Land Management.

## 2 Response to Submissions

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The content of submissions received has been coded according to the theme of the matters raised. Submissions are described, discussed and responded to according to their identified theme, provided under the sub-headings identified above. Where an issue is not specifically addressed in this submission, the VPA relies on the Part A submission and the submission response table.

### 2.2 Theme 1 - Housing and Subdivision

Nine submitters made a total of thirty-nine submission points in relation to Housing and Subdivision.

The submitters were:

- Hume City Council (#17)
- Pask Group (#18)
- Melbourne Water (#25)
- Property Council of Australia (#26)
- Deague Group (#28)
- PEET Ltd. (#29)
- SFA Land Development Pty Ltd. (#30)
- Universal Syrian Orthodox Church (#34)
- Ricky Duggal (#35).

Submissions generally focused on matters relating to amendments to wording or new Requirements and Guidelines contained in Section 3.1 Housing, subdivision and built form.

The primary issues raised related to:

- Housing density
- Affordable housing
- Subdivision layout and efficiency (lot yield).

The provisions relating to housing in the public consultation version of the PSP are:

- Plan 4 Place Based Plan
- Section 3.1 Housing, subdivision and built form
- Requirements R1-R5
- Guidelines G1-G9
- Table 2 Housing density guide and planned neighbourhood character.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

#### 2.2.2 Housing density

##### What is the issue?

Fourteen submission points raised matters in relation to housing density.

Submission points generally focused on:

- Clarification around the VPA's average density requirements
- The need for flexibility in relation to density targets, including around town centre

- Minimum housing density target of 26.5 dwellings per net developable hectare is considered too high to apply blanket approach across the walkable catchment
- Density targets have the potential to impact the ability to deliver on the objectives of high levels of amenity and character
- Minimum density targets should match those of other recent PSPs.

These submission points relate to:

- Section 3.1 Housing subdivision and built form
- Requirement R2
- Guidelines G5 and G7
- Table 2 Housing density guide and planned neighbourhood character.

## Discussion

As set out in the Part A Submission, Policy 2.2.5 of Plan Melbourne 2017-2050 sets a minimum average density of 20 dwellings/ha for greenfield areas. To achieve this target, higher densities are required in areas that offer higher amenity – the walkable catchments. This also means that reduction in the density targets for the walkable catchment will require a corresponding change in the density targets outside the walkable catchment to achieve the Plan Melbourne Policy. This policy is important in the context of a finite supply created through a fixed urban growth boundary.

Walkable catchments are a standard VPA planning tool to provide increased densities and dwelling diversity around Local Town Centres and other areas of amenity such as open space, schools and community facilities. The VPA notes this issue was considered in the Beveridge North West PSP Planning Panel, where the Panel supported the VPA's density target of 25 dwellings/ha density for a walkable catchment.<sup>1</sup> Consistent with this, the VPA proposes revisions to the density targets in the PSP as follows:

- 25 dwellings/ha inside the walkable catchment
- 19 dwellings/ha in the remainder of the PSP.

It is acknowledged that the walkable catchment itself must be appropriate, not just the densities within it. The VPA reviewed submissions that query the application of the walkable catchment up to and beyond Mickleham Road. As indicated in the Part A Submission, the VPA proposes to realign the walkable catchment approximately 90 metres inside the PSP boundary. This will allow the first row of lots (approx. 90m from the PSP boundary) to develop at standard density, and not at the higher density outlined by the PSP.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to:

- revised densities of 25 dwellings/ha inside the walkable catchment; and 19 dwellings/ha in the remainder of the PSP
- including the revised walkable catchment proposed in the Part A PSP.

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<sup>1</sup> *Mitchell C106mith (PSA) [2020] PPV 74*, paragraph 8.1(iii)



## 2.2.3 Affordable Housing

### What is the issue?

Seven submission points were raised in relation to affordable housing requirements. Submission points generally focused on:

- Request to adopt Beveridge North West PSP Panel recommendations in relation to affordable housing
- Remove 10% affordable housing targets from PSP altogether
- Amendments to Requirements and Guidelines
- Amendments to Planning Scheme Ordinance.

The following provisions are relevant to these submission points:

- Section 3.1 Housing, subdivision and built form
- Requirement R5
- Guideline G4.

### Discussion

The VPA agrees that requirements and guidelines associated with the provision of affordable housing need to be consistent across all PSPs going forward. As such, the VPA has updated provisions within the PSP and UGZ12 to be consistent with the recommendations of the Beveridge North West PSP Panel Report. This change was reflected in the Part A PSP and Ordinance.

The VPA does not agree with submissions that seek to entirely omit affordable housing provisions from the Amendment. As was stated by the Panel considering the Shenstone Park PSP:

*This Panel echoes the comments of the Beveridge North West Panel:*

*There is clear and unambiguous policy support for the delivery of affordable housing in Victoria. The VPA and other parties must be commended for working together during the Hearing and proposing an untested and new approach to deliver on this policy intent in a growth area context.*

*The Panel strongly supports the delivery of affordable housing that will meet the needs of the future community of Beveridge North West but is not satisfied that these needs have been identified. Nor has a clear delivery mechanism for affordable housing been identified or agreed.*

*The Panel notes the VPA's submission that the exhibited G14 with a 10 percent target metric is not strategically justified in the absence of a proper needs assessment. However, unlike the Mitchell Planning Scheme (considered by the Beveridge North West Panel), the Whittlesea Planning Scheme contains explicit policy support for a 5 percent social housing contribution and a 10 percent affordable housing contribution in greenfield housing developments. While no submissions or evidence was put to the Panel on this point, the Panel presumes that the policy is supported by some form of background study or needs assessment.*

*Nevertheless, a revised guideline based on the Beveridge North West Panel's recommendations would encourage the provision of affordable housing within the walkable catchment, without specifying a particular target. This Panel supports a consistent approach here.*

*While no submissions or evidence were put to the Panel on this point, the Panel expects that much of the housing stock to be delivered in Shenstone Park will likely be affordable to moderate income households as defined in the Act and the Ministerial Notice. It is less clear whether housing is likely to be affordable for low and very low income households. The revised guideline, combined with the*

*proposed application requirement and decision guideline in the Part A UGZ7, will at least enable Council to negotiate the delivery of a broad range of appropriate affordable housing in the precinct.<sup>2</sup>*

Although the Hume Planning Scheme does not contain an equivalent affordable housing policy as the Whittlesea planning scheme, the demand for affordable housing in Hume is articulated in Council's Final Housing Diversity Strategy, adopted 22 June 2020.<sup>3</sup>

The VPA also notes that section 3AA of the *Planning and Environment Act 1987* defines affordable housing as:

(1) *For the purposes of this Act, affordable housing is housing, including social housing, that is appropriate for the housing needs of any of the following—*

- (a) *very low income households;*
- (b) *low income households;*
- (c) *moderate income households.”*

(2) *For the purposes of determining what is appropriate for the housing needs of very low income households, low income households and moderate income households, regard must be had to the matters specified by the Minister by notice published in the Government Gazette.*

Table 1 to the relevant notice (Government Gazette No. S 322 Tuesday 30 June 2020) is extracted below.

Table 1 – Greater Capital City Statistical Area of Melbourne

	Very low income range (annual)	Low income range (annual)	Moderate income range (annual)
Single adult	Up to \$ 26,090	\$26,091 to \$41,750	\$41,751 to \$62,610
Couple, no dependant	Up to \$ 39,130	\$39,131 to \$62,620	\$62,621 to \$93,920
Family (with one or two parents) and dependent children	Up to \$ 54,780	\$54,781 to \$87,670	\$87,671 to \$131,500

This indicates that the income range is diverse and the VPA is of the view that there will be a high proportion of housing in the PSP area that responds to moderate incomes and therefore within the definition of affordable housing. The form of the proposed G4 in the Part A PSP references “a range of housing typologies to meet demonstrated local need” allowing further assessment of how affordable housing provision responds to the various income ranges.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved including the recommended provisions from the Beveridge North West PSP Panel Report.

### 2.2.4 Subdivision layout and efficiency

Five submission points raised matters in relation to subdivision layout and efficiency. Note that submissions raised under the *Theme 2 Transport and Movement* discussed issues about the road network which is intrinsically linked to subdivision layout and efficiency. Submission points generally focused on:

- Adequacy of lot depths and the need to relocate SR-02 to enable viable subdivision (discussed in this submission under Theme 6 Open Space)

<sup>2</sup> *Whittlesea C241wsea (PSA)* [2021] PPV 10, paragraph 10.4(iv).

<sup>3</sup> see, <https://participate.hume.vic.gov.au/a-home-for-everybody>

- Re-orientation of local and connector roads to create a more efficient lot layout and maximise views to natural assets
- Mickleham Road interface and the need for greater clarity in its treatment.

These submission points are relevant to the following provisions:

- Plan 4 Place Based Plan
- Plan 5 Transport Plan
- Plan 8 Open Space Plan
- Section 3.1 Housing, subdivision and built form
- Section 3.2.3 Street network.

## Discussion

The VPA considers that the PSP allows appropriate flexibility for site specific revisions to improve subdivision layout and lot efficiency at the application stage. However, the VPA does not propose revisions to the PSP to remove curved treatments that are central to the submissions on this issue. Natural features and site constraints are key reasons for the proposed road and open space distribution. For example, the 'slanted' angle of Mickleham Road in the south means the internal connector road (required to provide for traffic flow within the PSP) must also be orientated on an angle, lest it become impractically parallel to Mickleham Road. Similarly, the waterway alignment (addressed in Theme 3 – Drainage and Water of this submission), open space areas including retained trees and the BCS area all restrict the ability to provide a purely straight, grid-based layout that would maximise subdivision efficiency. While these concerns are acknowledged, the VPA submits the PSP reflects an acceptable outcome considering these constraints.

The VPA agrees with the submitter that greater clarity is required regarding the Mickleham Road interface. The VPA submits this issue is addressed through the inclusion of the Mickleham Road Interface Cross Section at Figure 1 of the Part A PSP, and the tracked changes proposed to Requirement R4.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved including the revisions on the Mickleham Road interface set out in the Part A PSP, but without broader changes on this issue.

## 2.3 Theme 2 – Transport and Movement

Nineteen submitters made a total of seventy-five submission points relating to transport and movement. The submitters were:

- Ross Payne (#1)
- Joanne Burnett (#2)
- Andrew Shenouda (#5)
- Jessica Meli (#7)
- Nee Senevi (#8)
- Shaun McDougall (#9)
- Fred Fenley (#10)
- Janet Remington (#14)
- Satterley (#15)
- Stockland (#16)
- Hume City Council (#17)
- Pask Group (#18)

- Property Council Australia (#26)
- Deague Group (#28)
- PEET (#29)
- Universal Syrian Orthodox (#34)
- DET (#39)
- DELWP MSA (#40)
- DoT (#41)

The primary issues raised related to:

- Mickleham Road duplication
- Precinct street network
- Traffic impact assessment
- Walking and cycling
- Whites Lane
- Mickleham Primary school access.

The provisions relating to transport and movement in the public consultation version of the PSP are:

- Plan 5 Transport Plan
- Requirements R6-R8
- Guidelines G10-G21
- Section 4.5 Street Cross Sections

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

## 2.3.2 Mickleham Road Duplication

### What is the issue?

Eight submission points were made in relation to the duplication of Mickleham Road.

The submission points generally focused on:

- The need for greater alignment between the Craigieburn West PSP and delivery of state road infrastructure to ensure that the existing high traffic volumes on Mickleham Road are not unduly increased once development commences in the precinct
- One submitter withholding support for approval of the PSP until Mickleham Road is duplicated.

### Discussion

Submissions that request a particular outcome either request that Mickleham Road is duplicated before development occurs within the PSP area or that the Amendment is held until a State government funding commitment is made to the Mickleham Road duplication.

The VPA does not agree with these propositions for the reasons set out in the Part A Submission. The VPA's position is supported by the following propositions:

- Delay of the approval of the PSP will be inconsistent with the ongoing provision of housing within Metropolitan Melbourne and the support for this in State planning policy. This policy is not cast in terms of delaying approvals pending State based funding of infrastructure.

- There is a fundamental difference between establishing the strategic planning framework and the application of that framework through the determination of individual planning applications. Each planning application will need to be assessed as to its impacts and ultimately whether it achieves an acceptable outcome having regard to the Planning Scheme, including notions of orderly planning. This has been recognised in various VCAT decisions that express a willingness by the Tribunal, where necessary, to regulate the release of lots until necessary road infrastructure is in place.<sup>4</sup> The PSP is the appropriate statutory mechanism for managing the transition of land to urban purposes and its approval ought not be delayed by infrastructure sequencing matters.
- Mickleham Road is a declared arterial road with DoT as the road authority. It is planned to be upgraded to a 6-lane road over time. The VPA understands the land required for this ultimate form has been acquired although full funding for the works has not been budgeted. The State government has been active in funding arterial road upgrades in the area, including the Victorian State Government budget (October 2020/21) commitment of \$9 million for installation of new traffic lights at the entrance to Aitken College on Mickleham Road and planning for duplication from Somerton Road to Dellamore Boulevard.
- The PSP supports the future widening of Mickleham Road through matching intersection designs and additional road connectivity within the PSP.
- While the upgrade of Mickleham Road to its ultimate standard is not able to be funded by the ICP, the delivery of IN-01, IN-02, IN-03, IN-04, IN-05, and IN-06 will assist in the upgrade of Mickleham Road. As set out in the VPA Benchmark and Infrastructure Costs Guide, intersections are delivered with an 'outside in' design:

*The “outside in” intersection design approach involves constructing the arterial road outside lanes through an intersection and retaining a wide median to accommodate future additional lanes. This approach provides net community benefit outcomes for the fair and orderly development of land by balancing a small increase in initial cost with less redundant works and less costly and disruptive works when a capacity increase is required in the longer term<sup>5</sup>*

- The delivery of the internal connector road network will complete the road network in this part of the north growth corridor, providing alternatives to the arterial road network for localised trips.
- The approval of the PSP is not the source of the congestion experienced at peak times on Mickleham Road – regardless of the approval of Craigieburn West PSP, Mickleham Road will need to be upgraded to accommodate the development already approved within the area. This has been recognised by the master planning for Mickleham Road, however it is noted that current traffic volumes experienced on Mickleham Road are not unusual for similar roads in other growth areas and would be the expected “normal” within Inner and Middle Melbourne. Currently, delays are only experienced during peak periods and traffic volumes are relatively low during the remainder of the day.
- Delaying the approval of Craigieburn West because of traffic congestion on Mickleham Road will not solve the core problem, and traffic congestion on Mickleham Road will continue to build due to existing approvals and development already occurring. Delaying the approval, however, will delay the completion of the connector road network. However, delaying approval would remove certainty needed to support the funding business case for the Mickleham Road upgrade.

