

Planning and Environment Act 1987

Panel Report

Knox Planning Scheme Amendment C164

Knox Land for Business

9 November 2018

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Panel Report pursuant to section 25 of the Act

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A handwritten signature in black ink, appearing to read 'Con Tsotsoros', written in a cursive style.

Con Tsotsoros, Chair

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List of Abbreviations

CFA	Country Fire Authority
Directions Plan	<i>Knox's Land for Business Directions Plan, July 2017</i>
SBL	Significant Business Location

Overview

Amendment summary

The Amendment	Knox Planning Scheme Amendment C164
Common name	Knox Land for Business
Brief description	The Amendment seeks to implement the findings of <i>Knox's Land for Business Directions Plan, July 2017</i>
Subject land	All land in the City of Knox
Planning Authority	Knox City Council
Authorisation	A03688 on 4 January 2018
Exhibition	19 March to 30 April 2018
Submissions	<p>Submissions were received from:</p> <ol style="list-style-type: none"> 1. Andrew McKernan 2. South East Water 3. Axis Property 4. Tambrad Nominees Pty Ltd 5. Greater Dandenong City Council 6. Ferntree Gully Village Traders 7. City of Whitehorse 8. AMP Capital 9. Owner of service station properties in Ferntree Gully and Scoresby 10. Brayburn Nominees Pty Ltd 11. Asian Aussie Group Pty Ltd 12. Jenny Lopez 13. Denian Nominees Pty Ltd, HD Jenkins & Sons Pty Ltd, Melinda Taranto and Nicole Jenkins as Executors of the Estate of Brian Jenkins 14. Boral Bricks Pty Ltd 15. Caribbean Park 16. Transport for Victoria 17. Environment Protection Authority 18. Country Fire Authority

Panel process

The Panel	Con Tsotsoros, Chair
Directions Hearing	Knox City Council, 7 September 2018
Panel Hearing	Planning Panels Victoria, 8 and 9 October 2018
Site inspections	Unaccompanied, 31 October 2018
Appearances	<ul style="list-style-type: none">- Knox City Council represented by Mr Terry Montebello of Maddocks with Ms Rachel Reed who called expert evidence on economics from Paul Shipp of Urban Enterprise- Asian Aussie Group Pty Ltd, represented by Emily Marson and Dominic Scally of Best Hooper Lawyers- Tambrad Nominees Pty Ltd represented by Bradley Wein
Citation	Knox PSA C164 [2018] PPV
Date of this Report	9 November 2018

Executive summary

(i) Summary

The *Knox's Land for Business Directions Plan, July 2017* (Directions Plan) seeks to steer Knox's need for future business land. The Directions Plan recommends actions to help facilitate Knox's future demand for business land which, without any direction, will exceed existing supply. There is a strong alignment between the strategies and objectives in the Directions Plan and Plan Melbourne.

Knox Planning Scheme Amendment C164 (the Amendment) seeks to implement the Directions Plan and achieve its intended outcomes. It is supported by the Planning Policy Framework which directs planning authorities to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for employment. While the Amendment does not propose any rezoning, other than correcting an anomaly, it establishes the framework for considering such changes.

The Amendment was exhibited from 19 March 2018 to 30 April 2018 and received 18 submissions. No submitter questioned the strategic basis of the Amendment. Key issues raised in submissions included land zoning and designation, land use compatibility, and whether the proposed planning policy provisions are appropriate and clear.

The Panel has considered all submissions and evidence and finds that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes.

The Amendment is consistent with the broad planning policy context, subject to addressing the more specific issues raised in submissions. The Amendment is well founded and strategically justified and should be adopted subject to the Panel's recommendations.

The Panel finds that the Amendment appropriately designates land for the activity centres and Significant Business locations, including the Mountain Gate Triangle Activity Centre, Scoresby-Rowville-Knoxfield Significant Business Location and Wantirna Health Precinct. The proposed strategic directions for the Wantirna Health Precinct are appropriate and justified.

The proposed planning policies are appropriate and justified, including Clause 22.06 policy objective to "*maintain ground floor primarily for uses associated with business and community uses*". However, deleting the further strategic work in Clause 21.07 which seeks to investigate the application of the Industrial 1 Zone to land known as Scoresby Industrial would enable a more flexible approach in the future.

Rezoning land not proposed by the Amendment is beyond its scope, inappropriate and not justified. Other matters beyond its intent include detailed design matters such as setbacks and truck access and loading bays. Design matters can be more appropriately considered when preparing the design guidelines for new development in the Industrial 1 and Commercial 2 Zone sought through a new action in the revised Directions Plan.

The Amendment would benefit from some drafting changes proposed by Council in response to issues raised in submissions.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Knox Planning Scheme Amendment C164 be adopted as exhibited subject to the following:

1. Amend Clause 21.01, as shown in Appendix B1, to:
 - a) replace the third 'Environmental risk' issue with:

Conflict between incompatible land uses as new development occurs, with encroachment of sensitive land uses on key industrial areas, former landfills, quarries, materials recycling and transfer stations, leading to risks to human health and amenity.
 - b) update the *Knox Land for Business Directions Plan* to July 2018.
2. Amend Clause 21.02, as shown in Appendix B2, to:
 - a) update the *Knox Land for Business Directions Plan* to July 2018
 - b) revise Figure 1 to correct the Bayswater Business Precinct/Activity Centre boundary, and update the status of Boral and Waverley Golf Course Strategic Investigation Sites.
3. Amend Clause 21.04, as shown in Appendix B3, to:
 - a) revise the third 'Land use conflict' key issue to:

Protecting the environment, human health and the amenity of sensitive uses from residual air and noise emissions, land and water contamination and landfill gas emissions.
 - b) revise Strategy 3.2 in 'Land use conflict' to:

Require applications for new industrial developments to consider the proximity and interface with existing commercial or sensitive uses, and implement siting, engineering and design features which will mitigate against negative health and amenity impacts such as noise, vibration, air emissions, odours and land and water contamination.
4. Amend Clause 21.06, as shown in Appendix B4, to:
 - a) clarify in Strategic Investigation Sites that the proposed land uses should align with the Strategic Investigation Site designation, and to refer to the *Knox Land for Business Directions Plan*, applied by Clause 21.07, for strategic guidance
 - b) update the *Knox Land for Business Directions Plan* to July 2018.
5. Amend Clause 21.07, as shown in Appendix B5, to:
 - a) replace the relevant strategy with:

Investigate inclusion of land for employment purposes as part of an integrated redevelopment of land at 181 George Street Wantirna South (Boral Quarry) Strategic Investigation Site.
 - b) delete the second further strategic work which seeks to investigate the application of the Industrial 1 Zone.
 - c) append to Strategy 2.2 "*are sited and designed to minimise negative impacts on the amenity of nearby sensitive land uses and to optimise amenity improvements*"

- d) replace the fourth strategic direction in Table 1 with ***“Ensure residential developments are integrated with employment generating land uses.”***
 - e) update the ***Knox Land for Business Directions Plan*** to July 2018.
6. Amend Clause 21.04 and Clause 22.06 to update the ***Knox Land for Business Directions Plan*** to July 2018.

1 Introduction

1.1 The Amendment

The Amendment seeks to implement the findings of the *Knox's Land for Business Directions Plan 2017* (Directions Plan) by:

- Amending the following clauses of the MSS
 - 21.01 (Municipal Profile)
 - 21.02 (Vision)
 - 21.03 (Environmental and Landscape Values)
 - 21.04 (Environmental Risks)
 - 21.05 (Built Environment and Heritage)
 - 21.06 (Housing)
 - 21.07 (Economic Development)
 - 21.08 (Community Development)
 - 21.09 (Transport and Infrastructure)
- Amending the following local policies:
 - 22.03 (Non-residential Uses in Residential Areas)
 - 22.06 (Residential Land Use and Development within the Commercial 1 Zone)
- Deleting the following local policies:
 - 22.02 (Industrial and Restricted Retail Sales Area Design)
 - 22.08 (Scoresby-Rowville Employment Precinct)
- Introducing the following local policy:
 - 22.02 (Employment Land)
- Applying the Commercial 1 Zone to land at 1332 High Street Road, Wantirna South.

The Amendment applies to all land in the City of Knox.

1.2 Background to the proposal

Based on Council's Part A submission, the following is a chronology of events:

May 2015	Council endorsed the Knox Planning Scheme Review 2015
July 2015	Council adopted the ' <i>Integrated City Strategy and Implementation Plan 2015-17</i> '
27 November 2017	Council adopted the ' <i>Knox Land for Business Background Report, December 2016</i> ', ' <i>Knox Employment Forecast to 2036 Technical Report A</i> ' and ' <i>Land for Business Assessment Areas – Employment Land and Activity Centres Technical Report B</i> '
4 January 2018	The Department of Environment, Land, Water and Planning, under delegation from the Minister for Planning, authorised the Amendment with four conditions
19 March to 30 April 2018	Amendment exhibited
23 July 2018	Council endorsed changes to the Directions Plan and Amendment documentation Council considered submissions and resolved to request a Planning Panel

1.3 Summary of issues raised in submissions

Council received 18 submissions in response to the exhibition of the Amendment. Of these:

- 11 submissions specifically sought changes to the Directions Plan or Amendment
- Three submissions provided no objection to the Directions Plan or Amendment (Submissions 2, 5 and 7)
- Three submissions provided comments that relate to the Directions Plan or Amendment but did not specifically object to either the Directions Plan or Amendment (Submissions 6, 16, and 18)
- One submission did not object to the Directions Plan or Amendment, however sought for the submission to be considered by a Planning Panel (Submission 12).