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<sup>4</sup> *Mogprop Management Pty Ltd v Casey CC* [2018] VCAT 980 [72]; *FSPG Communities v Casey CC* [2018] VCAT 1129 [81]; *Ballarto Properties Pty Ltd v Casey CC* [2019] VCAT 811 [28]

<sup>5</sup> Benchmark Infrastructure and Costs Guide, Appendix 1 - Roads and Intersections

- Delaying the approval of the PSP will delay the completion of the connector road network including east – west connections between Mickleham Road and Aitken Boulevard, signalised access onto Mickleham Road (interim form of intersections to be ICP funded – project IN-07) and facilitating additional north south connectivity through a Boulevard Connector parallel to Mickleham Road. This will provide alternative options in the transport network to Mickleham Road which will improve network resilience and add capacity.

These submissions are consistent with the witness statement of Mr Hill, in which Mr Hill notes:

- Development will occur gradually, and typical timeframes for development means that it is unlikely considerable development will occur within the PSP area within the next 3 or 4 years.
- Development will deliver additional road links and connections.
- “I consider that committal to the duplication of Mickleham Road is not critical to the approval of the Craigieburn West PSP, and approval of the Craigieburn West PSP may actually assist in prioritising the upgrade of Mickleham Road.”<sup>6</sup>

## Requested Outcome

The VPA respectfully requests the Committee recommend the Amendment is approved without revisions in respect of Mickleham Road as the long-term strategic transport and land use planning align.

### 2.3.3 Precinct Street Network

#### What is the issue?

Twenty-five submission points were made in relation to various matters as they relate to the proposed street network and its design.

Submissions generally focused on:

- The need to amend the street network alignment to better support land use and development on a specific parcel by parcel landowner basis.
- Removal of/location of new intersection points in the street network including additional left-in left out (LILOs)
- intersections on Mickleham Road.
- Amending street cross sections and/or include new street cross sections to reflect better land use and transport outcomes, address interface issues, trees, and acknowledge the inclusion or not of specific infrastructure requirements including drainage.

The provisions relating to the street network in the public consultation version of the PSP are:

- Plan 5 Transport Plan
- Section 3.2.3 Street Network
- Section 4.5 Street Cross Sections

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<sup>6</sup> Witness statement of Mr Hill, page 14.

## Discussion

### 2.3.3.1 The need to amend the street network alignment to better support land use and development on a specific parcel by parcel landowner basis.

The VPA acknowledges the intention of these submissions but considers the matter is more appropriately addressed at the permit application stage. Planning for the PSP road network requires the future network to be developed at an arterial and connector road level with sufficient certainty regarding connections to the existing and planned network, and connections across property boundaries; to guide an appropriate outcome, but subject to the flexibility afforded by the concept of generally in accordance. The VPA submits that the street network indicated on the draft PSP for public consultation is appropriate. Site specific adjustments can occur at the permit application stage. Fine tuning at a site specific level at the PSP stage runs the risk of unforeseen impacts. It is submitted that the changes proposed (as understood by the VPA) are changes that can be achieved should they still be pursued at the time of subdivision.

### 2.3.3.2 Removal of/location of new intersection points in the street network including additional left-in left out intersections on Mickleham Road.

The VPA does not support changes to the location of proposed intersections or additional LILO intersections - except in respect of Mickleham Primary School. The LILO for Mickleham Primary School is required to provide access to the school from the internal road, noting the two existing road frontages are to arterial roads.

There is a distinction to be drawn where, in the preparation of a PSP the LILO arrangement is linked to a mapped precinct feature (such as a connector road) and circumstances where a future subdivision will create a road network which seeks to rely upon LILO. In the latter instance it is appropriate that the subdivision permit application is lodged and the particular location and impacts of that location can be assessed.

The VPA reviewed the submissions received regarding the locations of intersections and LILOs as indicated by the draft PSP for public consultation. The intersection locations identified in the draft PSP for public consultation are supported by the updated traffic modelling and are generally supported by DoT. Accordingly, the VPA submits the proposed network should not be altered and that fine-grained changes or additional LILO intersections can be assessed at the permit application stage. This is consistent with the propositions put to, and supported by, the Panel considering the Sunbury South and Lancefield Road PSPs, with the *Hume C207 and C208*<sup>7</sup> Panel Report recording:

[5.3(ii)]...

*Mr Tobin stated that the VPA continued to oppose the depiction of a left-in, left-out access point on PSP Plan 9. He noted that there will be numerous left-in, left-out local access points that are not shown in the PSP.*

*Mr Tobin submitted that:*

*At the time of a permit application it is entirely appropriate for RCL to demonstrate its proposed access arrangements whether interim or ultimate and to seek VicRoads approval of the same. ... At its heart the purpose of identifying the left in left out arrangement is to provide a leg up in discussions with VicRoads or to fetter the exercise of its discretion. This is not appropriate in circumstances of a planning scheme amendment in the absence of information describing how that permit application will in fact be formulated. The current amendment will not operate to defeat the existing access that this property takes from Sunbury Road. A right of review exists in the event that VicRoads does not appropriately assess the merits of any future detailed application.*

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<sup>7</sup> (PSA) [2017] PPV 138

Council agreed that showing left-in, left-out access was a level of detail not typically included in PSPs. Nevertheless, Council stated that it would not object to its inclusion in the PSP if the VPA and VicRoads supported it.

...

[5.3(iii)]...

*The issue is whether the access point should be shown on the PSP Plan. The Panel agrees that a notation on the PSP Plan would give RCL [a submitter in that Hume C207 and 208 case] some level of comfort and probably enhance the prospect of gaining VicRoads' approval. The same could be said, however, for numerous other locations where left-in, left-out arrangements will be needed to provide access to land being developed in the Sunbury South and other PSPs. There is no suggestion that VicRoads would unreasonably refuse a left-in, left-out access to Sunbury Road at the time of permit application. There is also a right of review available at that time should VicRoads not approve such access.*

...

The VPA also relies on the evidence of Mr Hill on this issue. At page 17 of his witness statement, Mr Hill concludes:

*In this regard, it should be recognised that the proposed signalised intersections along Mickleham Road are generally spaced in accordance with VPA and DoT guidelines with approximately 400 metres between intersections. Furthermore, the majority of the intersections to the south of Craigieburn Road are appropriately located to provide east-west connections between the existing roads within Craigieburn R2 PSP and Mickleham Road.*

*Additional left-in/left-out intersections to Mickleham Road are not required to be shown on the PSP and will be referred to the Department of Transport at the subdivision approval stage.*

#### 2.3.3.3 Amending street cross sections.

The VPA relies on the Part A Submission regarding cross section matters and maintains the following position:

- Agree to include Mickleham Road interface cross-section to provide clarity on the interface treatment and further strengthen Requirement 4 (see Part A PSP)
- Agree to include linear park cross-sections and document references to provide example treatments for the linear park and adjoining roads. The cross sections are currently being prepared and have not been reflected in the Part A PSP.
- Agree to update Whites Lane cross-section. The cross section is currently being prepared and accordingly the Part A PSP does not reflect the changes.
- Agree to amend the Conservation Interface Cross-section (see Part A PSP).
- Disagree with including full cross-sections for Mickleham Road (entire road reserve), Craigieburn Road, and Mt Ridley Road.

### Requested Outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the recommended revisions set out in the Part A Submission and Part A PSP.

### 2.3.4 Traffic Impact Assessment

#### What is the issue?

Sixteen submission points were made in relation to the background Traffic Impact Assessment prepared by One Mile Grid in support of the Craigieburn West PSP.



Submissions generally focused on the data and assumptions relied upon in the background technical assessment and related significant concerns therein, including:

- Traffic modelling
- Assumed lot yield
- Land use assumptions and trip generation rates
- Preparation of an alternative road network.

## Discussion

The VPA acknowledges the concerns raised by Hume City Council with the background Traffic Impact Assessment. In response, the VPA commissioned One Mile Grid to prepare the Traffic Addendum Report that was filed with the Part A Submission. Section 6.3 of Mr Hill's witness statement also responds to the concerns raised regarding the background report, including:

- The rationale for using a static traffic model in preference to VITM, considering the predetermined arterial road network and the modellings focus on internal traffic generation.
- The increased residential lot yield included in the Traffic Addendum Report.
- The appropriateness of the nine (9) vehicle movements per day per residential lot trip generation rate, distribution, AM v PM traffic directional splits, and through traffic generation assumed in the modelling.

As set out in the Part A Submission, the VPA proposes the following revisions to the PSP in light of the Traffic Addendum Report:

- Upgrade E/W connector road 1 (Parcels 6 & 7) to a boulevard connector.
- Upgrade Vantage Boulevard – north of Fairways Boulevard (Parcel 35) to a boulevard connector.
- Upgrade Fairways Boulevard – West of Vantage Boulevard (Parcel 35) to a boulevard connector.
- Upgrade Elevation Boulevard – west of N/S Connector 1 (Parcel 31) to a boulevard connector.
- Downgrade N/S Connector Road 1 – south of Craigieburn Road (Parcels 29, 30, 31) to a connector street.
- Downgrade N/S Connector Boulevard 2 – south of Dunhelen Lane (Parcel 38) to a connector street.

The VPA considers that the proposed changes outlined above address both the concerns regarding the traffic modelling and the need to amend the street network to ensure roads are operating within theoretical capacity.

## Requested Outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the recommended revisions set out in the Part A Submission and Part A Track Changes PSP Document.

## 2.4 Theme 3 – Drainage and Water

### Overview

Thirteen submitters made a total of fifty-two submission points in relation to drainage and water.

The submitters were:

- Satterley (#15)
- Stockland (#16)

- Hume City Council (#17)
- Pask (#18)
- Capitol Group (#19)
- Murray Mansfield (#20)
- Melbourne Water (#25)
- Property Council of Australia (#26)
- Merri Creek Management (#27)
- Deague Group (#28)
- PEET Ltd. (#29)
- Yarra Valley Water (#33)
- Universal Syrian Orthodox Church (#34)
- North Victorian Buddhist Association/JAK (#38)

Submissions generally focused on proposing minor amendments to the Requirements and Guidelines contained in Section 3.3 Water, utilities & bushfire safety.

There were a number of recurring issues also raised as follows:

- Greenvale Reservoir
- Integrated Water Management - various suggested amendments to wording of Requirements and Guidelines
- Aitken Creek Development Services Scheme

The provisions relating to drainage and water in the public consultation version of the PSP are:

- Plan 6 Integrated Water Management Plan
- Requirements R9-R15
- Guidelines G22-G29
- Table 3 Water Infrastructure

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

## 2.4.2 Aitken Creek Drainage Services Scheme (DSS)

### What is the issue?

Six submission points were made in relation to the Aitken Creek DSS

Submission points generally related to:

- Revising the extent of the Aitken Creek DSS catchment and sizing of assets to improve land use efficiencies
- Queries in relation to infrastructure components of the Aitken Creek DSS and the location and size.

### Discussion

#### Whole of government position

By letter from Harwood Andrews sent 16 April 2021, the VPA outlined the following in respect of DSS issues:

*The whole of government submission is that the content of any amended DSS is a matter for Melbourne Water under the Water Act 1989 (Vic). The VPA understands that these processes are underway. Technical waterway matters are accordingly not appropriate for consideration of the Committee which concerns a proposed amendment under the Planning and Environment Act 1987. Multiple parties have, however, foreshadowed an intention to ventilate these issues through submissions and evidence in the current process. Melbourne Water will attend the hearing and be separately represented for cross examination on technical issues should the Committee proceed to hear and consider evidence on the subject of the waterway designs that are being determined through the DSS processes.*

The submissions that follow set out the whole of government position in support of the Part A PSP.

### **The role of Melbourne Water and the DSS**

Melbourne Water is the regional floodplain management and drainage authority and caretaker of river health for Greater Melbourne. Melbourne Water develops a 'Development Services Scheme' (DSS) for each drainage catchment. A DSS(s) plans for the implementation of conventional major drainage infrastructure for the purposes of conveyance, flood protection, stormwater quality treatment and the protection of waterway health, to facilitate new development outcomes, primarily in a greenfield scenario. The conceptual design process for a DSS is based on the best available information at the time of creation.