1.4 Procedural matters

At the Directions Hearing, Council provided correspondence from AMP Capital and Environment Protection Authority (Victoria) which confirmed that they were withdrawing their submissions. It also provided correspondence from Mr McKernan confirming that he was satisfied that his submission was heard, subject to Council being aware of the shortfall in warehouse supply. Council contacted Mr McKernan to clarify whether he was formally withdrawing his submission, however he did not respond.

Consequently, the above three submissions were considered as resolved and not considered by the Panel.

The following submitters did not respond to Council's request to clarify if they had withdrawn their submissions:

- Submitter 9 advised that it was awaiting Boral's approval before withdrawing the submission.
- Caribbean Park did not respond to Council after previously requesting a meeting to discuss their withdrawal.

1.5 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic issues and justification
- Land use zoning and designation
- Employment land
- Other threshold issues
- Site specific issues.

2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report. Chapter 2.1 summarises Council’s response to the Planning Policy Framework, and refers to clause numbers before they were revised by Amendment VC148.

The Panel has reviewed Council’s response and the policy context of the Amendment, and has made a brief appraisal in Chapter 3.3.

2.1 Policy framework

State	
Clauses	
11	Settlement
	<ul style="list-style-type: none"> ▶ The Amendment will: <ul style="list-style-type: none"> - Ensure that sufficient land is available to meet forecast demand. - Support the development and growth of Metropolitan Activity Centres by ensuring Knox is able to accommodate significant growth for a broad range of land uses. - Specifically support the objective to <i>‘encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community’</i>.
13	Environmental Risks and Amenity
	<ul style="list-style-type: none"> ▶ The Amendment will aim to avoid or minimise natural and human-made environmental hazards, environmental degradation and amenity conflicts.
15	Built environment and Heritage
	<ul style="list-style-type: none"> ▶ The Amendment will: <ul style="list-style-type: none"> - Ensure land use and development appropriately responds to its surrounding landscape and character, built form and cultural context. - Create urban environments that are safe, healthy, functional and enjoyable which contribute to a sense of place and cultural identity. Measures to address the built form and amenity of existing commercial and industrial areas area proposed in Clause 22.02. - Support the 20 minute city concept as it provides opportunities for business development and growth, and additional employment opportunities within Knox to enable offices and professional services floor space in an area which is conveniently accessed from with Knox and beyond.
17	Economic development
	<ul style="list-style-type: none"> ▶ The Amendment will: <ul style="list-style-type: none"> - Create opportunities for innovation and the knowledge economy within existing and emerging industries, research and education by supporting development of local businesses with a focus on Knox’s propulsive industry sectors. This includes advanced and high value manufacturing and supporting the formation of industry clusters and business networks which encourage collaboration, innovation and idea sharing. These opportunities support the land use and development of the five Significant Business Locations commensurate with their role, function and strategic direction. - Provide an adequate supply of industrial land in appropriate locations including sufficient stocks of large sites for strategic investment.
18	Transport
	<ul style="list-style-type: none"> ▶ The Amendment will support the development of the key Transport Gateways and freight links and maintain Victoria’s position as the nation’s premier logistics centre by: <ul style="list-style-type: none"> - Encouraging adjacent complementary uses and employment generating activities - Supporting the development of freight and logistics precincts in strategic locations along key

- regional freight corridors
- Limiting incompatible uses in areas expected to have intense freight activity by identifying and protecting key freight routes on the Principal Freight Network.

Local

Clauses

21 Municipal Strategic Statement

▶ 21.01 Municipal Profile

The Amendment updates facts, figures and background information, including updating the boundaries and definitions of the Scoresby-Rowville-Knoxfield and Burwood Highway East Corridor precincts.

▶ 21.02 Vision

The Amendment updates the Strategic Framework Plan to reflect key land use and development directions and actions of the Directions Plan, including facilitating economic growth particularly in five identified 'Significant Business Locations', maintaining the identified core employment land areas for industrial, employment and productive economic uses.

▶ 21.03 Environmental Landscape Values

The Amendment updates the reference to the application of the new Clause 22.02 Employment Land local policy.

▶ 21.04 Environmental Risks

The Amendment updates references to the economic value of the manufacturing and wholesale trade industry in Knox. The Amendment expands on land use conflicts and amends Strategy 3.3 in relation to 'core employment land areas', and includes the application of the new Clause 22.02 Employment Land local policy.

▶ 21.05 Built Environment and Heritage

The Amendment includes a new strategy to support mixed use development with ground floor retail and upper storey compatible commercial and/or residential within designated activity centres, and updates the references to the Burwood Highway East Corridor, Caribbean Park and Wantirna Health areas and the new Clause 22.02 Employment Land local policy.

▶ 21.06 Housing

The Amendment builds on the existing support for residential development and mixed use development with a residential component in the Commercial 1 Zone, and introduces a new strategy to support residential development. This supports and complements the health, education and community and other employment generating activities of the Wantirna Health Precinct. The Amendment clarifies Council's support for complementary non-residential uses in residential areas, by providing for some local employment opportunities.

▶ 21.07 Economic Development

The Amendment supports:

- a broad range of employment opportunities by catering for different types of business in association with 'Significant Business Locations', 'core employment land areas', 'local employment land areas' and Activity Centres.
- the five 'Significant Business Locations' commensurate to their role, function and strategic direction.

The Amendment discourages discretionary low-employment and low economic output uses within core employment land areas for the Bayswater Business Precinct and Scoresby-Rowville-Knoxfield Significant Business Locations.

▶ 21.08 Community Development

The Amendment supports development in Activity Centres that contributes to vibrant, well-serviced and accessible activity centres.

▶ **21.09 Transport and Infrastructure**

The Amendment supports the provision of good access to Knox's 'Significant Business Locations'.

▶ **21.10 Local Areas**

The Amendment supports the ongoing development of Knox's local areas and activity centres.

▶ **22.01 Advertising signs**

The Amendment supports businesses in Knox to have adequate opportunities to identify their location, name and nature of business in an appropriate manner.

▶ **22.02 Industrial and Restricted Retail Sales Area Design**

The Amendment supports high generating employment and high economic output uses establishing in 'core employment land areas', and provides for the consideration of other uses outside 'core employment land areas' and in 'core employment land areas' fronting main roads.

▶ **22.03 Non-residential Uses in Residential Areas**

The Amendment supports the objectives of this policy to encourage appropriately located and designed non-residential uses in residential areas and provides recognition that some complementary non-residential uses also support local employment opportunities.

▶ **22.06 Residential Land Use and Development within Commercial 1 Zone**

The Amendment clarifies this policy to clarify that residential land use and development within commercial centres should support the role, scale, and commercial focus of the centre and that the ground floor be maintained primarily for uses associated with business and community uses.

▶ **22.08 Scoresby-Rowville Employment Precinct**

The Amendment deletes this policy with relevant content included elsewhere as appropriate, including in the new Clause 22.02 Employment Land local policy.

2.2 Relevant planning strategies, policies and plans

(i) Plan Melbourne 2017-2050

Plan Melbourne outlines principles that underpin a long-term vision for Melbourne, outcomes to drive Melbourne as a competitive, liveable and sustainable city, directions which set out how these outcomes can be achieved and policies which outline how each outcome will be approached, delivered and achieved.

Outcome 1 – Melbourne is a productive city that attracts investment, supports innovation and creates jobs.

The Amendment supports this outcome by updating the MSS to provide clear strategic support for local investment and job creation in designated areas within Knox. Policy 1.2.2 seeks to "*facilitate investment in Melbourne's outer areas to increase local access to employment*". To achieve this, the policy states that planning for outer suburbs and growth areas must ensure there is sufficient zoned land to support future development and job creation.

The Amendment updates the local policy to clearly articulate the importance of business land to jobs and economic output, including those employment land areas most important to economic activity and jobs in Knox. Further, it supports the development of industrial and commercial land by ensuring that 'core employment land areas' are protected from incompatible land uses to allow for their future growth.

Policy 1.1.4 seeks to “*support the significant employment and servicing role of health and education precincts across Melbourne*”. The Amendment supports this policy introducing a local policy to support the development of an identified health precinct in the form of the Wantirna Health Precinct which encompasses the Knox Private Hospital.

Outcome 2 – Melbourne provides housing choice in locations close to jobs and services

The Amendment seeks to reinforce the support for appropriate commercial development and some housing, by ensuring strategic direction for Activity Centres and other commercial development is clear, including in those major activity centres listed in the *Directions Plan*, including: Bayswater, Boronia, Mountain Gate, Rowville- Stud Park and Wantirna South–Knox Central.

Outcome 4 – Melbourne is a distinctive and liveable city with quality design and amenity

The Amendment promotes urban design excellence in the built environment by strengthening policy for the development of Knox’s commercial and industrial areas.