The delivery of the DSS is often developer led and funded by financial contributions paid when development occurs. All developable properties pay a drainage contribution based on the size and type of development. Contributions include a hydraulic component which funds the flood protection works, and a water quality component which funds the water quality treatment works. The water quality component may be reduced or negated by the developer undertaking their own on-site water quality treatment. Contributions for each scheme are calculated so the income derived from Melbourne Water is designed to equal the planned expenditure over the expected life of a scheme, using a discounted cashflow methodology. Most scheme works are constructed by developers, and developers who are required to construct scheme works are reimbursed from the contributions received through the scheme.

A DSS is designed either before or in parallel with the preparation of a PSP, with the DSS preliminary layout confirmed prior to exhibition of a PSP or the PSP going out on public consultation. This ensures that the land requirements for stormwater assets and waterway corridors are consistent between the preliminary DSS and the public consultation version of the Future Urban Structure. Extensive consultation with all landowners within the DSS and stakeholders (Agencies/Authorities) occurs at each DSS approval stage (interim, preliminary and final). Each DSS approval stage is also approved internally, in alignment with Melbourne Water's Delegation of Authority Policy and Procedures. DSSs are also subject to performance review and amendment for change made and proposed (noting that in this case the Aitken Creek DSS is an existing DSS being considered for review).

To revise the provisions of the PSP regarding integrated water management (and Plan 6 - Integrated Water Management Plan), the VPA would first require the support of Melbourne Water for those changes. Melbourne Water does not agree to the various changes requested by submitters and, accordingly, the VPA maintains that the PSP ought to be approved including the waterways as depicted.

The VPA has referred the submissions to Melbourne Water, who advised:

*The Aitken Creek Development Services Scheme (DSS) overlaps with the northern section of the Craigieburn West PSP, and has been designed to cater for the flood protection, stormwater quality and waterway health outcomes associated with the urbanisation of this catchment.*

*It should be noted that the Aitken Creek DSS (4480) was implemented in the early 2000's and is currently a final rate DSS, which would have included a robust consultation process at the time with the relevant stakeholders (including land-owners) as defined by Principle 13 of Melbourne Water's Principles for the Provision of Waterway and Drainage Services for Urban Growth.*

*Melbourne Water's proposed revision to the Aitken Creek DSS has aimed to achieve best practice stormwater quality treatment where practical, however, there have been a number of conceptual constraints identified, including steep topography and road alignments. The Aitken Creek DSS concept proposed for inclusion in the Future Urban Structure/Place-Based Plan for this precinct, has aimed to balance the conceptual constraints and the requirements of Clause 56.07.4. Melbourne Water notes*

*that there are existing concerns related to the conveyance of sediment, nutrient loading and algae bloom in downstream assets, and we will not consider further reductions in the expected pollutant load reductions for new urban catchments.*

*Melbourne Water is currently undertaking an engineering review of the Aitken Creek DSS to inform its appropriateness to address and optimise the stormwater quality treatment opportunities across the relevant sub-catchments, to better meet the relevant obligations of the development. Once the future urban structure for this precinct is finalised, Melbourne Water will be able to finalise our engineering review of the Aitken Creek DSS, which will include further consultation regarding the specific changes in land-take and the revised drainage contribution rate.*

### **Relevant case law**

These principles have been recognised by recent Planning Panels. As the Panel considering the Beveridge North West PSP stated:

*The Panel agrees with the VPA and Melbourne Water that consideration of unilateral changes to the drainage and waterways infrastructure and assets in the PSP not in accordance with the approved DSS are outside the remit of the Panel. This issue has been ventilated at several previous PSP panel hearings. The panels dealing with those previous amendments have all concluded that the appropriate mechanism to make changes to drainage assets shown in a PSP is the process followed by Melbourne Water and the VPA to consider changes to the relevant DSS, which if approved by Melbourne Water, are then reflected in the PSP.*

*The Panel sees no justification to depart from the process endorsed and followed by Melbourne Water. A DSS is prepared under separate legislation and as noted by the VPA, the Panel is not able to review an approved DSS.<sup>8</sup>*

This principle is of course subject to revision on a site-specific basis through detailed design. This was recognised by the Panel considering the Shenstone Park PSP which stated:

15.3

(vi) VPA response

*In response to the various requested changes to drainage and waterways, the VPA submitted that the DSSs provide flexibility in the design of assets at the time of subdivision. The VPA proposed revisions to the wording in the PSP 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, subject to the approval of Melbourne Water.*

15.4 Discussion

*The Panel agrees with the VPA regarding the realignment of the tributary of the Merri Creek in regard to both 75 Langley Park Drive and 910 Donnybrook Road. The Panel is not opposed to the relocation of this tributary within the Blast Buffer (subject to the important proviso that the landowners are able to satisfy the responsible authority that safety risks could be appropriately managed), but recognises that the detailed design has not been undertaken and that it would need to be to the satisfaction of Melbourne Water.*

*Similarly with the potential realignment of the tributary of the Merri Creek within the Woody Hill Quarry site, the Panel considers that the final alignment should be resolved with Melbourne Water.*

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<sup>8</sup> Mitchell C106mith (PSA) [2020] PPV 74 [5.8(iii)]

*The note proposed by the VPA to be added to Plan 12 in the PSP provides guidance on the approach, including the practice of allowing variations to the DSSs at the subdivision application stage where developer-proposed alternative schemes satisfy a DSS's functional and cost requirements.*

*In regard to the design of drainage culverts, the Panels believes these are subject to detailed design to the satisfaction of Melbourne Water and the responsible authority. No changes are required to the PSP in relation to this issue.<sup>9</sup>*

The following propositions arise from these Panel Reports:

- Changes to the PSP inconsistent with the proposed DSS is not a matter within the remit of a panel or advisory committee.
- Changes to the DSS are a matter for Melbourne Water, informed by appropriate technical reports.
- The DSS regime does provide flexibility at the detailed design stage and it is appropriate for a PSP to include flexibility so that the outcomes of such design work remain generally in accordance with the PSP.

#### **VPA position**

The Committee should not receive or make recommendations on waterway design simply because parties would prefer to be heard in this forum or have adduced evidence in this forum. The DSS establishment and review processes constitute the proper forum for this to occur.

The VPA maintains the position set out in the Part A submission:

*The VPA considers the content of the DSS is a matter for Melbourne Water to resolve under its own legislative framework and the PSP appropriately captures the current designs provided to the VPA by Melbourne Water. The VPA's position on this issue is consistent with that put to the Panel considering the Shenstone Park PSP, where similarly submitters sought to vary the alignment and design of drainage infrastructure through the PSP process rather than a DSS review. Having considered the issues, the Shenstone Park Panel ultimately considered the issues put in submissions could be resolved through detailed design and that changes proposed by the VPA to afford greater flexibility in drainage infrastructure delivery were appropriate.<sup>10</sup> The VPA proposes similar changes here to those recommended to the panel considering the Shenstone Park PSP. Relevantly, the revised Requirement R11 references the need for drainage infrastructure to be delivered in accordance with the relevant DSS and to the satisfaction of Melbourne Water and the Responsible Authority. The VPA submits that with these revisions, the PSP will provide appropriate flexibility to respond to detailed design changes - such as narrowing or straightening waterways (if approved by Melbourne Water and the Responsible Authority) - as is sought by submitters.*

### **Requested outcome**

The VPA respectfully requests the Committee recommend the PSP is approved subject to the proposed changes set out in the Part A PSP.

### **2.4.3 Greenvale Reservoir**

#### **What is the issue?**

Nine submission points were made about the Greenvale Reservoir.

Submission points generally focused on:

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<sup>9</sup> *Whittlesea C241wsea (PSA) [2021] PPV 10*

<sup>10</sup> *Whittlesea C241wsea (PSA) [2021] PPV 10*

- The role land within the 'Greenvale North Investigation Area' will play in enabling the construction of required water infrastructure (retarding basin and bund) to protect the Greenvale Reservoir whilst facilitating development within the broader Craigieburn West PSP.
- The role of Property 40 and the inability to define a developable area until certainty is provided around the infrastructure required to protect the Greenvale reservoir.

Satterley called for the rezoning of land within the Greenvale North investigation Area to facilitate these works.

Capitol Group stated that without specific details of the infrastructure required to protect Greenvale Reservoir, the extent of developable area in Property 40 cannot be properly defined and the PSP should recognise this through specific requirements.

## Discussion

The central issue raised in submissions regarding the Greenvale Investigation Area is the draft Yuroke DSS design requires drainage infrastructure to be delivered to facilitate the development of the southern part of the PSP area, but places some key infrastructure on land outside the PSP. In particular, the draft Yuroke DSS requires a wetland (YCWL01) to be constructed within the PSP Area but would also require a bund to be constructed within the Greenvale Investigation Area, outside the PSP area.

It is important to note that the YCWL01 asset is required to protect the Greenvale Reservoir. Greenvale Reservoir forms part of the water supply to Melbourne. As set out in Schedule 9 to the Environmental Significance Overlay, "Greenvale Reservoir is an off-stream storage facility that receives water via a pipeline from Silvan Reservoir and then directly supplies the water to customers". Ensuring upstream stormwater is appropriately treated and detained is therefore central to protecting the drinking water supply from that reservoir.

Against this background, it is unsurprising that submissions on this issue do not seek to remove the assets from the PSP, but focus on temporal matters.

The VPA acknowledges the drainage infrastructure within the Yuroke DSS will not entirely be delivered by the development of this PSP. This is not an uncommon reality in growth areas with drainage catchments often covering only part of a PSP area or a DSS extending to more than one PSP. It is equally common that development of land within a PSP will be reliant on development outside of a PSP – whether that be for the delivery of road connections, services or in this case drainage. At the core of these issues is a question of timing – in this case the southern part of the PSP cannot develop until the down stream drainage infrastructure is developed.

The submission from Satterley is predicated on the basis that the rezoning of the Greenvale North Part 2 (Investigation Area) will allow this infrastructure to be delivered. The VPA acknowledges that rezoning the Investigation Area will allow urban development that would logically include the delivery of drainage infrastructure but submits the act of rezoning will not in itself guarantee that outcome in any particular timeframe. Equally, it is submitted the current zoning of the Investigation Area (Rural Conservation Zone – Schedule 3) does not prohibit the delivery of this infrastructure. A developer would be required to enter into a private agreement between landowners to facilitate the infrastructure.

Greenvale North Part 2 (Investigation Area) is listed on the VPA Business Plan as "Pre-Commencement" and is currently being explored as a future VPA project within the Partnered Delivery Pilot program. It is therefore receiving consideration by the VPA. PSP's are long term strategic documents. They do not contemplate complete conversion of land to urban purposes in the next 1, 2 or even 5 years. It is submitted, the development of the Investigation Area will be resolved early in the life of the PSP, although not before its commencement. That is neither unusual nor unacceptable.

As set out in the Part A Submission, the VPA proposes notation on Plan 6 – Integrated Water Management Plan stating "Development within the area subject to the Yuroke DSS is reliant on the provision of protection assets outside of the control of the PSP". Whilst the PSP is unable to resolve DSS issues, the VPA submits that the proposed note will make clear that the development of this southern area, subject to the Yuroke DSS, is reliant on the provision of protection assets in an area outside of the control of the PSP.

The VPA's position on this issue represents a 'middle ground' option. An alternative would be to omit the southern part of the PSP from this process and defer the ability for permits to be assessed to a future time when

that area could be planned along with the Investigation Area. A further alternative would have been to delay the finalisation of the current PSP until further work was commissioned and completed for the Investigation Area. When viewed against these alternatives, the approach proposed by the VPA in the Part A submission is a pragmatic response to the constraints inherent in this area.

In respect of the Capitol submission, the VPA notes the PSP is based on the current draft Yuroke DSS design provided by Melbourne Water. While that DSS remains in draft, the VPA understands land take matters are unlikely to change in the finalisation of the DSS.

### **Requested outcome**

The VPA respectfully requests the Committee recommend the PSP is approved subject to including the note on Plan 6 proposed in the Part A submission.

## **2.4.4 Integrated Water Management and Network**

### **What is the issue?**

Twenty-three submission points were made relating to integrated water management and its associated network

Submitters generally requested:

- Amendments to Requirements and Guidelines, including improving the clarity of provisions
- Reconfiguration of the waterway and wetland layout to support an improved Place Based Plan, creating greater efficiency and equity of land use.

These submissions are relevant to:

- Requirements R9-R15
- Plan 6 Integrated Water Management Plan
- Guidelines G22-G29
- Table 3 Water Infrastructure.

### **Discussion**

The VPA observes that many of the issues raised in these submissions are matters of detailed drafting. Many of these drafting changes (from Council and Melbourne Water) have been included in the tracked changes proposed in the Part A PSP. The VPA relies on the submission-by-submission comments in the Submission Response Table, except where a matter is specifically addressed below.

In respect of submission 16, the VPA does not agree to the changes requested by Stockland in submission item 16.09 (downgrading R14). It is submitted that R14 (requiring development to meet best practice targets for stormwater) is a standard requirement to be met by new development both within PSPs and in infill areas. To the extent that the submission is founded on the basis that the current DSS design for Aitken Creek does not meet best practice targets, underscores the need for Melbourne Water's current review of the Aitken Creek DSS.

In respect of submissions that seek to reconfigure waterway and wetland layouts to improve efficiency and equity of land use, the VPA relies on the submissions set out above in respect of the issues before the Committee and consistency between the PSP and DSS prepared by Melbourne Water.

### **Requested outcome**

The VPA respectfully requests the Committee recommend the PSP is approved subject to the tracked changes shown on the Part A PSP.

## 2.4.5 Theme 4 – Education and Community Infrastructure

### What is the issue?

Seven submitters made a total of 21 submission points in relation to education and community infrastructure.

The submitters were:

- Hume City Council (#17)
- Pask Group (#18)
- Murray Mansfield (#20)
- Property Council of Australia (#26)
- Deague Group (#28)
- Ricky Dougal (#35)
- DET (#39)

Submissions generally focused on proposing minor amendments to wording. Amendments to wording related to the Requirements and Guidelines contained in Section 3.6 Education and community infrastructure.

Other key matters raised include:

- Location of Community Facilities
- Location of the Primary School and associated catchment
- Location of Secondary School and its occupying multiple titles
- Overlapping catchments of Area of Open Space and Secondary School.

The provisions relating to education and infrastructure in the public consultation version of the PSP are:

- Plan 11 Precinct Infrastructure Plan
- Plan 8 Open Space Plan
- Plan 4 Place Based Plan
- Section 3.6 Education and community infrastructure
- Requirements R34-R35
- Guidelines G62-G68
- Schedule 12 to Clause 37.07 Urban Growth Zone

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

## Discussion

### 2.4.5.1 Community Facilities Locations

Submission #16.07 queries why the northern Active Open Space (SR-01) and Community Facility (CI-01) have an area of 9.5 ha and 1.2 ha, when only 8.0ha and 0.8 ha were contemplated by the Lindum Vale PSP which will partly fund these facilities.

The VPA has shown the increased area in this PSP at the request of Hume City Council, the ultimate owner and operator of these facilities. The provision of local sports reserves in Craigieburn West PSP is within the Precinct Structure Planning Guidelines (2009) target of 6% of net developable area and is considered to be appropriate for the anticipated population of the PSP and adjacent catchment in Lindum Vale.



Lindum Vale PSP was prepared between 2015 and 2017, with exhibition commencing in August 2017 and the amendment being gazetted in 2019. At that time, planning for Craigieburn West had not commenced and accordingly the consideration in Lindum Vale should not constrain the preparation of a later PSP, particularly where densities and household size assumptions have moved on since that PSP.

#### 2.4.5.2 Secondary School Location

Submissions (28, 35) relate to the Government Secondary School proposed in the central part of the PSP.

##### **Part A Position**

In the Part A Submission, the VPA notes the need for the school was identified after the co-design workshop and, accordingly, the location was determined in consultation with DET at that time. The co-design workshop is an issues identification process for the preparation of PSPs but is an earlier step in the process than the preparation of the PSP document. The VPA set out the following locational factors that were balanced in selecting the secondary school location indicated in the public consultation PSP:

- Catchments – DET identified the need for a Secondary school in the precinct north of Craigieburn Road.
- The school location meets relevant locational guidelines. In addition to the locational criteria set out in the Part A Submission, the VPA notes that Standard C4 at clause 56.03-3 states that:

*School sites should:*

- *Be integrated with the neighbourhood and located near activity centres.*
- *Be located on walking and cycling networks.*
- *Have a bus stop located along the school site boundary.*
- *Have student drop-off zones, bus parking and on-street parking in addition to other street functions in abutting streets.*
- *Adjoin the public open space network and community sporting and other recreation facilities.*
- *Be integrated with community facilities.*
- *Be located on land that is not affected by physical, environmental or other constraints.*

*Schools should be accessible by the Principal Public Transport Network in Metropolitan Melbourne and on the regional public transport network outside Metropolitan Melbourne.*

*Primary schools should be located on connector streets and not on arterial roads.*

*New State Government school sites must meet the requirements of the Department of Education and Training and abut at least two streets with sufficient widths to provide student drop-off zones, bus parking and on-street parking in addition to other street functions.*

The proposed secondary school location performs very well against these criteria given its central location in proximity to the town centre, open space, active open space and other facilities.

Furthermore, the proposed location supports good planning practice and co-location and place-making principles give it is directly adjacent to a sports reserve, and in close proximity to the primary schools and the Local Town Centres in both Craigieburn West and Craigieburn R2. Co-location with the aforementioned community assets strengthens the desirability of the walkable catchment, increases the sense-of place, and improves the attractiveness of higher density living.

The VPA submits that no other location within the PSP balances the considerations outlined above to the extent that the proposed location does.

In respect of concerns regarding facilities across multiple titles, it is correct that this does mean that negotiations or other modes of acquisition must occur multiple owners. In this instance the selected location is acceptable to DET. Implementation requirements must be balanced against proper planning locational assessment. The location across multiple titles does not preclude the establishment of an education facility, is acceptable to the DET and on a planning basis a better than acceptable location. For these reasons, fragmentation is not a rationale for relocation of the facility.

## **Balancing of competing considerations – integrated decision making**

This balancing exercise is well known to the planning system. Indeed, it is the subject of Clause 71.02-3 which applies equally to responsible authorities assessing applications as it does to planning authorities for planning scheme amendments, and provides:

*Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development.*

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

*Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.*

Court of Appeal provided the following remarks on net community benefit and acceptable outcomes (albeit in the context of an appeal ultimately related to a statutory planning matter) in *Hoskin v Greater Bendigo City Council* [2015] VSCA 350

*47 The test of net community benefit implicitly recognises that a proposal may have both benefits and disbenefits which must be jointly evaluated.*

*48 It follows that it will not be sufficient for objectors to simply establish that a particular proposal will or may cause some planning disbenefit in order to demonstrate that a permit should be refused. Conversely, it will not be sufficient for a permit applicant to simply demonstrate that a proposal will or may convey some planning benefit in order to establish that a permit should be granted.*

*49 To like effect, cl 65 of the planning scheme requires a responsible authority to decide whether a proposal for which a planning permit is sought will produce ‘acceptable outcomes’:[27]*

### **DECISION GUIDELINES**

*Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.*

*50 In Rozen v Macedon Ranges Shire Council, Osborn J addressed the test of ‘acceptable outcomes’ as follows:[28]*

*The test of acceptable outcomes stated in the clause is informed by the notions of net community benefit and sustainable development. An outcome may be acceptable despite some negative characteristics. An outcome may be acceptable because on balance it results in net community benefit despite achieving some only of potentially relevant planning objectives and impeding or running contrary to the achievement of others*

The Panel considering the Beveridge North West PSP also remarked on these issues. In a very different context (competing policy regarding extractive industries and urban development) that Panel remarked:

*As the authorities make clear, planning decision making only needs to provide for an acceptable outcome, not an ideal or best outcome; at times choices need to be made and some policies preferred*

*over others depending on the context and circumstance. This is both an outcome and a feature of the planning system and the need to balance competing policy.*<sup>11</sup>

These passages make it clear that the Committee's task is not to elevate the principles associated with school location above other planning principles, nor to strive to find an ideal location. The question the Committee must ask is whether, considering the various competing factors and policies, the outcome proposed by the draft PSP is an acceptable outcome meeting the needs of the future communities.

#### **Equity and financial matters.**

Submissions 28 and 35 both (to varying degrees) raise issues of equity and the viability of the development of properties 9 and 10, given they are predominantly shown as active open space and secondary school on the land use budget. The VPA acknowledges that a greater portion of both properties are undevelopable compared to the average across the PSP, however this should not be confused as representing a test of fairness, nor a test of appropriateness.

Firstly, the submissions do not challenge the need or appropriateness of a secondary school or active open space reserve. If these facilities are to be provided within the PSP they must be located somewhere and placed on one or more PSP properties. If the school and active open space are to be centrally located in the PSP and north of Craigieburn Road, there are limited alternate opportunities to establish these uses that would not result in a similar proportion of a property being occupied. This is a product arising from relatively the fragmented land ownership in the area.

Fragmentation, average lot sizes and encumbrances may be expressed in many ways. There are 40 PSP properties with a total area of 558.55 hectares. The majority of lots within the PSP are between 10 and 17 hectares, with a mean lot size just under 14 hectares. Properties 9 and 10 are therefore below the average lot in the PSP at 10.28 and 8.25 hectares respectively. It follows that any appropriately sized secondary school and active open space reserve will occupy a larger extent – expressed as a raw number – of properties of this size. The percentage may be high, but the percentage alone does not reveal the whole story.

Cadastral boundaries play only a limited role in growth area planning. The boundaries represent boundaries that have been created for historic non-urban uses – these historic uses should not contaminate or overwhelm ordinary planning principles concerning urban structure for modern urban uses. In short, cadastral boundaries can be a consideration (generally in relation to implementation issues)<sup>12</sup> but in the great majority of cases is very much a lower order consideration if relevant at all.

The developable percentage of a lot is a product of historic lot size. A school on a large lot has a much smaller impact on this analysis than a school on a smaller lot. Accordingly, the percentage of a parcel designated for non-residential uses is a matter the Committee can consider, but in the VPA's submission it is far from determinative of the issue. Planning is (appropriately) not undertaken by dividing non-residential uses evenly between each PSP properties. To place great weight in an equal outcome on a percentage basis would be to abdicate proper planning practice to a spreadsheet – and in reality, result in a land use distribution resembling swiss cheese. In fact, structure planning calls for the agglomeration of these uses. Proper and orderly strategic planning operates on a more sophisticated basis than a law of averages.

This concept was recognised by the Panel considering the Shenstone Park PSP. That panel stated:

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<sup>11</sup> *Mitchell C106mith (PSA) [2020] PPV 748*, paragraph 2.8(iii)

<sup>12</sup> See for example the delivery of connector roads through the fragmented Greenvale Central PSP or the Balbethan Drive residential area in the Lancefield Road PSP which converts low density residential to standard density residential development.

*The Panel accepts that, in principle, strategic planning should not be dictated by title boundaries or private commercial agreements between landowners.<sup>13</sup>*

This statement is consistent with the submissions above but also reflects the commercial reality of growth area developments. Land holdings may be consolidated. Land holdings may be acquired by developers before, during or after the PSP process. Land holdings may be acquired by one developer and on sold to another with broader interests in a PSP. Land holdings may be sold off by a large land holder to a more boutique developer with a different cost base. These things and many more happen in the life of a PSP. The context in which development occurs and the commercial wishes of parties today may not reflect the commercial reality of a future time. This context reinforces that sound planning principles should guide future outcomes, rather than the cadastral lot boundaries or commercial interests at the time the PSP is prepared.

To put land holdings into perspective, precinct features like vegetation, topography, geomorphology and road are matters that bear directly on the urban form and in the case of good structure planning will be read in the future development. By contrast cadastral boundaries will disappear into the urban form.

Secondly, designation as a future school site or active open space reserve does not equate to purchase on unfair terms.

The New Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans and Ministerial Reporting Requirements for Infrastructure Contributions Plans (24 February 2021) will apply to the Craigieburn West ICP once gazetted. This is because the valuation report prepared pursuant to sections 46GN of the Act will be prepared after the conduct of this Committee hearing and therefore after 24 February 2021.<sup>14</sup> The valuation principles for calculating the estimated value of inner public purpose land (such as OS-02) under the Ministerial Directions directs the use of the following assumptions:

- (i) the subject land is zoned for an urban purpose as identified in the relevant precinct structure plan or equivalent strategic plan and valued at its unencumbered, highest and best use within this context;*
- (ii) land in and around town centres identified in the relevant precinct structure plan or equivalent strategic plan will be assumed to be zoned for residential purposes;*
- (iii) if the highest and best use is residential, the relevant density per parcel is the average density (expressed as dwellings per net developable hectare) identified in the relevant precinct structure plan or equivalent strategic plan;*
- (iv) the subject land is accessible by road;*
- (v) any GAIC (if within the GAIC area) has been paid; and*
- (vi) the subject land is at the development front; .<sup>15</sup>*

The existence of the land equalisation regime embedded in Part 3AB of the Act is itself recognition that some properties will be planned with more or less inner public purpose land and forms a basis of compensation for that land.

Further, and acknowledging that the secondary school site will be acquired by the VSBA and is not inner public purpose land, the acquisition would (assuming the land value exceeds \$750,000) be governed by the Victorian

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<sup>13</sup> *Whittlesea C241wsea (PSA) [2021] PPV 10 at paragraph 4.5(ii).*

<sup>14</sup> Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans and Ministerial Reporting Requirements for Infrastructure Contributions Plans, 24 February 2021, item 29.

<sup>15</sup> Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans and Ministerial Reporting Requirements for Infrastructure Contributions Plans, 24 February 2021, item 36.

Government Land Transactions Policy and Guidelines April 2016<sup>16</sup>(or any successor policy).<sup>17</sup> This means that the VSBA would be required to “obtain approval from the Victorian Government Land Monitor (VGLM) to ensure that the following transactions are conducted in accordance with the highest standards of probity, relevant legislation and Victorian Government policy” before proceeding with the acquisition. Referral to the VGLM is intended to ensure:

- *an appropriate level of due diligence has been conducted*
- *the agency has the appropriate authority to conduct the transaction*
- *the most appropriate planning controls (including zoning) are in place*
- *the transaction of land is supported by an assessment of the current market value of the land by Valuer-General Victoria*
- *the transaction of land accords with relevant legislation*
- *any exemption to the requirements of the policy is supported by the relevant approval.*<sup>18</sup>

These provisions ensure that the future purchase of the school site will take place on fair terms.

### **Community infrastructure evidence**

The VPA reserves its position on the community infrastructure evidence to be filed after the commencement of the hearing.

### **Acquisition timeline**

Finally, one submission (#26) sought a timeline for the acquisition of land for schools – this point may be taken by others in the running of the case. The VPA understands that the VSBA acquires land for schools in response to population growth and demand. Accordingly, where the uptake of land in a PSP area is quick, the acquisition of school sites would usually occur sooner than where the uptake of land in a PSP area is slower. A timeline for acquisition of land for school sites would restrict the ability of the VSBA to respond to demand across Victoria as they eventuate because of market conditions.