Outcome 5 – Melbourne is a city of inclusive, vibrant and healthy neighbourhoods

The Amendment supports Direction 5.1 which seeks to create a city of 20-minute neighbourhoods by strengthening local employment opportunities in appropriate locations which will enable residents to meet their day-to-day needs without travelling out of the area. The Amendment will also support mixed use development with ground floor retail and upper storey compatible commercial and/or residential within designated activity centres.

(ii) Knox Community and Council Plan 2017-2021

The Community and Council Plan 2017-21 seeks to advance this and includes:

- a vision statement for the Knox community
- shared goals and strategies to achieve the vision
- the Council Plan outlining the role and focus of Council, the targets it has set and the initiatives it will undertake over the next four years.

One of the eight goals is: “*We have a strong regional economy, local employment and learning opportunities*”.

(iii) Knox Housing Strategy, January 2015

The Knox Housing Strategy 2015 sets out Council’s plan for managing residential development to respond to the current and future needs of the Knox community. It refers to Strategic Investigation Sites and residential response to land in and around activity areas.

(iv) Knox Economic Development Strategy, 2008-2018

The Knox Economic Development Strategy 2008-18 is a ten-year economic planning instrument with strategies to assist the City develop as an economy, a skilled employment centre and key business centre. It seeks to implement its vision through 11 objectives:

- Objective 1 – Development of Knox Central Principal Activity Centre
- Objective 2 – Establishment of High Tech Learning Centres
- Objective 3 – Development of the Scoresby/Rowville Employment Precinct
- Objective 4 – Establishment of Strong, Sustainable Energy Efficient Industry Clusters

- Objective 5 – Strong Secondary, Tertiary and Industry Linkages Providing for the Needs of High Tech Industries (support services, technical backup and marketing)
- Objective 6 – Fully Developed and highly functional Major, Neighbourhood and Local Activity Centres
- Objective 7 – A More Balanced Business Mix, including More Business Support Services and Tertiary Industries
- Objective 8 – A Strong Knox-wide Industry Network Promoting Knox Products and Services Nationally and Internationally
- Objective 9 – Establishment of a Centre for Entrepreneurial Development Integrating Education, New Start-ups and Business Incubators
- Objective 10 – Redevelopment of the Bayswater/ Bayswater North Industrial Precinct
- Objective 11 – Availability of World-Competitive Infrastructure in Transport, Telecommunications and Supporting Services.

(v) Activity centre strategies and plans

Council submitted that the following existing strategies guide the development of its major activity centres, and future development of any commercial, industrial and employment land:

- Knox Central Structure Plan, October 2017
- Bayswater Business Precinct
- Bayswater 2020 - Bayswater Activity Centre Structure Plan, 2015 and addendum dated March 2012
- Boronia Structure Plan, 2006 and addendum dated March 2012
- The Rowville Plan 2015
- Ferntree Gully Village Structure Plan, 2014
- Upper Gully Strategic Plan, 2017
- The Basin and Alchester Village Background Reports and Built Form Guidelines, 2016.

2.3 Planning scheme provisions

The Amendment does not propose to rezone land or apply a planning scheme overlay, except for rezoning 1332 High Street Road, Wantirna South to Commercial 1 Zone to address an anomaly.

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act – referred to as Ministerial Direction 7(5) in this report for simplicity
- Ministerial Direction No 1 – Potentially Contaminated Land
- Ministerial Direction No 11 – Strategic Assessments of Amendments

- Ministerial Direction No 15 – The Planning Scheme Amendment Process
- Ministerial Direction No 18 – Victorian Planning Authority Advice on Planning Scheme Amendment.

Planning Practice Notes

Council submitted that the Amendment is consistent with:

- Planning Practice Note 1 (PPN1) Applying the Heritage Overlay
- Planning Practice Note 8 (PPN8) Writing a Local Planning Policy
- Planning Practice Note 13 (PPN13) Incorporated and Reference Document
- Planning Practice Note 30 (PPN30) Potentially Contaminated Land
- Planning Practice Note 46 (PPN46) Strategic Assessment Guidelines
- Planning Practice Note 59 (PPN59) The Role of Mandatory Provisions in Planning Schemes
- Planning Practice Note 77 (PPN77) Pre-setting Panel Hearing Dates
- Planning Practice Note 85 (PPN85) Applying the Commercial 3 Zone.

3 Strategic issues and justification

3.1 Knox's Land for Business Directions Plan

(i) Background

The key elements of the Amendment are underpinned by the Directions Plan. The Directions Plan resulted from strategic work prepared as part of Council's 'Future proofing Knox's business land project'. It provides strategic direction for business land requirements in the municipality from 2016 to 2036, taking into account employment projections, current land supply, economic trends, drivers of change and planning policy. The Directions Plan includes strategic planning, investment support, business support and other recommendations.

It focuses on supporting a strong regional economy and 'future-proofing' Knox's business land. It includes recommendations to ensure there is a sufficient amount, type and mix of business land and associated development, exists over the next 20 years to accommodate the growing needs of businesses and to ensure future jobs.

(ii) Directions and actions

The Plan includes the following directions and actions which seek to:

- strengthen policy and support five Significant Business Locations (Knox's largest and most significant employment clusters)
- protect the 'core employment land areas' in the Significant Business Locations of Scoresby-Rowville-Knoxfield and Bayswater Business Precinct for industry and employment generating uses
- maintain 'local employment land areas'
- encourage growth in industry sectors, to have flow on benefits of regional exports, employment, value-added and local expenditure of goods and services
- maintain an ongoing evidence base to support economic and strategic planning/decision making
- apply other general and location specific recommendations.

(iii) Significant Business Locations and Activity Centres

The Directions Plan identified following locations as a Significant Business Location:

- Bayswater Business Precinct/Bayswater Activity Centre
- Scoresby-Rowville-Knoxfield area
- Knox Central
- Burwood Highway corridor – Burwood Highway East
- Wantirna Health Precinct.

The Amendment proposes to introduce the concept of Significant Business Locations, and associated strategic directions for each location, through Clause 21.07 of the Planning Scheme.

Council explained that since exhibiting the Amendment, the Directions Plan was modified to better highlight the roles and status of Activity Centres and Significant Business Locations in achieving employment, business and economic development objectives.

3.2 Bushfire management

Council submitted that the Amendment does not jeopardise the objectives of Clause 13 of the Planning Policy Framework. The Amendment does not seek to introduce any policy measure or rezone land that directly impacts bushfire risk.

Country Fire Authority submitted that:

The proposed planning scheme amendment acknowledges as well as updates wording to highlight the bushfire risk to 'parts' of Knox City Council area; and further to this, CFA has a close working relationship with Council in multiple departments, and together we work to improve the safety of community members within high fire risk areas through education programs, fuel reduction works and advising on planning applications.

Council maintained the appropriateness of its position and did not make any changes to the Amendment in light of Country Fire Authority's submission.

The Panel agrees with Council's submission on this matter.

3.3 Discussion

The Directions Plan is a well-considered and thoroughly researched document that will steer Knox's need for future business land. The Directions Plan recommends actions to help facilitate Knox's future demand for business land which, without any direction, will exceed existing supply. There is a strong alignment between the strategies and objectives in the Directions Plan and Plan Melbourne.

The Amendment is needed to implement the Directions Plan and achieve its intended outcomes. It is supported by the Planning Policy Framework which directs planning authorities to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for employment. While it does not propose any rezoning, other than correcting an anomaly, it establishes the framework for considering such changes.

No submitter questioned the strategic basis of the Amendment.

The Panel finds that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework and is consistent with the relevant Ministerial Directions and extensive list of Practice Notes.

The Panel finds that the Amendment is consistent with the broad planning policy context, subject to addressing the more specific issues raised in submissions and discussed in the following Chapters. The Panel is satisfied that the Amendment is well founded and strategically justified, and should be adopted subject to the Panel's recommendations.


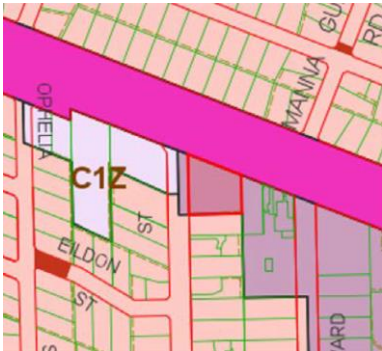
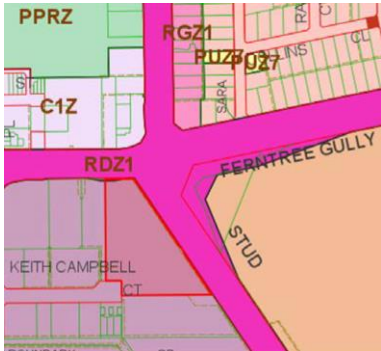
4 Land use zoning and designation

4.1 Land use zoning

(i) Background

Three submissions raised issues affecting the following properties:

Table 1 Properties where submitters requested rezoning

Bayswater	Ferntree Gully	Scoresby
7 Scoresby Road	712 Burwood Highway	786 Stud Road
		
Industrial 1 Zone	Commercial 2 Zone	Commercial 2 Zone
In Bayswater Business Precinct	In Burwood Highway East Corridor	In Scoresby-Rowville-Knoxfield Significant Business Location
Axis Property requested the Industrial 3 Zone	Tambrad Nominees requested the Commercial 1 Zone	Brayburn Nominees requested the Commercial 1 Zone

Source: Council Part A Submission

(ii) The issue

The issue is whether rezoning land not proposed by the Amendment is appropriate and justified.