#### **2.4.5.3 Primary School Locations**

In response to Submission 18 regarding the location of the primary school, the VPA’s position is the school location has been supported by DET and aligns with the location principles set out above in the context of the secondary school. The proposal to move the school further north is not supported.

Submission 20 in relation to the southern primary school is considered resolved (as indicated in the Part A Submission).

### **Requested outcome**

The VPA respectfully requests the Committee recommend the Amendment is approved including the changes set out in the Part A PSP, but without further revisions on community infrastructure.

## **2.5 Theme 5 - Town Centre**

Five submitters made a total of nineteen submission points in relation to the town centre.

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<sup>16</sup> Victorian Government Land Transactions Policy and Guidelines April 2016, clause 2(c)(vi), clause 8.1.

<sup>17</sup> See also, <https://www2.education.vic.gov.au/pal/land-acquisition/policy>

<sup>18</sup> <https://www.land.vic.gov.au/government-land/victorian-government-land-monitor/how-we-provide-assurance-to-government>

The submitters were:

- Janet Remington (#14)
- Hume City Council (#17)
- Hawthorn Developments (#22)
- SFA Land Development Pty Ltd. (#30)
- Universal Syrian Orthodox Church (#34)

Submissions generally focused on matters relating to improving the legibility of the provisions and proposing minor amendments to wording or new Requirements and Guidelines contained in Section 3.7 Centre, employment and economic activity and Sections 4.3 and 4.4.

The primary issues raised related to:

- Town Centre Concept Layout Plan and amendments to Schedule 12 to Clause 37.07 Urban Growth Zone
- Town Centre - location and size
- Town Centre - inclusion of mixed use area on the south side of the east-west road network adjacent to the town centre.

The provisions relating to education and infrastructure in the public consultation version of the PSP are:

- Section 3.7 Centre, employment and economic activity
- Plan 4 Place Based Plan
- Requirements R36
- Guidelines G69-G70
- Table 7 Craigieburn West Local Town Centre – performance and guidelines
- Section 4.3 Craigieburn West Local Town Centre- design principles
- Section 4.4 Local Convenience Centre performance criteria
- Schedule 12 to Clause 37.07 Urban Growth Zone.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above are provided below.

## **2.5.2 Town Centre Concept Layout Plan and amendments to Schedule 12 to Clause 37.07 Urban Growth Zone**

One submission point was made in relation to a town centre layout plan and associated amendments to Schedule 12 to Clause 3.07 Urban Growth Zone. The submission asserts that: In the absence of the Craigieburn West PSP including a Town Centre concept layout plan, amendments should be made to Schedule 12 to the Urban Growth Zone to include the requirement for the preparation of a concept layout plan before a permit can be granted to use or subdivide or to construct a building or construct and carry out works.

### **Discussion**

As set out in the Part A Submission, the VPA does not agree that application requirement is needed for the proposed Local Town Centre (as opposed to a Major Town Centre). The VPA submits the inclusion of Town Centre concept plans in the PSP does not assist assessment of permit applications as the plans are only indicative, providing a visual illustration of the desired design principles. At 3.7.1 of the PSP the LTC is identified as having a retail component of 6,000m<sup>2</sup> including a full line supermarket and a commercial component of 1,000m<sup>2</sup>. Given that the supermarket component of the LTC will comprise approximately two thirds of the retail component the role of a concept plan is limited and the presentation of these centres have relatively fewer moving parts and less varied ownership.

Accordingly, the VPA submits the desired design outcomes are more appropriately expressed through the performance requirements and guidelines in Table 7 and the design principles outlined in Appendix 4.3 & 4.4 of the PSP. These can be assessed at permit stage without a UGZ requirement for the preparation of a concept plan.

This submission is consistent with the conclusions of the Panel considering the Beveridge North West PSP which (albeit in the context of the proposed omission of concept plans for a sports reserve) remarked:

*Whilst these concept plans can provide a useful indication of how required facilities can fit into a space and how a reserve could be developed, they are not essential to be incorporated as part of the PSP and design outcomes can be achieved through appropriate requirements and guidelines<sup>19</sup>*

Submission 17 references the example of Beveridge North West. It should be noted that BNW only required a concept plan to be submitted prior to permit issue for the Southern Town Centre. The VPA submits the Beveridge North West Southern Town Centre had unique requirements not present in the Craigieburn Local Town Centre:

- The centre was on YVW land and they 'proposed institution uses' in the mixed use area but these were not confirmed at the time of the amendment.
- The southern town centre encompassed a much larger area than normal Local Town Centres with a large mixed use area, therefore greater resolution of the applied zones at a later date was appropriate.
- The three other Local Town Centres in BNW did not include the same requirement (i.e. concept plan). The concept plan in BNW was a specific requirement tailored to a particular context and not necessarily replicable.

## Requested outcome – concept plan

The VPA respectfully requests the Committee recommend the Amendment is adopted without a concept plan being required for the Local Town Centre.

### 2.5.3 Town Centre- Location and Size

Five submission points were raised in relation to the location and size of the town centre.

Submission points generally focused on:

- The need to incorporate flexibility into the sizing of the town centre mindful of the sizing of town centres in other growth areas
- A reduced town centre size would allow for additional alternative land uses within and around the town centre creating a well-designed interface
- Relocation of the town centre to the north, removing the mixed-use land strip which has the potential to create poor design outcomes
- Relocation of the town centre along the arterial road network.

These submission points related to:

- Plan 4 Place Based Plan
- Table 7 Craigieburn West Local Town Centre – performance requirements and guidelines.

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<sup>19</sup> Mitchell C106mith (PSA) [2020] PPV 74, paragraph 8.6(iii)

## Discussion

As set out in the Part A Submission, the VPA agrees to a small reduction in the size of the Local Town Centre and its relocation to the northern boundary of property 23 but does not agree to make more substantive or detailed design changes. These can be proposed at the development stage against the criteria in the PSP.

Changes to the location within property 23 are proposed to allow a more efficient land use distribution while the reduced size (2.6ha down from 3ha) will be within the recommended range identified in the background retail needs assessment report commissioned by the VPA. This recommended an area of 2.3 to 2.6 ha was required.

The VPA does not agree to relocate the town centre to be located on an arterial road but does propose revisions to Table 6 to require the town centre to be located with a frontage to the connector road network.

## Requested outcome – town centre location

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the changes set out in Part A PSP.

### 2.5.4 Town Centre- inclusion of a mixed-use area on south side of the east-west road network adjacent to the town centre

One submission sought to extend the area of mixed use land to the south side of the east-west road network adjacent to the town centre. The draft PSP only showed mixed use north of the Local Town Centre and primary school on both sides of the central, north south connector.

This submission also highlighted that the proposed UGZ12 did not include the applied mixed use zone (this has been addressed through the Part A).

The submission regarding the extent of mixed use land is relevant to:

- Plan 4 Place Based Plan
- Table 7 Craigieburn West Local Town Centre – performance requirements and guidelines

## Discussion

The VPA does not support the change requested by Council.

The areas adjacent to the Local Town Centre are included in the walkable catchment and will achieve a higher density outcome. It will also result in a wider range of permissible non-residential uses under the Residential Growth Zone (compared with the General Residential Zone). Such section 2 uses include shop and office where these are located within 100 metres of the town centre. This is in contrast to the far wider array of permissible uses under the Mixed Use Zone.

It is considered that the Mixed Use Zone located north of the Local Town Centre will deliver a point of difference and allow overflow of retail uses should further space be required in the future. It is also noted that the Mixed Use Zone does not include a maximum building height in the absence of a height specified in the schedule. The VPA does not propose to populate the maximum building height for the applied Mixed Use Zone. Accordingly, no maximum height limit will be imposed, however, the 'residential within walkable catchment' character statement in Table 2 of the PSP will apply, which indicates a 4-storey height limit. This will guide building heights subject to the flexibility of 'generally in accordance'.

## Requested outcome – town centre location

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the changes set out in Part A PSP.



## 2.6 Theme 6 - Open Space

Eleven submitters made a total of thirty submission points in relation to open space.

The submitters were:

- Janet Remington (#14)
- Stockland (#16)
- Hume City Council (#17)
- Pask Group (#18)
- Hawthorn Developments ((#22)
- Property Council of Australia (#26)
- Merri Creek Management Committee (#27)
- Deague Group (#28)
- PEET Ltd. (#29)
- AK (Aust) Pty Ltd.
- North Victorian Buddhist Association/JAK (#38)

Submissions generally focused on matters relating to improving the legibility of the provisions and proposing amendments to wording or new Requirements and Guidelines contained in Section 3.4 Public realm, open space & heritage.

Other matters raised include:

- Location of local parks, green links, sports reserves and redistribution thereof
- The need for sufficient space within Local Parks to accommodate Tree Protection Zones
- Discrepancy in ICP funding between Lindum Vale PSP and Craigieburn West PSP in relation to the northern sports reserve (SR-01) and community facility (CI-01) (discussed separately in respect of Theme 4 – Education and Community Infrastructure and Theme 11 – Melbourne Airport).

The provisions relating to open space in the public consultation version of the PSP are:

- Place 4 Place Based Plan
- Plan 8 Open Space Plan
- Section 3.4 Public realm, open space & heritage
- Requirements R23-R25
- Guidelines G42-G49
- Table 5 Credited open space delivery guide.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

### Discussion

#### 2.6.2.1 Active open space

Craigieburn West PSP provides two Sports Reserves, one in the north (SR-01) in proximity to Lindum Vale PSP, and one centrally located (SR-02) adjacent to the proposed secondary school. Four submissions (16, 17, 28, 35) raised matters regarding the location and provision of the Sports Reserves.

The PSP shows SR-01 located adjacent to Mt Ridley Road. Submissions 16 and 17 propose relocating SR-01 in response to the proposed realignment of the Biodiversity Conservation Strategy (BCS) Area 29. The VPA notes the adjoining landowner in Lindum Vale PSP does not support the proposed relocation of SR-01, as it is partially apportioned to Lindum Vale through the ICP. Submitters 28 and 35 requested a review of the location of SR-02 as well as a minor resizing to allow for a row of lots to be included within the boundaries of the respective parcels.

The VPA considers relocating SR-01 to align with the proposed BCS realignment has merit. This realignment will have limited impact on Lindum Vale as the Sports Reserve will be relocated along the connector road and shared path network, facilitating both vehicular and active transport access. This change cannot be made or supported until alignment of the BCS is confirmed. The VPA does not support relocation of SR-01 in the absence of the BCS realignment as addressed elsewhere this submission. The VPA submits that a relocated SR-01 would equally well serve the Lindum Vale catchment even if it were located further south than Mt Riddle Road, so long as it remains on the north south connector road.

The VPA does not support relocating SR-02 as it is centrally located within the PSP and serves the wider catchment both internal and external to the Craigieburn West PSP. Its co-location with the proposed secondary school, central location in the PSP, proximity to the connector road and town centre all represent a positive planning outcome. The VPA supports a minor reorientation to SR-02 (and the secondary school) by approximately 15 metres to the south to enable the development of lots along the boundaries of parcels 9 and 10.

#### 2.6.2.2 Other open space reserves

In addition to two Sports Reserves, the Craigieburn West PSP provides an extensive local park network. These include 16 local parks and 12 green links (linear park). Submissions 14, 16, 17, 18, 22, 26, 27, 28, 29 generally seek changes to either reduce or relocate open spaces.

The VPA generally supports the open space configuration as presented in the Draft PSP for public consultation and considers the proposed network of open space represents an appropriate distribution of open space response to the presence of significant trees. However, the PSP allows minor relocation of open spaces where it can achieve the locational attributes as outlined under G43 and does not move the land outside of a specific parcel – due to ICP requirements.

The VPA also notes issues with the wording of R24 (R25 in the Part A PSP), relating to the provision of a masterplan for the Green Links. The intent of R24 is to provide an overarching masterplan and design for linear parks, relating to each 'section' listed under Table 5 in the PSP (i.e. GL-01, GL-02 etc.). This will ensure each item is designed in accordance with an overarching plan. The requirement has been updated in the Part A PSP.

#### 2.6.2.3 Tree retention

Submission 26 raises queries regarding tree retention outside of open space. Tree retention in the PSP has been informed by a vegetation study with high and very high value vegetation identified for retention. This is the VPA's standard approach to tree retention – whether those trees be on private land or open space. Requirement 34 in the Part A PSP requires vegetation marked for retention on Plan 10 to be incorporated into open space or the public realm – subject to a secondary consent mechanism proposed by the VPA in the Part A PSP. This will provide some flexibility should the merits of any particular tree, when assessed at the application stage, warrant removal. Otherwise, the VPA submits that retained trees of high and very high value outside of open space reserves contribute positively to the character of the PSP area and the proposed provisions are appropriate.

### Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the minor tracked change to the location of LP-15 and SR-02, and the revised wording of R24 as outlined in the Part A PSP.

## 2.7 Theme 7 – Bushfire Management

### What is the issue?

Eight submitters made a total of seventeen submission points relating to bushfire management. The submitters were:

- Stockland (#16)
- Hume City Council (#17)
- Pask Group (#18)
- Melbourne Water (#25)
- Deague Group (#28)
- PEET Ltd. (#29)
- North Victorian Buddhist Association/JAK (#38)
- DELWP MSA (#40)

Submissions generally focused on matters relating to improving the legibility of the provisions and proposed minor amendments to wording relating to how PSP Requirements can be implemented. Other key issues raised related to:

- Setback requirements for LP-09 and the associated connector road alignment
- Ongoing management of BCS Area 29 to ensure current vegetation classification and subsequent setback buffer requirements
- Rationale for determination of bushfire hazards for waterways and setbacks and open spaces
- Implementation of Requirements and Guidelines and amendments/deletion thereof.