(iii) Evidence and submissions

Axis Property, Brayburn Nominees and the Tambrad Nominees each had concern about the existing planning scheme zone or proposed policy affecting their land.

Axis Property opposed the Industrial 1 Zone as it currently applies to the Bayswater Business Precinct and instead submitted that the land should be zoned to Industrial 3. It explained that the property forms part of a strip of public outlets and that the Industrial 1 Zone reflects the large manufacturing plants which were constructed 50 years ago. It referred to the Eltham Industrial Estate, which is in the Industrial 3 Zone, as an example where land uses reflect what is permitted by its zone. Axis property considered that without more flexible zoning, new development, redevelopment and modernisation would be stifled.

Axis Property, described Clause 22.02 as “*at best a feel good statement*” and submitted:

If you apply for a permit to have a retail component on an Industrial 1 zone you will not get a permit. It is irrelevant if you wish to employ 1 or 100 people. The inflexible zoning won't permit it. Better to have an Industrial 3 zone than feel good statements which do not stand the rigour of a permit application.

Mr Shipp gave evidence that the Bayswater Business Precinct is important for accommodating industrial business activity which underpins the Knox economy, given that:

- *The Bayswater Business Precinct (E-01) has 196 hectares of land in the Industrial 1 Zone – the largest precinct in an industrial zone in the municipality - of which only 2% is vacant (refer Technical Report B p.24-6)*
- *The Bayswater Business Precinct supports the greatest concentration of employment in the municipality with 8,631 jobs in 2016, as well as supporting the greatest concentration of jobs in the Manufacturing and Wholesale Trade sectors in Knox (refer Background Report, p.38).*

He considered that the current industrial zoning should be retained in the core section of the Bayswater Business Precinct so that the employment area can continue to support a significant cluster of industrial land uses of a variety of types and scales.

At the Hearing, Mr Wein representing Tambrad Nominees, presented reasons why 712 Burwood Highway should be rezoned to the Commercial 1 Zone. He submitted that rezoning the land would be a logical extension of the existing Commercial 1 Zone west of Dobson Street. The Commercial 1 Zone would be more appropriate because the land abuts residential land and the zone enables residential development while prohibiting industrial land uses.

Mr Shipp gave evidence that 712 Burwood Highway should remain in the Commercial 2 Zone because:

... the subject site and other Commercial 2 Zone land in this area is appropriately zoned for commercial and bulky goods sales purposes based on the existing land use mix and the exposure and access provided by the arterial road network to many sites, including the subject site of this submission.

Brayburn Nominees objected to the potential future rezoning of land in the Scoresby Industrial Area from the Commercial 2 Zone to the Industrial 1 Zone sought through further strategic work in Clause 21.07. It submitted that the land should be in the Commercial 1 Zone.

Council submitted that the Amendment does not rezone land to give effect to the findings of the Directions Plan. The only land the subject of rezoning is the land at 1332 High Street Road, Wantirna South from the General Residential Zone 2 (GRZ2) to the Commercial 1 Zone (C1Z), which is considered a zoning anomaly, and this rezoning is not considered in issue and has not been the subject of any submissions. Council agreed to delete the further strategic work in Clause 21.07 which seeks to investigate the application of the Industrial 1 Zone to land known as Scoresby Industrial.

The Directions Plan clearly notes that several sites could potentially be rezoned, and the Planning Scheme identifies future rezoning of land to constitute future work.

The Directions Plan includes policy statements and an Action Plan that state that rezoning should be limited to existing land for business away from zones that principally support employment and business.

Council submitted that the supply of industrial and employment land is an important economic resource and employment land is becoming scarcer. The Industrial 1 and Commercial 2 zoned land is of critical importance. Council submitted:

... the longevity and adequacy of the employment land resource cannot be left to adhoc rezonings or the current day desire of individual landowners based on their own business and economic plans or circumstances.

Council noted that the Knox Land for Business Direction Plan is a long-term vision and is focused towards 2016-2036 and submitted that the Panel should not adopt an “individualistic approach”.

(iv) Discussion

The Amendment seeks to implement the Directions Plan by changing local strategies and policies in the Planning Policy Framework. It does not extend beyond this scope, with the exception of one property being rezoned to address a land use anomaly.

The Panel acknowledges the logic supporting Tambrad’s reasons for rezoning its land, however, it agrees with Council that the Amendment should implement municipal-scale outcomes and not an individualistic approach.

The Panel agrees with Council’s submission that no property should be rezoned through the Amendment. Having placed considerable weight on Mr Shipp’s evidence regarding the importance and need for employment land, the Panel considers that any requests to rezone existing industrial or commercial land should be through the future actions contemplated by the Directions Plan.

The Panel agrees with deleting the further strategic work in Clause 21.07 which seeks to investigate the application of the Industrial 1 Zone to land known as Scoresby Industrial. This would enable a more flexible approach in the future, subject to further strategic work.

(v) Conclusion

The Panel concludes:

- Rezoning land not proposed by the Amendment is beyond its scope, inappropriate and not justified.
- Deleting the further strategic work in Clause 21.07 which seeks to investigate the application of the Industrial 1 Zone to land known as Scoresby Industrial would enable a more flexible approach in the future.

(vi) Recommendation

The Panel recommends:

Amend Clause 21.07, as shown in Appendix B5, to:

- a) delete the second further strategic work which seeks to investigate the application of the Industrial 1 Zone.**

4.2 Mountain Gate Triangle Activity Centre and Scoresby-Rowville-Knoxfield Significant Business Location




(i) The issue

The issue is whether the Amendment appropriately designates land for the Mountain Gate Triangle Activity Centre and Scoresby-Rowville-Knoxfield Significant Business Location.

(ii) Evidence and submissions

Submitter 9 owns service station properties in Ferntree Gully and Scoresby. As outlined in Table 2, Submitter 9 sought clarification as to whether its properties were included in the relevant Significant Business Locations, and if excluded, it requested that the boundary be realigned to include them.

Table 2 Submitter 9 service station properties

Ferntree Gully	Scoresby	
855 Burwood Highway	1500 Eastlink Northbound	1501 Eastlink Southbound
		
Commercial 2 Zone	Commercial 2 Zone	Commercial 2 Zone
Not in a Significant Business Location	Not in a Significant Business Location	In the Scoresby-Rowville-Knoxfield SBL
Submitter 9 requested that property be included in 'Mountain Gate Triangle'	Submitter 9 requested that the property be included in the Scoresby-Rowville-Knoxfield SBL	Submitter 9 requested that the property be included in the Scoresby-Rowville-Knoxfield SBL, if not already

Mr Shipp gave evidence that 855 Burwood Highway is appropriately excluded from the Mountain Gate Triangle because it forms part of the nearby neighbourhood centre which services the business area and the surrounding residential catchment.

Mr Shipp considered that 1501 Eastlink Southbound is appropriately included in the Scoresby-Rowville-Knoxfield Significant Business Location because it provides some services which complement the business role of the precinct. He also considered that 1500 Eastlink Northbound should not be included in the Significant Business Location because it is separated from the business area by Eastlink and cannot be readily accessed from the Significant Business Location.

Council responded that the Directions Plan did not include all the service station properties identified by Submitter 9 in a Significant Business Location. It confirmed that 1501 Eastlink Southbound, Scoresby is included in the Scoresby-Rowville-Knoxfield Significant Business Location. Council added that, for reasons outlined in the evidence of Mr Shipp, the other properties are excluded.

(iii) Discussion

The Panel notes that 1501 Eastlink Southbound is in the Scoresby-Rowville-Knoxfield Significant Business Location which aligns with that Submitter 9 sought. The Panel accepts Mr Shipp's evidence on 1500 Eastlink Northbound. Eastlink dissects the site from the Significant Business Location which restricts its ability to effectively integrate with the Precinct.

Having reviewed relevant sections of the Directions Plan, including Figure 1, the Panel accepts Mr Shipp's evidence that 855 Burwood Highway should not be included in the Mountain Gate Triangle for reasons provided by him.

(iv) Conclusion

The Panel concludes that the Amendment appropriately designates land for the Mountain Gate Triangle Activity Centre and Scoresby-Rowville-Knoxfield Significant Business Location.

4.3 Wantirna Health Precinct

(i) The issue

The Amendment introduces new strategic directions to the Wantirna Health Precinct through Clause 21.07, including:

Ensure residential opportunities support the employment generating land uses with high levels of complementary integration and accessible connections.

Require new residential development to manage sensitive interfaces with existing and future employment generating uses, to avoid future amenity impacts affecting the economic viability and competitive strengths of the precinct.

The issue is whether the Amendment appropriately designates land for the Wantirna Health Precinct and whether the proposed associated strategic directions are justified.

(ii) Evidence and submissions

Council and Mr Shipp each stated that Plan Melbourne identifies several Health and Education Precincts of which one of these is the Knox Private Hospital. Knox Private Hospital is in the Wantirna Health Precinct. Plan Melbourne (Policy 1.1.4 and Policy 5.3.2) identifies the Wantirna Health Precinct as a health precinct.

Knox Planning Scheme Review 2015 and the Knox Planning Scheme Review 2018 include an action to prepare a plan for the Wantirna Health Precinct. Clause 21.07 (Economic development) identifies the plan as future work. Council's Housing Strategy (currently


policy) also makes note of the Wantirna Health Precinct. Reference is also made at Clause 21.02-1 and 21.05.

Council submitted that the Wantirna Health Precinct must be strategically planned as an integrated precinct, focusing on health, education and community uses. It added that existing General Residential Zone land in the Precinct could accommodate uses such as aged care or serviced apartments which serve the Precinct's broader objectives. Council explained that the Victorian Planning Authority will conduct master planning, which is critical for developing clearer plans and appropriate planning provisions to implement the plan.

Council submitted that the Directions Plan provides a sound strategic basis by which Council has identified the Wantirna Health Precinct as a Strategic Business Location. The work is earmarked for the area, including the designation of a structure planning boundary. Council stated that the *"Precinct's designation as a SBL only serves to elevate the importance of the area to the local, regional and state economy"* and that there is a strong economic rationale for identifying it as a Significant Business Location in the first instance.

Asian Aussie Group owns 750 Boronia Road, Wantirna, as shown in Table 3.

Table 3 750 Boronia Road, Wantirna

750 Boronia Road, Wantirna details	
	<p>Zone: General Residential Zone Schedule 1</p> <p>Directions Plan designation: Wantirna Health Precinct</p>

Asian Aussie Group submitted that 750 Boronia Road should not be included in the Wantirna Health Precinct. It explained that the property was formerly owned and managed for accommodation services for over 30 years and that it recently purchased the property to develop medium density housing. It added that the Wantirna Health Precinct has a business focus which is not consistent with the property's existing General Residential Zone Schedule 1.

At the Hearing, Mr Scally of Best Hooper represented Asian Aussie Group. He submitted that the subject site's General Residential Zone enables it to be used for a dwelling without a planning permit. He said that other planning panels have concluded that planning policy should not be inconsistent with zoning.

Council responded that 750 Boronia Road is in the same triangular parcel of land as the strategically significant Wantirna Health Precinct bound by Eastlink, Mountain Highway and Boronia Road. It said that excluding the property from the Wantirna Health Precinct would be inconsistent with the Directions Plan and make it unable to contribute to the objectives of the state significant health precinct.

Council submitted that the evidence of Mr Shipp notes that the site is a Strategic Investigation Site with a business land focus, an existing policy support exists for a mixed-use outcome for the site which will be the subject of further strategic work. In addition, existing policy support exists in the Scheme for facilitating employment growth. For instance, Clause 21.02 (Vision) states notes the following municipal strategic direction:

Facilitating employment growth in the State significant Wantirna Health Precinct, regionally-significant employment precincts; the Scoresby-Rowville Employment Precinct and the Bayswater Industrial Precinct and supporting commercial and industrial areas as a major source of local employment.

Council noted Mr Shipp's evidence and the economic underpinning of the Directions Plan, emphasising the major strategic role the Wantirna Health precinct is anticipated to play.

Council submitted:

... the development of the subject site should support the broader strategic context for an emerging health and medical employment precinct, rather than potentially hinder the potential for the Precinct's development as a health precinct of state significance. The proposed C164 planning policy direction is to furnish the precinct "SBL" status giving effect and priority to the broader strategic ambitions for the area.

Asian Aussie Group also opposed the proposed strategic direction at Clause 21.07 which requires new development to manage sensitive interfaces. Mr Scally submitted that policy should recognise that interface treatment is the responsibility of abutting sites and not just one site. Accordingly, he requested that the strategic direction be revised to:

Management of the interface between new residential development and existing and future employment generating uses must be the responsibility of both land uses.

Mr Scally requested that Clause 21.07 be changed to:

- emphasise the appropriateness of medium and higher density residential development in the Precinct
- recognise residential development in appropriate locations in strategy 4.7
- delete Wantirna Health Precinct strategic direction "*consider employment generating uses on all sites, as part of an integrated health based precinct*"
- revise the fifth strategic direction to refer to both residential and non-residential development
- add the following Precinct strategic directions:
 - *Support residential development in appropriate locations including on sites with access from main roads.*
 - *Support appropriate road connectivity through the precinct having regard to land uses.*

Council supported a revised version of Mr Scally's proposed new directions:

- *Consider higher density residential development and non-residential development in appropriate locations including on sites with access from main roads.*

- *Support appropriate public road connectivity through the precinct having regard to land uses.*

Mr Scally queried the meaning of the Clause 21.07 Precinct strategic direction which seeks to “*Ensure residential opportunities support the employment generating land uses with high levels of complementary integration and accessible connections*”. In response, Council agreed to change the direction to:

Ensure residential developments are integrated with employment generating land uses.

Mr Scally also requested that Strategy 1.7 in Clause 21.06 to emphasise that residential development in the Precinct should be support “*in appropriate locations particularly with main road access*”.

Given the range of uses raised by Asian Aussie Group, Council welcomed the Panel’s view on including a note somewhere to “*Investigate rezoning upon completion of master planning for the Wantirna Health Precinct*”.

(iii) Discussion

The Wantirna Health Precinct is supported through considerable State and local planning policy. The Directions Plan and changes proposed through the Amendment recognise the Precinct’s significance and seek to provide additional strategic guidance.

The Panel acknowledges that the Victorian Planning Authority is working with Council and state agencies including Department of Health and Human Services, VicRoads and Development Victoria to prepare a master plan for the Precinct. It would be premature to consider excising land from the Precinct ahead of this process. The master planning process would explore development opportunities, taking into account, among other things, access and transport. The Panel does not support Asian Aussie Group’s proposed Precinct strategic directions or Council’s revised version before this work commences. This would not preclude higher density residential development or a new public road to be considered before this work is completed.

The Panel supports Council’s revised Clause 21.07 Precinct strategic direction which clarifies Mr Scally’s query about its intent.

The future master plan will seek to integrate land use and development within the Precinct. As residential development is envisaged within the Precinct, any future integration should ensure that sensitive and employment uses can co-exist harmoniously. The strategic direction which seeks to manage sensitive interfaces with existing and future employment generating uses would help to support the amenity of residents interfacing business land uses while ensuring that the operation of existing and future health, business and associated uses are not adversely impacted.

The Panel then considered whether the interface provision should apply only to residential land uses or whether it should it apply to both interfacing land use. The Amendment and Directions Plan seek to focus on new employment generating uses which support and strengthen the health, education and community sectors in the Wantirna Health Precinct.

Any residential opportunities should therefore design their interfaces so that they do not adversely impact of the existing and new employment generating uses.

The Panel considers that the proposed policies do not conflict with the 750 Boronia Road zoning because they envisage residential land uses in the Precinct which support employment generating uses. While the General Residential Zone enables land to be used for a dwelling without a permit, this should not be considered a misalignment between the zone and policy.

The master planning process generally informs the appropriate planning scheme zones to implement its vision and objectives. The Panel considers that any rezoning investigation should be noted in the methodology or implementation plan of the future master plan.

(iv) Conclusions

The Panel concludes:

- The Amendment appropriately designates land for the Wantirna Health Precinct.
- The proposed associated strategic directions for the Wantirna Health Precinct are appropriate and justified.
- The fourth strategic direction in Table 1 of Clause 21.07 should be revised to clarify its intent.

(v) Recommendation

The Panel recommends:

Amend Clause 21.07, as shown in Appendix B5, to:

- a) replace the fourth strategic direction in Table 1 with ***“Ensure residential developments are integrated with employment generating land uses.”***

5 Employment land

5.1 Design

(i) The issue

The issue is whether the Amendment appropriately responds to design matters for employment land proposals.

(ii) Evidence and submissions

Brayburn Nominees opposed the proposed Clause 22.02-4 policy provision which seeks to set back buildings and car parks at least 20 metres from a Category 1 Zoned Road (including the service road). It submitted the proposed setback would adversely reduce the development potential of 786 Stud Road, which has an approximately 200-metre frontage to Stud Road and 42-metre frontage to Ferntree Gully Road.

Council responded that the performance measure proposed for Clause 22.02 has been translated from its existing location at Clause 22.08. The Amendment proposes to delete Clause 22.08. Council submitted that this siting performance measure has, and will, inform decision makers on new proposals.

Mr McKernan submitted that many new developments had poorly designed truck access and loading bays.

Council added that the Directions Plan was revised after exhibition to include an action to undertake future work on developing design guidelines for new development in the Industrial 1 and Commercial 2 Zone. It considered this to be an appropriate response to the issue raised by Mr McKernan and Brayburn Nominees.

(iii) Discussion

Having reviewed Clause 22.08 of the Planning Scheme, the Panel agrees that the 20-metre setback proposed to reside in Clause 22.02 is an existing performance measure. The Panel considers that the Amendment neutrally translates this existing provision so that it can continue to operate after Clause 22.08 is deleted. Considering that the Amendment proposes to implement strategic direction for its employment land and that it does not propose to change the 20-metre setback, the Panel supports the exhibited 22.02-4 policy provision.