The provisions relating to bushfire management in the public consultation version of the PSP are:

- Plan 7 Bushfire Plan
- Requirements R20-R22
- Guidelines G36-G41
- Table 4 Bushfire Hazard vegetation management and setback requirements
- Schedule 12 to Clause 37.07 Urban Growth Zone.

It is noted that the VPA is yet to receive a formal submission from the Country Fire Authority (CFA) or Fire Rescue Victoria (FRV) which would in the usual course of a PSP inform the VPA's response to specific matters raised in submissions.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

### Discussion

As set out in the Part A Submission, the VPA agrees with the principle of allowing further detailed assessment of bushfire risk and associated management measures at the permit stage to potentially reduce the required setback outlined in Table 4 of the PSP. Requirement 22 is proposed to be updated to allow for a site-specific assessment to refine and review the bushfire hazard area, vegetation classifications, as well as the setback distance at the permit application stage.

Since the filing of the Part A Submission, the VPA has received and filed the witness statement of Mr Allan. Mr Allan's witness statement generally supports the approach set out in the Part A materials. In particular:

- Bushfire setback requirements can be further assessed at the subdivision and building approvals stage.<sup>20</sup>
- The revised R22 proposed in the Part A materials is supported.<sup>21</sup> The revised R22 proposed by the VPA will allow a lesser setback than that mapped on Plan 7 and set out in Table 4, to be considered on a site-by-site basis at the time of detailed design. At that stage, the particular on ground conditions may be better known and set backs may be assessed accordingly.
- Road cross sections comprise low threat vegetation and non-vegetated land and “will substantially contribute to, or even wholly achieve, the required BAL setbacks where appropriate”.<sup>22</sup>
- Mr Allan supports the application requirement for a Bushfire Site Management Plan.

Mr Allen identifies several areas for potential revisions to the PSP, including:

- Updating reference to a Bushfire Site Management Plan to read Bushfire Management Plan. The VPA agrees with this suggestion.
- Requirement 20 (Part A, R21) is unclear and the drafting should be improved. The intent of this requirement is to ensure that vegetation is managed during development in accordance with Table 4. It is not intended to apply with ongoing effect. To address this concern, the VPA proposes revising R20 to read “Vegetation within bushfire hazard areas shown on Plan 7 must be managed in accordance with Table 4 during development”.
- Requirement 21 (Part A, R22) may be misleading through the use of the term ‘development’ which may inadvertently capture roads and fences. The VPA submits this issue could be addressed if the term ‘habitable building’ was used instead of the word ‘development’.
- Requirement 22 (Part A, R23) would be difficult to enforce through a system of subdivision permits and may be impractical or not required. The VPA agrees that, apart from site management plans, R21 would be difficult to enforce or for private landowners to implement. On the public consultation version drafting, for example, R21 would require private landowners to ensure that grass within a road reserve is cropped short. Considering the evidence of Mr Allan, the VPA proposes to omit R21.
- Guideline 36 is vague and the need for it is questionable. The VPA proposes to omit this guideline.
- Guideline 37 need not apply to land adjoining low threat areas. The VPA agrees with this suggestion and proposes to revise G37 to read "Subdivision adjoining bushfire hazard areas 1 & 2 should include a publicly accessible perimeter road."
- Guideline 39 should allow for road reserves or public open space to contribute towards setbacks. The VPA agrees with this recommendation and proposes to reword this to read "Where a setback is required from a bushfire hazard, the setback should, as far as practicable, not be wholly reliant on building setbacks within the boundaries of privately owned residential lots”.
- Guideline 40 should not include reference to bushfire Hazard area 3. The VPA agrees and proposes to omit reference to area 3 in G40.

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<sup>20</sup> Witness statement of Mr Allan, paragraph 30.

<sup>21</sup> Witness statement of Mr Allan, paragraph 53.

<sup>22</sup> Witness statement of Mr Allan, paragraph 35.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the tracked changes on bushfire management made to R22 as set out in the Part A PSP, and the changes set out above arising from the evidence of Mr Allan.

## 2.8 Theme 8 – Biodiversity and Vegetation

Eleven submitters made a total of twenty-three submission points in relation to biodiversity and vegetation.

The submitters were:

- Janet Remington (#14)
- Stockland (#16)
- Hume City Council (#17)
- Hawthorn Developments (#22)
- Property Council of Australia (#26)
- Merri Management Committee (#27)
- PEET Ltd. (#29)
- SFA Land Development Pty Ltd. (#30)
- Universal Syrian Orthodox Church (#34)
- Northern Victorian Buddhist Association/JAK (#38)
- DELWP MSA (#40)

Submissions discussed the need to amend wording of Requirements and Guidelines, including a general focus on the following matters:

- Vegetation
- BCS Conservation Area 29.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

### 2.8.2 Vegetation

Fourteen submission points were raised in relation to vegetation.

Submission points generally raised matters in relation to:

- The inclusion of additional trees currently shown as ‘vegetation that can be removed’ on Plan 10.
- Lack of justification provided in relation to the methodology for the significant proportion of existing native scattered trees to be retained.
- The need for flexibility in relation to the requirement R33 to retain all vegetation shown as ‘native vegetation that must be retained’ on Plan 10 Biodiversity and Vegetation Plan.
- The recategorization of trees for retention to trees that should be removed to enable improved developable outcomes for landowner/developer.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above are provided below.

The following provisions are relevant to these submission items:

- Plan 10 Biodiversity and Vegetation Plan

- Section 3.5 Biodiversity, vegetation and landscape character
- Requirements R28-R33
- Guidelines G59-G61.

## Discussion

In the Part A Submission, the VPA stated:

The VPA's methodology for tree retention has focussed on:

- a) Indicating all Very High and High Value vegetation within open spaces (Green Link, Local Parks, Sports Reserves) as 'must be retained'.
- b) Indicating Very High Value vegetation outside of open space as 'must be retained'.

It is noted that the trees indicated in City of Hume's submission are of High (13) and Medium (1) Value, and located outside of open space, which does not align with the VPA's methodology for tree retention.

The VPA understands the need to retain vegetation for character and amenity values. The methodology outlined above provides a balance between retention of high-quality vegetation and development of the Precinct.

It is noted that all trees required to be retained are considered 'lost' from a biodiversity and/or ecological perspective, as they are within the MSA area, and require offsets to be paid, whether they are removed or retained

The VPA maintains this position but will hear the evidence and submissions from parties through the process and respond appropriately in closing.

## Requested Outcome

The VPA respectfully requests the Committee recommend the Amendment is approved as set out in the Part A PSP.

### 2.8.3 BCS Conservation Area 29

Eight submission points were raised in relation to the BCS Conservation Area 29. Submission points sought amendments to the wording of Requirements, including the following key matters:

- Support for realignment of the BCS Conservation Area 29 boundary subject to other land use and development concessions being implemented to landowner and/or developer satisfaction
- Support for and endorsement of realignment of the BCS Conservation Area 29 boundary which will be more responsive to site biodiversity values
- Realignment of BCS boundary could enable the collocation of the SR-01 with the BCS Conservation Area.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

The following provisions are relevant to these submissions:

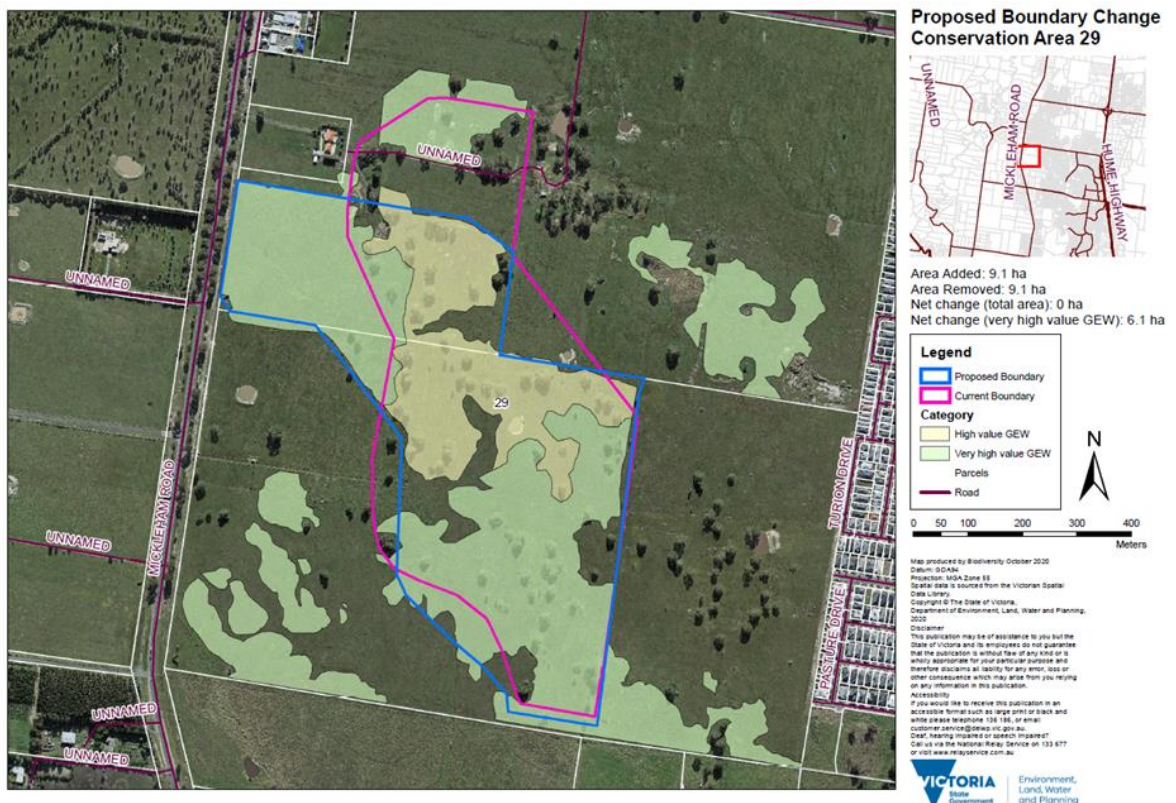
- Plans 3-11
- Section 3.4 Public realm, open space and heritage
- Section 3.5 Biodiversity, vegetation and landscape character
- Requirements R29-R32
- Schedule 12 to Clause 37.07 Urban Growth Zone.

## Discussion

As outlined in the Part A submission, the PSP was prepared showing the current approved BCS Area 29 boundary. VPA supports the intent of the BCS review to ensure the best quality vegetation is retained within the conservation area. The VPA shares concerns about the timing of the BCS realignment and approval decisions which are likely to occur after the approval of the PSP. However, the VPA considers that until the BCS review is completed, the appropriate outcome is for the PSP to show the approved BCS boundary and acknowledges that a planning scheme amendment may be required to update zone maps to reflect any revised BCS boundary. Concerns regarding the practicality of such an arrangement are mitigated by the affected land being under the control of a single owner supportive of the proposal.

The VPA continues to work with DELWP MSA regarding the proposed changes to the BCS boundary but at the time of writing the changes have not been approved. A current working draft map of the proposed realigned boundary is set out below for the assistance of the Committee:

### Proposed Boundary Change Conservation Area 29



## Requested Outcome

Regarding the BCS, the VPA respectfully requests the Committee recommend the Amendment is approved without revisions on BCS matters and endorsing the proposed realignment of the BCS and relocation of SR-01, should Commonwealth approval be granted prior to gazettal of the PSP.

## 2.9 Theme 9 – Kangaroo Management Strategy

### What is the issue?

Two submitters made a total of sixteen submission points in relation to the Kangaroo Management Strategy.

The submitters were:

- Hume City Council (#17)

- DELWP MSA (#40)

Submissions generally discussed the following matters:

- The content of the Draft Kangaroo Management Strategy
- Development staging and sequencing
- In-situ- population retention and movement corridors
- Culverts and crossing points over Mickleham Road.

Full details of all the relevant submission points and VPA responses are provided in the Submission Response Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

These submissions relate to Schedule 12 to Clause 37.07 Urban Growth Zone, and in particular the proposed application requirement at clause 3.0 and proposed condition at clause 4.0 and, as well as the conditions for permits under Schedule 6 to Clause 43.03 Incorporated Plan Overlay.

## Discussion

The Submission Responses Table in **Appendix 1** highlights the wide number of submission points received on kangaroo management issues. The primary issues raised in submissions are discussed below:

### Draft Kangaroo Management Strategy

The background reports to the Amendment included the *Eastern Grey Kangaroo Strategic Management Plan: Craigieburn West Precinct Structure Plan (PSP 1068)*, Craigieburn, November 2020, prepared by Ecology & Heritage Partners (Draft KMS).

The Draft KMS is referenced at Clause 3.0 to the proposed UGZ12 which requires a permit application for the subdivision of land to include a Kangaroo Management Plan to the satisfaction of DELWP that:

- *addresses the recommendations of the Eastern Grey Kangaroo Strategic Management Plan: Craigieburn West Precinct Structure Plan (PSP 1068), Craigieburn prepared by Ecology and Heritage Partners, dated November 2020; and includes:*
  - *strategies to avoid land locking kangaroos, including staging of subdivision;*
  - *strategies to minimise animal and human welfare risks;*
  - *management and monitoring actions to sustainably manage a population of kangaroos within a suitable location; and*
  - *actions to address the containment of kangaroos to ensure adequate animal welfare.*

Clause 3.0 to the proposed UGZ12 includes a mandatory condition requiring the site-specific Kangaroo Management Plans to be approved by DELWP prior to certification of the plan of subdivision. The recommendations of the Draft KMS will therefore inform the preparation of site specific Kangaroo Management Plans, although the Draft KMS will not direct particular outcomes on each site.