The Panel acknowledges the new action in the revised Directions Plan to develop design guidelines for new development in the Industrial 1 and Commercial 2 Zone. It agrees with Council that this appropriately responds to both submissions.

(iv) Conclusions

The Panel concludes:

- Detailed design matters such as setbacks and truck access and loading bays:
 - are beyond the Amendment's primary intent to implement strategic direction for Knox's employment land

- can be more appropriately considered when preparing the design guidelines for new development in the Industrial 1 and Commercial 2 Zone sought through a new action in the revised Directions Plan
- The 20-metre setback proposed to reside in Clause 22.02 is an existing performance measure found in Clause 22.08 which should not be reviewed through the Amendment.

5.2 Ground floor land uses

(i) Background

The Directions Plan includes Direction 4 (Consolidate and diversify the role of existing activity and neighbourhood centres). Action 4.2 of this direction seeks to:

Encourage retail and/or commercial floorspace to form part of all developments within activity centres and neighbourhood activity centres, and encourage high density residential development on appropriate sites above ground level to enable mixed use developments which incorporate retail, commercial and other uses.

Clause 22.06 applies to residential land use and development and mixed-use development which includes a residential use in the Commercial 1 Zone, that is not included in an identified activity centre (Clause 21.10); Development Plan Overlay Schedule 10; and land where Built Form Guidelines are referenced in the Planning Scheme.

(ii) The issue

The issue is whether the proposed Clause 22.06 policy objective to “*maintain ground floor primarily for uses associated with business and community uses*” is appropriate and justified.

(iii) Evidence and submissions

Submission 13 relates to land subject to Development Plan Overlay Schedule 10. It opposed the proposed Clause 22.06 policy objective to maintain ground floor primarily for uses associated with business and community uses. It submitted:

Whether a residential use is complementary to the role and scale of a commercial centre should be ascertained on a case-by-case basis, rather than by application of a blanket presumption that ground floor residential uses are undesirable in the City of Knox.

Council responded that it maintains its position on the proposed amended changes, taking into account the findings of the Directions Plan.

(iv) Discussion

The Panel notes that the Direction Report refers to changing local planning policy in the short term to implement Action 4.2. The proposed Clause 22.06 policy objective is an outcome of this action.

The Panel considers that the proposed policy is well supported through the Directions Plan. It can be appropriately applied as a broad-based objective to a planning permit application proposing a residential land use in the Commercial 1 Zone.

As raised in Submission 13, the proposed policy will be considered on a case-by-case basis. It is not a mandatory provision that must be applied in every circumstance.

(v) Conclusion

The Panel concludes that the proposed Clause 22.06 policy objective to “*maintain ground floor primarily for uses associated with business and community uses*” is appropriate and justified.

6 Other threshold issues

6.1 Potential land use conflict

(i) The issue

The Amendment proposes to change Clause 21.04 to revise the preamble in 21.04-2 (Land use conflicts) to:

It is important to maintain the viability of employment land, particularly core employment land areas, by protecting it from the encroachment of commercial, residential, sensitive and other uses that do not give support to industry and a production economy.

The issue is whether the Amendment, through Clause 21.04, appropriately responds to potential land use conflict between employment and non-employment land uses.

(ii) Evidence and submissions

Denian Nominees Pty Ltd, HD Jenkins & Sons Pty Ltd, Melinda Taranto and Nicole Jenkins (Denian group) submitted that the proposed Clause 21.04-2 changes suggests that all commercial and residential uses do not support industry and a productive economy. It added that this *“is clearly inaccurate and should be clarified”*.

The Denian group considered that there was an unclear connection between the proposed Clause 21.04-2 changes and Development Plan Overlay Schedule 10 which applies to their site.

Council responded that the Amendment proposes minor changes which seek to maintain the importance of core employment land areas for employment purposes. It considered the policy position to be appropriate to preserving the core employment land areas.

(iii) Discussion

To inform itself, the Panel referred to Development Plan Overlay Schedule 10 to understand how its provisions relate to the proposed Clause 21.04-2 preamble. Development Plan Overlay Schedule 10 requires future siting and design guidelines to include:

Appropriate interface treatments and setbacks along all boundaries that take into account adjacent land uses, including within the site, between commercial and residential uses.

The Panel considers that the Clause 21.04-2 preamble aligns with the Clause 21.04-2 preamble provisions, including the siting and design guidelines requirement. It does not share the Denian group's view that Clause 21.04 that *all* commercial and residential uses do not support industry and a productive economy. By seeking to restrict *“commercial, residential, sensitive and other uses that do not give support to industry and a production economy”*, Clause 21.04-2 recognises that there may be such land uses which support industry and a production economy.

The Panel agrees with Council that Clause 21.04, appropriately responds to potential land use conflict between employment and non-employment land uses.

(iv) Conclusion

The Panel concludes that the Amendment, through Clause 21.04, appropriately responds to potential land use conflict between employment and non-employment land uses.

6.2 Peripheral issues

(i) The issue

The issue is whether the Amendment appropriately responds to submitter queries and comments related to warehouses, compulsory acquisition and public transport.

(ii) Evidence and submissions

Mr McKernan noted the lack of medium sized warehouse buildings within the Knox municipality. Mr Shipp gave evidence that the Directions Plan and the Amendment provide for what Mr McKernan seeks. He referred to the Directions Plan which identifies the need for a greater diversity of lot sizes in industrial areas. He explained that the Direction Plan's Action 5.4 which supports increased use of existing business land is being implemented through Table 1 of the proposed Clause 21.07. Council endorsed Mr Shipp's and considered the submission to be adequately addressed.

Ms Lopez did not request any change to the Amendment or Directions Plan, however she had the following questions about them:

- *What does this mean for people who own and/or live in the houses that are in residential areas now and into the future?*
- *What type of business are planned and are they private/public businesses or both?*
- *Can the land/homes be acquired through a compulsory acquisition process known as land resumption?*
- *The area at or around the corner of Mountain Highway and Shetland Drive Wantirna/Bayswater has a yellow diamond which means "Investigate Potential rezoning". What does this mean to the people owning property or living there in the future as this is clearly a residential area apart from small businesses/shops and medical centre right on the corner of Mountain Hwy and Stud Rd Wantirna/Bayswater.*

Council responded that it relied on the Directions Plan as the rationale for the Amendment and the proposed planning policy changes. It added that the policy does not indicate that compulsory acquisition will be pursued.

Transport for Victoria identified several public transport related opportunities in and around the proposed Significant Business Locations. Council responded that the Amendment makes no public transport related changes, however it noted the important future opportunities for sustainable transport in employment areas.

(iii) Discussion

The Panel accepts Ms Shipp's evidence regarding future strategic direction for industry. There was no evidence that the Directions Plan or the Amendment did not provide an appropriate framework for medium sized warehouse buildings.

The Panel notes that Ms Lopez had questions but did not request any change to the Amendment for the Panel to consider. The Panel agrees with Council regarding important future opportunities for sustainable transport in employment areas.

(iv) Conclusions

The Panel concludes that matters and queries raised by Mr McKernan, Ms Lopez and Transport for Victoria do not require any change to the Amendment.

6.3 Post-exhibition changes and drafting matters

Council proposed minor changes to Clauses 21.01, 21.04 and 21.07 in response to changes sought through Environment Protection Authority's submission. The Panel has reviewed these changes and agrees that they add clarity.

Council submitted that it had made drafting related changes to several clauses, which sought to clarify them or improve their operation. It added that the Planning Policy Framework changes seek to modernise policies, informed by analysis in the Directions Plan, and should be supported as presented in post-exhibition documentation. Council also revised references of the Directions Plan to refer to the 2018 version which includes post-exhibition changes. The Panel agrees to the changes shown in the recommendations below.

(i) Recommendations

The Panel recommends:

Amend Clause 21.01, as shown in Appendix B1, to:

a) replace the third 'Environmental risk' issue with:

Conflict between incompatible land uses as new development occurs, with encroachment of sensitive land uses on key industrial areas, former landfills, quarries, materials recycling and transfer stations, leading to risks to human health and amenity.

b) update the Knox Land for Business Directions Plan to July 2018.

Amend Clause 21.02, as shown in Appendix B2, to:

a) update the Knox Land for Business Directions Plan to July 2018

b) revise Figure 1 to correct the Bayswater Business Precinct/Activity Centre boundary, and update the status of Boral and Waverley Golf Course Strategic Investigation Sites.

Amend Clause 21.04, as shown in Appendix B3, to:

a) revise the third 'Land use conflict' key issue to:

Protecting the environment, human health and the amenity of sensitive uses from residual air and noise emissions, land and water contamination and landfill gas emissions.

- b) revise Strategy 3.2 in 'Land use conflict' to:

Require applications for new industrial developments to consider the proximity and interface with existing commercial or sensitive uses, and implement siting, engineering and design features which will mitigate against negative health and amenity impacts such as noise, vibration, air emissions, odours and land and water contamination.

Amend Clause 21.06, as shown in Appendix B4, to:

- a) clarify in Strategic Investigation Sites that the proposed land uses should align with the Strategic Investigation Site designation, and to refer to the *Knox Land for Business Directions Plan*, applied by Clause 21.07, for strategic guidance
- b) update the *Knox Land for Business Directions Plan* to July 2018.

Amend Clause 21.07, as shown in Appendix B5, to:

- a) append to Strategy 2.2 *"are sited and designed to minimise negative impacts on the amenity of nearby sensitive land uses and to optimise amenity improvements"*.
- b) update the *Knox Land for Business Directions Plan* to July 2018.

Amend Clause 21.04 and Clause 22.06 to update the *Knox Land for Business Directions Plan* to July 2018.

7 Site specific issues

7.1 Caribbean Park

(i) The issues

The issues are:

- whether the Amendment appropriately responds to land known as Caribbean Park
- whether figures used to inform the Directions Plan are accurate.

(ii) Evidence and submissions

Council submitted that the Amendment seeks to identify the important role which Caribbean Park land will play in the economic and social growth of the municipality. It does this by classifying the site as Neighbourhood Centre at Clause 22.02. Council subsequently revised the Directions Plan to add on page 6 that *“Industrial land is likely to become scarce during the planning period”*.

Caribbean Park noted its aspirations for the future direction of this land parcel, which is identified in the Directions Plan as comprising almost half Knox’s existing vacant business land supply. It opposed the Caribbean Park component of the land being included for future rezoning investigation.

In his evidence, Mr Shipp stated that the Directions Plan identifies a future Business Neighbourhood Activity Centre which:

- *is consistent with the approved Development Plan (April 2012) for the site*
- *is proposed to provide goods and services which primarily support the needs of the growing business and employment base within Caribbean Park in a location that is easily accessible to those businesses, especially the emerging high-density multi-storey office precinct*
- *supports the vision for Caribbean Park as a high amenity business location which is attractive to investors, businesses and employees, particularly for knowledge-based industries*
- *capitalises on the existing assets of the site, particularly open space and waterways.*

Mr Shipp considered that, in line with Clause 21.07, the Amendment appropriately identifies the opportunity for a new neighbourhood centre in Caribbean Park to service local businesses and employees. Council agreed with this response.

Council submitted that it originally considered the Caribbean Park component of the land holding to be outside of the area for future rezoning investigation. Council’s response to submissions reflected this. Council has since identified that a small portion of the land is in the ‘Investigate Rezoning’ designation.

Council responded that it could amend the Directions Plan to ensure the Caribbean Park land (as shown in the Development Plan Overlay Schedule 6) is located outside of the yellow

area¹. It added that, based on the findings of the Directions Plan, Clauses 21.07 and 22.02 propose to augment the submitter's land as the Caribbean Park Neighbourhood Activity Centre due to its capacity for future strategic contribution to the area.

Caribbean Park considered that there were some discrepancies with the figures used to inform the Directions Plan. Specifically, the Directions Plan had overstated the amount of land available within Caribbean Park for industrial purposes and understated the land available for office/commercial use.

Mr Shipp gave evidence that following exhibition and in response to this submission, the Directions Plan was changed to reflect revised land supply in Caribbean Park for each land use. He added that given the implications of these changes, the Directions Plan had the following text added "*Industrial land is likely to become scarce during the planning period*".

(iii) Discussion and conclusion

The Panel notes that the identified land area figures have been corrected in the 2018 version of the Directions Plan.

The Panel concludes:

- The Amendment appropriately responds to land known as Caribbean Park.
- Figures used in the revised Directions Plan more accurately reflect actual circumstances.

7.2 Boral Site

(i) Background

Existing Clause 21.02 (Vision) and Clause 21.06 (Housing) identify 191 George Street, Scoresby as one of Knox's 'Strategic Investigation Sites – Residential'.

The Amendment proposes to:

- redesignate 191 George Street, Scoresby to 'Strategic Investigation Sites – Economic (Business land component)' in Clause 21.02 and Clause 21.07
- add the following further strategic work in Clause 21.07:

Investigate inclusion of adequate land for employment purposes within any redevelopment of the 181 George Street, Wantirna South (Boral Quarry) Strategic Investigation Site to support Knox's ongoing land for business needs.

The Directions Plan states:

... new business land opportunities need to be considered when examining strategic sites in the planning stages. For example, the Boral Quarry, adjacent to Eastlink, could make a substantial contribution to increasing the amount of land designated for business purposes. Depending on the ultimate layout of the developable area, this area could provide suitable space for bulky goods retail, industrial and convenience retail uses.

¹ As in Figure S2 Spatial Directions on page 7 of the Directions Plan, June 2018.

(ii) The issue

The issue is whether Clause 21.02, Clause 21.07 and discussion about the Boral site in the Directions Plan are appropriate and justified.

(iii) Evidence and submissions

Boral Bricks Pty Ltd (Boral) submitted that it owns the existing 171-hectare brickworks and quarry at 191 George Street, Scoresby. It explained its vision to rehabilitate and redevelop the site for both business and residential purposes. Boral considered that the proposed Clause 21.02, which promotes a business focus, does not align with the existing Clause 21.06 which supports residential development on the site. It referred to the Directions Plan which refers to considering bulky goods retail, industrial and convenience retail uses on the Boral site.

Boral submitted that the changes proposed by the Amendment have created uncertainty as to whether the land should be potential used for residential or business purposes. It sought to ensure that the Planning Scheme continues to *“unambiguously support the potential of the Scoresby site to be developed for residential purposes”*. Boral considered that its site can contribute to some business and employment opportunities.

To address its issues, Boral requested that:

- Clause 21.02-1 continue to identify the Scoresby Strategic Investigation Site in a ‘Residential’ category
- the proposed further strategic work in Clause 21.07 be changed to:

Investigate possible inclusion of land for employment purposes as part of an integrated redevelopment of land at 181 George Street Wantirna South (Boral Quarry) Strategic Investigation Site.
- Page 56 of the Directions Plan be changed to reflect the site’s location and access constraints with regard to bulky goods, industrial and commercial uses on the site.

Mr Shipp gave evidence that:

In my view, it is appropriate for the site to be identified as a residential opportunity with the policy seeking a business land component and that this direction is appropriately reflected in the Further Work section of Clause 21.07 as part of the post-exhibition amendment documentation.

Mr Shipp agreed with Boral’s submission regarding bulky goods, industrial and commercial uses and noted the post-exhibition version of the Directions Plan now identifies business opportunities which *“complement existing assets in the area (such as active open space facilities, transfer station) in addition to retail and commercial businesses required to meet the needs of the planned residential development”*.

Council responded that the proposed Clauses 21.02 and 21.07 identify the Boral site as one of two Strategic Investigation Sites to be investigated for a business land component. This is different to the Framework Plan’s designation of Strategic Investigation Sites with a residential focus. It agreed to Boral’s request to revise Clause 21.07, except for the word ‘possible’.

Council stated that Mr Shipp's evidence supports both the policy and Directions Plan wording changes.

(iv) Discussion

The Panel notes that the Planning Scheme has planning policies which do not always align, and where a professional judgement needs to be made regarding conflicting policies in the interest of net community benefit. However, the Panel does not consider this to be the case for the Boral site. Clause 21.06, which seeks a residential response for the Boral site, can operate harmoniously with Clauses 21.02 and 21.07 which seek a portion of that land to be investigated for business purposes. The site's scale of 171 hectares, provides a unique opportunity to provide significant residential development while accommodating land for business purposes. The extent of business land will be determined through further strategic work beyond the Amendment.

The Panel agrees with Council's response to Boral's requested change to Clause 21.07. The exhibited Clause 21.07 reference to "*support Knox's ongoing land for business needs*" can be confusing and should be deleted. The Boral requested clause seeks further strategic work to *investigate* employment land uses. The possibility and extent of including an employment land component would be determined through this investigation. The word 'possible' is therefore not necessary.

(v) Conclusions

The Panel concludes:

- Proposed Clauses 21.02 and 21.07 can operate harmoniously with existing Clause 21.06.
- Boral's requested change to Clause 21.07, except for the word 'possible' should be adopted because it would help clarify that business land would be part of any integrated development.
- Council should review whether the Boral site is '181' or '191' George Street.

(vi) Recommendation

The Panel recommends:

Amend Clause 21.07, as shown in Appendix B5, to:

a) replace the relevant strategy with:

Investigate inclusion of land for employment purposes as part of an integrated redevelopment of land at 181 George Street Wantirna South (Boral Quarry) Strategic Investigation Site.

Appendix A Document list

No.	Description	Provided by
7 September 2018		
1	Submissions status summary dated 29 August 2018	Council
1 October 2018		
2a	Part A Submission	Council
2b	Expert witness statement	Council
8 October 2018		
3	Part B Submission	Council
4	General Residential Zone – marked up	Mr Scally
5	Knox Planning Scheme Clauses 21.06 and 21.07 (preferred)	Mr Scally
9 October 2018		
7	Submission – Asian Aussie Group Pty Ltd	Mr Scally
8	Submission – Tambrad Nominees Pty Ltd	Mr Wein
9	Closing Submission	Council

Appendix B Panel recommended clauses

Tracked Added

~~Tracked Deleted~~

Where no changes are proposed, Content is not shown and replaced with '...'.