VPA notes the Kangaroo Management Strategy remains a draft document. The VPA has engaged Ecology and Heritage Partners to update the Draft KMS into a proposed final document. This document will be tabled if it is finalised prior to the conclusion of the Committee hearing.

### Request for controls to manage development staging and sequencing.

Submissions from Council and DELWP seek clarification on the scope of the PSP to control development staging and sequencing to reduce the likelihood of landlocking kangaroo populations. These submissions arise from a concern that development may proceed on all four sides of a kangaroo population – preventing escape while reducing available resources to support that population.

Whilst the risks of landlocking kangaroo populations are noted, the VPA submits that controlling the sequencing of development through the PSP is not considered the most appropriate solution. Sequencing of development within the PSP risks market distortion and other unintended consequences. The VPA submits that the provision of a Kangaroo Management Strategy coupled with a permit trigger for Kangaroo Management Plans is the



preferable option. This reflects a settled approach to the matter in other PSPS. For example, the Lindum Vale PSP (UGZ11), Lancefield Road PSP (UGZ10) and Sunbury South PSP (UGZ09) include a similar Kangaroo Management Plan application requirement and mandatory permit conditions. An earlier iteration of these conditions was included in the UGZ schedules relevant to the Greenvale North R1, Greenvale West R3, Merrifield West and Lockerbie PSPs – which gave greater emphasis to staging of development. The approach proposed in this Amendment retains reference to staging, but elevates alternate strategies to avoid land locking, along with minimising animal welfare risks. The approach proposed in this Amendment is also consistent with the standard UGZ provisions prepared by DELWP and provided to the VPA in 2017 – which informs the different drafting used in the UGZ schedules for Lindum Vale PSP, Lancefield Road PSP, Sunbury South PSP, compared with the Greenvale North R1, Greenvale West R3, Merrifield West, Lockerbie PSPs.

### **In-situ- population retention and movement corridors**

Submissions discussed the potential for the retention of an 'in-situ' population of kangaroos inside the Precinct, within areas such as the BCS, waterways corridors, Greenvale Reservoir as well as areas further east of the PSP.

The Draft KMS specifically indicates that an in-situ population of Eastern Grey Kangaroos is not considered appropriate in this area. This position is also set out in the witness statement of Mr Organ who concludes “given the lack of expansive habitat throughout the Craigieburn West PSP [i.e. potential habitat will remain in the form of a narrow drainage line that runs east-west across the northern portion of the precinct] it will be very difficult to cater for an in-situ population of Eastern Grey Kangaroo. This is not the objective of the KMS”.<sup>23</sup>

The VPA also notes the Draft KMS seeks to address risks regarding the interaction between kangaroos and human activity. The retention of an in-situ population would increase the likelihood of kangaroo and human interactions. For these reasons, the VPA does not support the retention of an in-situ kangaroo population within the PSP.

### **Feasibility of culverts and crossing points over Mickleham Road**

Submissions were received relating to the feasibility of road crossings or culverts to facilitate the movement of kangaroos over/under Mickleham Road.

Based on the Draft KMS's specific objective of reducing kangaroo and human interaction, an in-situ population is not supported. If an in-situ population is not supported, there is no need for a permanent crossing solution for Mickleham Road i.e. culvert.

## **Requested outcome**

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the following revisions to the draft Ordinance:

- Omit the Kangaroo Management Plan condition within the proposed Clause 3.0 of Schedule 6 to the Incorporated Plan Overlay which is proposed to apply to the BCS area.
- Finalise the Draft KMS and reference this final document in the Kangaroo Management Plan section of Clause 3.0 to UGZ12.

## **2.10 Theme 10 - Land Capability**

### **What is the issue?**

Two submitters made a total of four submission points in relation to land capability.

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<sup>23</sup> Witness statement of Mr Organ, Page 13.

The submitters were:

- Environment Protection Agency (#13)
- Hume City Council (#17)

Submissions generally discussed the need to update wording in relation to matters including potentially contaminated land, sodic soils, and noise.

Key matters raised related to:

- Amendments to the provisions at Schedule 12 to Clause 37.07 Urban Growth Zone to reflect wording utilised by other recent PSPs in relation to potentially contaminated land.
- Support for the inclusion of Requirement 10 and Guidelines G28 and G29 in relation to sodic soil management.
- The application requirement in Schedule 12 to Clause 37.07 Urban Growth Zone regarding sodic soils. Submissions requesting additional groundwater investigations prior to finalisation of the PSP.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

These submissions relate to the following provisions of the PSP:

- Schedule 12 to Clause 37.07 Urban Growth Zone
- Section 3.3 Water, utilities and bushfire safety.

## Discussion

### Potential contamination

Submission 13 from the EPA supports the requirements and conditions of UGZ 12 regarding a preliminary site investigation but recommends wording changes for consistency with the provisions sought by the EPA in the Shenstone Park PSP. The VPA proposed changes to UGZ12 in the Part A Ordinance and considers this issue to be resolved. These changes, relevantly, include details from Table 5.2 to the Craigieburn West Precinct Structure Plan Preliminary Land Contamination Assessment (Landserv) which identified potential contaminating activities on certain lots with a low to moderate or moderate potential for contamination.

The submission also queries the reference in the background report to a further detailed site investigation being required should a preliminary site investigation indicate contamination may be present. The VPA considers this submission relates to an error in the background report and the background report should be updated to delete reference to the preparation of a detailed site investigation. This does not of course prevent a detailed site investigation being undertaken by any landowner but it is, however, intended that the preliminary site investigation will be the primary consideration to determine if the land is suitable for a proposed use or whether an Environmental Audit is required.

### Sodic and dispersive soils

Submission 17 asserts the high level assessment of sodic soils undertaken at the background stage should be furthered by additional investigations of groundwater prior to the approval of the PSP. The VPA does not agree with this recommendation. The background assessment identifies the sodic soils risk within the PSP area as a low to moderate risk. It is considered that further detailed assessment can appropriately be undertaken at the permit application stage. The provisions of the proposed UGZ12 require such an assessment to be undertaken. It is further submitted a detailed assessment at this stage would not alter the contents of the PSP but may, at most, go to design standards – matters that can be assessed and implemented at the development stage.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the changes to UGZ12 included in the Part A materials and updating the background contamination report to omit reference to a detailed site investigation.

## 2.11 Theme 11 - Melbourne Airport

### What is the issue?

One submitter **Australia Pacific Airports (Melbourne) Pty Ltd (APAM)** made a total of 4 submission points in relation to Melbourne Airport.

Submission points generally focused on:

- Noise contours and the Melbourne Airport Environs Overlay (MAEO)
- Prescribed Airspace and associated approval pathway.

The relevant provisions in the public consultation version of the PSP include:

- Plan 2 Precinct Features Plan.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

### Discussion

#### Letter from Minter Ellison on behalf of APAM

By letter dated 9 April 2021 (9 April Letter) lawyers for APAM requested the following specific changes to the PSP. The VPA welcomes the letter which notes:

1. On Plan 2:
  - (a) an area where there is potential for development to intrude into prescribed airspace should be identified by hatching and marked in the legend as the "protected airspace area (additional approvals required from Department of Infrastructure, Transport, Regional Development and Communications)"; and
  - (b) the N Contours (as presently depicted in the *Melbourne Airport Master Plan 2018*) should be identified and marked in the legend, with a comment that they are subject to change, and that the most up to date information relating to aircraft noise can be obtained from Melbourne Airport's Noise Information Tool.
2. In Section 3.1 under 'Requirements', the following should be added:

*R6 Prior to either an application for a planning or building permit, whichever comes first, for any building within the area identified as the protected airspace area on Plan 2, approval for development within prescribed airspace must be sought from the Department of Infrastructure, Regional Development, Transport and Communications after being submitted through APAM.*

*R7 In any application for a planning or building permit for a dwelling, or to subdivide land for residential purposes within the N Contours, must include requirements for noise attenuation.*
3. In Section 3.1 under 'Guidelines', the following should be added:

*G10 In any application to subdivide or develop land for residential, educational or commercial purposes within the PSP area, consideration should be given to including noise attenuation treatments within any building to minimise the impacts of aircraft noise. Details of the N-Contours as they apply to the PSP area can be located at: <https://www.melbourneairport.com.au/Corporate/Community/Noise-at-Melbourne-Airport/Noise-tool>*
4. In Section 3.6, under 'Requirements', the following should be added:

*R36 In any application within the N-Contours to develop land for education or community facilities, including upgrading or expanding existing educational or community*

facilities, noise attenuation measures must be included in the design of any new buildings. Details of the N-Contours as they apply to the PSP area can be located at: <https://www.melbourneairport.com.au/Corporate/Community/Noise-at-Melbourne-Airport/Noise-tool>

5. In Section 3.6, under 'Guidelines' the following should be added:

G69 *In any application outside the N-Contours to develop land for education or community facilities, or upgrade existing educational or community facilities, consideration should be given to noise attenuation treatments within any buildings to minimise the impacts of aircraft noise. Details of the N-Contours as they apply to the PSP area can be located at: <https://www.melbourneairport.com.au/Corporate/Community/Noise-at-Melbourne-Airport/Noise-tool>*

In addition to these changes to the PSP, APAM proposes the following changes to the draft Schedule 12 to Clause 37.07:

(a) In Clause 3.0 under 'Application Requirements', insert a new heading and text:

**Protected Airspace**

*For any application to construct a building within the area identified as the protected airspace area on Plan 2, approval for development within prescribed airspace must be sought and obtained from the Department of Infrastructure, Regional Development, Transport and Communications after being submitted through APAM and provided as part of any permit application material.*

(b) In Clause 4.0 under 'Conditions and requirements for permits' insert the following new headings:

**Condition – Education and Community Facilities**

*Any permit to use or develop land for an education or community facility, including an upgrade to an existing education or community facility, within the N Contours must include a condition requiring noise attenuation measures to be included in the design of any buildings to AS2021-2015: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction.*

**Condition – Dwellings**

*Any permit to use or develop land for a dwelling, or to subdivide land for the purpose of dwellings, within the N Contours, must include a condition requiring noise attenuation measures to be included in the design of any buildings in accordance with the requirements of AS2021-2015: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction*

In substance these changes relate to two issues:

- N Contours and noise amenity
- Construction within controlled airspace

**N Contours and noise amenity**

The VPA observes the SAC is being asked to determine the appropriate controls to resolve these issues prior to the delivery of the final report of the Melbourne Airport Environs Safeguarding Standing Advisory Committee (MAAC). APAM has filed witness statements tabled during that process in support of its submissions and requested changes to the Amendment and PSP, but this Committee does not have the full suite of submissions and evidence that was presented to the MAAC. In the VPA's submission, it is inappropriate to expand the existing suite of planning tools given the process being undertaken by the MAAC which will consider potential changes to the Victorian Planning Provisions.

The existing tool known to the planning system is the Melbourne Airport Environs Overlay (**MAEO**). The purposes of that overlay mirror the issues ventilated in the 9 April Letter – ensuring use and development is compatible with safe air navigation and shielding people from the impact of aircraft noise through appropriate levels of attenuation. However, as asserted by the evidence of Mr Bullen to the MAAC, aircraft noise complaints arise from a far broader area than that within the 20 or 30 ANEF contours, with Mr Bullen recommending to that process, a revised framework be prepared based on the N70 and N60 contours.<sup>24</sup>

To this end, the witness statement of Mr Barlow before the MAAC proposed reforms to the MAEO as follows:

*The MAEO could be modified to address noise matters only. If that approach is adopted, I recommend that the MAEO could have four 'sub-overlay's comprising:*

- *MAEO-1 – This would apply to the ANEF 25 and higher area. There would be use and development controls similar to those existing today but updated to reflect best practice.*
- *MAEO-2 – This would apply to the ANEF 20 to 25 area. There would be use and development controls similar to those existing today but updated to reflect that the assessment of the future amenity of the sensitive use will also take account of external spaces (where appropriate). Include a density control that reflects the prevailing density (i.e. greater than 300 sq.m per dwelling).*
- *MAEO-3 – This would apply to the area between the N 70 contour and the ANEF 20 contour. The purpose of this control would be principally advisory for most sensitive uses (with possible controls to uses such as aged care or child care), provide a requirement for noise attenuation standards for new sensitive use developments and could include a density limit to ensure that significant intensification of say residential development does not occur just outside the ANEF 20 contour.*
- *MAEO-4 – This would apply to the area between the N 60 and 70 contours. The purpose of this control would be principally advisory for most sensitive uses and could include a density limit to ensure that significant intensification of say residential development or other sensitive uses does not occur just outside the N 70 contour<sup>25</sup>*

The MAAC report has not been finalised at the time of writing this submission. The VPA is accordingly unable to assist the Committee regarding the likely outcomes of the MAAC process.

To the extent that speculation is a useful tool it is noted that if the MAEO reforms proposed by Mr Barlow are adopted by the MAAC and adopted by Government, then the noise amenity provisions sought by APAM would result in duplicated planning policy. If ultimately these measures are rejected by the MAAC then that conclusion would have been reached by a committee with a more specific remit than the current Committee, following receipt of more detailed evidence and submissions on the issue than the current Committee will receive.

It is submitted it is premature for this one PSP to introduce measures referable to the N-contour prior to the comprehensive report anticipated from the MAAC. There is no meaningful difference between the noise impacts to be experienced by future residents in the east of this PSP from the experience of existing residents just east of the PSP boundary – the role potentially played by this PSP is minor. In the VPA's submission, the appropriate response is for this Committee to note the issue is one being considered by the MAAC but not recommend revisions to the Amendment other than the notation proposed by the VPA in the Part A Submission and PSP.

The draft Amendment includes a notice requirement under Clause 66.06, for "An application within the Melbourne Airport N-Contours as depicted in the Approved Melbourne Airport Master Plan under the *Airports Act 1996* (Cth)" to be referred to the "Airport lessee company of Melbourne Airport in accordance with the *Airports Act 1996* (Cth)". This is consistent with the approach taken for Lindum Vale PSP (UGZ11), Lancefield Road PSP (UGZ10), Sunbury South Precinct Structure Plan (UGZ09) areas which contains the same notice requirement.

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<sup>24</sup> See especially, witness statement of R Bullen to MAAC, page 5.

<sup>25</sup> Witness statement of M Barlow to MAAC, page 55.

## Construction within controlled airspace

At the core of the issue raised by APAM is non-compliance with the existing Commonwealth legislation.

The Commonwealth regime is detailed, but ultimately procedural:

Under the *Airports Act 1996*:

- Constructing or altering a building or other structure that intrudes into prescribed airspace is a 'controlled activity' (section 182)
- It is an offence to carry out the controlled activity (section 183)
- A power exists for the Federal Court to make an order to amongst other things) require remedial work or the demolition of any building, structure or object that intrudes into prescribed airspace (section 187).

The *Airports (Protection of Airspace) Regulations 1996* set out the:

- Contents of an application for approval to carry out a controlled activity (regulation 7), including:
  - (a) the proposed controlled activity; and
  - (b) its proposed location; and
  - (c) if the proposed controlled activity consists of the erection of a building, structure or thing:
    - (i) the proposed maximum height (above the Australian Height Datum) of the proposed building, structure or thing; and
    - (ii) the proposed maximum height (above the Australian Height Datum) of any temporary structure or equipment intended to be used in the erection of the proposed building, structure or thing; and
  - (d) the purposes of the controlled activity
- A building authority who receives a proposal for a building activity that would constitute a controlled activity must give notice of the proposal to the airport-operator company for the airport (regulation 8).
- A process exists for the consideration of applications and appeals – including under regulation 14(2) an obligation to “approve a proposal unless carrying out the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned”

As a result of noncompliance with this detailed regime, APAM is asking this Committee to recommend planning pick up where the Commonwealth regime has, in practice, fallen short. This would introduce a layer of duplication of mandatory provisions within state legislation (via the Planning Scheme and Incorporated PSP). The VPA submits this is not the appropriate role for PSP planning.

- The VPA considers the appropriate balance lies in the PSP increasing awareness of the approvals required under the Commonwealth regime, but no further. The proposed note set out in the Part A submission will make future developers aware of the environmental constraint, and the proposed Clause 66.06 notice requirement will improve communication between permit applicants and the Airport operator.

There are practical impediments to including the relevant Commonwealth Approvals within a permit application. Permit applications relate to proposals. The case where an approved permit precisely mirrors an application are, most likely in the minority. The VPA considers it inappropriate that permit applicants must get approval at Commonwealth level for construction that may change through a permit process.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved subject to the changes in relation to Melbourne Airport set out in the Part A Submission and PSP. These changes are consistent with the Lindum Vale PSP and will increase awareness of both noise amenity impacts and the requirements for approvals under the *Airports Act 1996*.

## 2.12 Theme 12 – Precinct Infrastructure

Nine submitters made a total of thirty-three submission points in relation to precinct infrastructure.

The submitters were:

- Fred Fenley (#10)
- Stockland (#16)
- Hume City Council (#17)
- Satterley (#23)
- Property Council of Australia (#26)
- Deague (#28)
- PEET Ltd. (#29)
- Yarra Valley Water (#33)
- DET (#39)

Submission points generally related to amendments to wording of Requirements and Guidelines including raising key matters as follows:

- Quantum and cost of infrastructure contributions, whether there would be a surplus or deficit in contributions under a standard levy ICP
- Apportionment of infrastructure contributions between Lindum Vale PSP and Craigieburn West PSP
- Timing of respective infrastructure items, both ICP funded and otherwise (schools)
- Funding of respective infrastructure items.

Full details of all the relevant submission points and VPA responses are provided in the Submission Responses Table in **Appendix 1**. Further discussion of the main issues listed above is provided below.

These submission points relate to:

- Section 3.8 Precinct Infrastructure Delivery
- Requirements R37-R41
- Guidelines G71-74
- Section 4.1 Precinct Infrastructure Table
- Section 4.2 Parcel Specific Land Use Budget Table.

### Discussion

#### Standard levy and quantum of contributions

The VPA anticipates that the Craigieburn West ICP will be a standard levy ICP.

Submission 16 challenges the appropriateness of the anticipated contributions from a standard levy, asserting that the standard levy will collect a surplus of \$24.5 million for transport construction and \$11.7 million for community and recreation construction. In contrast, submission 17 (Council) queries whether sufficient funds will be collected by the standard levy.

The VPA does not propose any revisions to the PSP to pre-determine whether the ICP will be a standard levy ICP, or a lesser or greater levy will be specified. The VPA's position is that the standard levy will be applied. Indeed, the VPA's current estimate is that the cost of projects included in the ICP is in the order of 85% to 90% of the amount to be collected by the standard levy. If after the conclusion of this process it is clear a supplementary levy is necessary, then a further consultative process would be required on the ICP.

While a mechanism exists for a levy less than a standard levy to be set, that power is conditional on either the consent of the Minister for Planning or if “the planning authority, the affected landowners, the municipal council of the municipal district in which the land is located, and the development agency or agencies specified in the plan agree”.<sup>26</sup> At present the position of the Minister is unknown on this issue and there appears no broad consensus to the application of a lower levy rate. Should the overcollection asserted by the submitter eventuate, section 46GZD provides a mechanism for unspent funds to be applied to other works, services or facilities with the consent of the Minister or otherwise for the refund of Contributions.<sup>27</sup>

#### **Inclusion of additional infrastructure items**

Several submissions requested including additional items in the ICP, including:

- connector to connector street intersections
- connector roads
- other items such as LILOs.

The VPA considers the proposed items do not meet the definition for inclusion in an ICP under the ICP Ministerial Direction. This is because under the Ministerial Direction:

- The standard transport construction levy may only fund arterial roads, intersections (connector-arterial, or arterial-arterial), walking and cycling infrastructure and bridges and culverts. Connector roads, connector-connector intersections and LILO intersections are not eligible to be funded by a standard levy ICP.
- While it is true that the Ministerial Direction does contemplate the use of a supplementary levy to cover more localised infrastructure, this is conditional and those conditions are not met here as shown by Table 5 to the direction which is extracted below:

[Extract of Table 5 to Ministerial Direction on the Preparation and Content of ICPs dated 24 February 2021](#)

**Table 5: Other supplementary levy allowable items**

Supplementary levy allowable item	Requirements for including a supplementary levy
Financing costs associated with the early delivery of works, services or facilities.	<p>The early delivery of the works, service or facility must be essential to the orderly development of the ICP plan area.</p> <p>The financing costs must be:</p> <ul style="list-style-type: none"> <li>• incurred by the development agency responsible for providing the item; and</li> <li>• associated with either: <ul style="list-style-type: none"> <li>• the early delivery of an allowable item; or</li> <li>• the early acquisition of public purpose land referred to in section 46GV(8) of the Act which is required for the early delivery of the allowable item.</li> </ul> </li> </ul>
Local and connector roads. Intersections of non-arterial roads. Local road and connector road bridges. Pedestrian and cyclist bridges and accessways.	<p>The item must be a works, service or facility that a developer of land normally provides on or to the land in order to develop the land for urban purposes.</p> <p>The item must be constructed on, or adjoin, land in fragmented ownership and the fragmented ownership must make provision of the item by the developer difficult.</p> <p>The relevant municipal council must have agreed to be the development agency for the item.</p> <p>The estimated cost of the item must be fairly levied amongst the developers who will benefit from the delivery of the item.</p>
Any other works, services or facilities (other than State infrastructure), including an allowable item listed in a table to this Annexure.	<p>The Minister must agree that the item:</p> <ul style="list-style-type: none"> <li>• is essential to the development of the ICP plan area; and</li> <li>• can be funded from a supplementary levy.</li> </ul>

<sup>26</sup> *Planning and Environment Act 1987* - section 46G1(2)(b)

<sup>27</sup> *Planning and Environment Act 1987* - section 46GZD



## Timing

Submission 23.04 seeks to bring the indicative timing for the delivery of IN-02 forward to be S-M rather than M-L and the timing for CI-01 and SR-01 to S-M.

The VPA was considering this change at the date of writing the Part A submission. Accordingly, the proposed change, supported in principle, was not reflected in the Part A PSP.

The VPA maintains the in-principle position set out in the Part A Submission response table regarding an update the time for delivery of IN-02, CI-01 and SR-01 forward to S-M. However, the implementation will remain at the discretion of the development agency, in particular noting that the Lindum Vale ICP lists these as a M-L priority. Further input from Hume City Council is required on this point.

The VPA does not propose any revisions to the indicative timing for the delivery of schools. As noted elsewhere in this submission, the acquisition of land and construction of schools is a matter for the VSBA.

Similarly, the VPA does not agree to bring the delivery of SR-02 forward to S-M, noting this request was linked to submissions advocating for earlier school delivery and/or acquisition.

## Apportionment

Submission 23 raised queries regarding the apportionment of specific items between Lindum Vale PSP and Craigieburn West PSP.

The VPA acknowledges that the wording of the Lindum Vale ICP regarding intersection IN-03 is not entirely clear. That project is described in Lindum Vale as “Construction of signalised T-intersection – interim configuration (ultimate to be signalised 4-way intersection), being apportioned 75% to Lindum Vale and 25% apportioned to Craigieburn West.

The exhibited PSP describes IN-03 as a 4-way intersection apportioned 25% to Craigieburn West – the difference is therefore whether this PSP area is to contribute 25% of a 4-legged intersection, or whether this PSP area is to fund 100% of the 4th leg of the intersection and 25% of the 3-legged project described in the Lindum Vale PSP. On further investigation, the VPA understands that Lindum Vale was intended to contribute only 75% of the 3-legged intersection. Accordingly, the VPA proposes changes to the PSP to clarify that IN-03 relates to the 25% apportionment towards the 3-legged intersection, and insert an additional project, 100% apportioned to this PSP for the fourth leg.

The VPA does not otherwise propose revisions to the apportionment of road projects, to IN-02 or the inclusion of a road project for Mt Ridley Road. The VPA notes the apportionment of these projects was set by Lindum Vale ICP which relevantly apportions 100% of RD-01 to Lindum Vale (project described as “Mount Ridley Road: 6 lane arterial from Mickleham Road (IN-02) to Eastern PSP Boundary Construction of first carriageway – interim configuration”) and 50% of IN-02 to Lindum Vale (with the other 50% apportioned to this Craigieburn West).

## Non-standard designs

Submission 29 requested that intersections be labelled within the PIP as ‘non-standard’ requiring a bespoke design. In the Part A submission, the VPA indicated it was seeking further clarification as to why these intersections require a bespoke design, noting that the costings have been undertaken based on the benchmark designs and the corridor study prepared by VicRoads.

The VPA maintains the position that benchmark designs, implemented under the principles of generally in accordance will provide sufficient flexibility to respond to site specific requirements.

## Requested outcome

The VPA respectfully requests the Committee recommend the Amendment is approved including revisions set out in the Part A PSP, as well as:

- The revised apportionment for IN-03 and additional line item to construct the 4th intersection leg.
- Revising the timing IN-02, CI-01 and SR-01 to S-M, subject to the view of Council.

## 3 Final Position on Amendment

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The VPA's respectfully requests the Committee recommend the Amendment is approved including the revisions set out in the Part A PSP as well as the following additional changes as described in this submission:

### 3.1 Densities

- Revised densities of 25 dwellings/ha inside the walkable catchment; and 19 dwellings/ha in the remainder of the PSP

### 3.2 Bushfire

- Updating references to a Bushfire Site Management Plan to read Bushfire Management Plan.
- Revising R20 to read: "Vegetation within bushfire hazard areas shown on Plan 7 must be managed in accordance with Table 4 during development".
- Using the term habitable building in place of the word development at R21.
- Omit G36.
- Reword G37 to read "Subdivision adjoining bushfire hazard areas 1 & 2 should include a publicly accessible perimeter road."
- Reword G39 to read "Where a setback is required from a bushfire hazard, the setback should, as far as practicable, not be wholly reliant on building setbacks within the boundaries of privately owned residential lots".
- Omit reference to area 3 in G40

### 3.3 BCS review

- The VPA respectfully requests the Committee recommend the Amendment is approved without revisions on BCS matters and endorsing the proposed realignment of the BCS and relocation of SR-01, should Commonwealth approval be granted prior to gazettal of the PSP.

### 3.4 Kangaroo Management:

- Omit the Kangaroo Management Plan condition within the proposed Clause 3.0 of Schedule 6 to the Incorporated Plan Overlay which is proposed to apply to the BCS area.
- Finalise the Draft KMS and reference this final document in the Kangaroo Management Plan section of Clause 3.0 to UGZ12.

### 3.5 Precinct Infrastructure:

- Revising the apportionment for IN-03 and additional line item to construct the 4th intersection leg.
- Revising the timing IN-02, CI-01 and SR-01 to S-M, subject to the view of Council.

## 4 Conclusion and Final Comments

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This concludes the VPA Part B Submission. The VPA will consider the evidence and submissions of all parties during the hearing and respond in accordance with the Committee's directions.

## **5 List of Appendices**

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### **5.1 Appendix 1: Submissions Summary and Response Table – Part B April 2021**