Appendix B1

21.01 MUNICIPAL PROFILE

...

Environmental risk

- Risk to life and property from bushfire.
- Increasing climate change effects including urban heat island, flooding and the increased severity of weather events.
- ~~Residential encroachment of key industrial areas, former landfills, quarries, materials recycling and transfer stations.~~ Conflict between incompatible land uses as new development occurs, with encroachment of sensitive land uses on key industrial areas, former landfills, quarries, materials recycling and transfer stations, leading to risks to human health and amenity.

...

References

...

[Knox Land for Business Directions Plan, Knox City Council, Urban Enterprise, ~~July 2017~~ July 2018](#)

...

Appendix B2

21.02 VISION

...

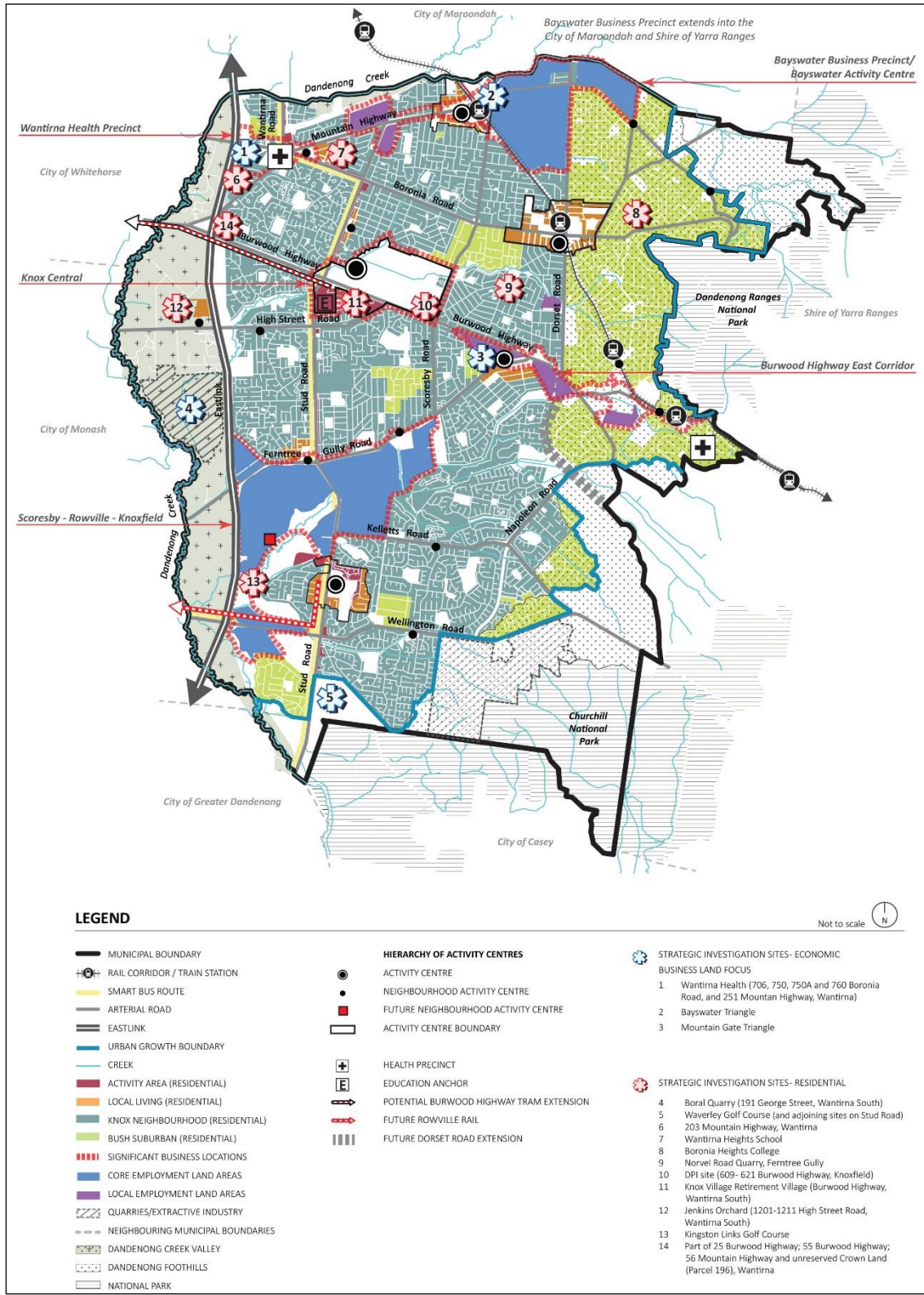
References

Knox Community and Council Plan 2017-2021, Knox City Council, 2017 (or as amended)

Knox Land for Business Directions Plan, Knox City Council, July ~~2017~~[2018](#), Urban Enterprise, 2018

State of Knox Report, Knox City Council, 2016 (or as amended)

Figure 1: Strategic Framework Plan



Appendix B3

21.04 ENVIRONMENTAL RISKS

...

21.04-2 Land use conflicts

...

Key issues

- There are sensitive land uses and development sites in proximity to quarries and a waste transfer station;
- Encroachment of industry and quarries by sensitive uses and some commercial and other uses can impact industry operations and their viability;
- Protecting [the environment, human health and the](#) amenity of sensitive uses from residual air and noise emissions, [land and water contamination](#) and landfill gas emissions.

Objective 3

To prevent conflict between commercial or sensitive uses with industry, waste recovery and natural resource extraction.

Strategies

- 3.1 Consider the need provide and maintain suitable separation distances between the following facilities and commercial or sensitive uses which may harm industry viability and to protect the amenity of sensitive uses:
 - Lysterfield Quarry, Wellington Road.
 - George Street Quarry in Wantirna South.
 - Cathies Lane Transfer Station, George Street, Wantirna South.
- 3.2 Require applications for new industrial developments to consider the proximity and interface with existing commercial or sensitive uses, ~~along with minimising the impacts of noise, odour, dust and traffic~~ [and implement siting, engineering and design features which will mitigate against negative health and amenity impacts such as noise, vibration, air emissions, odours and land and water contamination.](#)

Appendix B4

21.06 HOUSING

This clause provides local content to support Clause 11 (Settlement), Clause 15 (Built Environment and Heritage) and Clause 16 (Housing) of the State Planning Policy Framework.

Additional local content is also provided in Clause 21.10 to support implementation of both the State and Local Planning Policy Frameworks in a local area context.

21.06-1 Scaled approach to residential development

In managing the City's current and future housing needs, Council supports a scaled approach to residential development to accommodate population growth and the community's changing household needs. This scaled approach recognises that some parts of the City will need to accommodate change and in other areas, there will be limited change in order to protect and enhance Knox's green and leafy character and protect areas of environmental significance.

The *Knox Housing Strategy 2015* identifies four distinct residential areas that support the scaled approach to residential development as shown in Figure 1 to this clause (Housing Framework Plan). The four areas are:

- Bush Suburban
- Knox Neighbourhood
- Local Living Areas
- Activity Areas

Within each area, a different level of change is anticipated to respond to the City's current and future housing needs.

Strategic Investigation Sites

Strategic Investigation Sites are generally sites not currently used for residential purposes, such as quarries, schools and golf courses. They are sites where the land use is likely to change in a short to mid-term timeframe, and could be suitable for future residential development (either entirely or in part), including a component of social housing. Strategic Investigation Sites are indicated in Figure 1 to this clause and Figure 1 to Clause 21.07 (Economic Development). [The land use\(s\) proposed should accord with the Strategic Investigation Site designation.](#) Strategic guidance for these sites is provided in the *Knox Housing Strategy 2015* and the *Knox Affordable Housing Action Plan 2015-2020* and the *Knox Land for Business Directions Plan, applied by Clause 21.07*. Where Strategic Investigation Sites have already been subject to investigation processes and have been rezoned to facilitate future residential development, additional strategic guidance may also be found in the relevant zone and overlay schedules which apply to the land.

...

Reference documents

Knox Affordable Housing Action Plan 2015-2020, Knox City Council, 2015

Knox Housing Strategy 2015, Knox City Council, 2015

Knox Land for Business Directions Plan, Knox City Council, Urban Enterprise, ~~2017~~ [July 2018](#)

Appendix B5

21.07 ECONOMIC DEVELOPMENT

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Objective 2

To ensure sufficient land is available for employment and production economy-related uses.

Strategies

- 2.1 Support high generating employment and high economic output uses, including Knox’s key propulsive industries in ‘core employment land areas’ as shown in Figure 1 to this Clause by only fostering uses in these areas which directly support the employment and production economy role of the Significant Business Location. Other uses can be considered for buildings fronting main roads taking into account existing uses and development and main road access and exposure requirements.
- 2.2 Facilitate a mix of employment and other land uses in ‘local employment land areas’ and in other employment locations outside ‘core employment land areas’ which [are sited and designed to minimise negative impacts on the amenity of nearby sensitive land uses and to optimise amenity improvements.](#)

...

21.07-3 Implementation

...

Further strategic work

- Investigate opportunities across the municipality suitable for commercial and industrial land uses to ensure sufficient land is available and appropriately zoned to meet ongoing employment and business land needs into the future.
- ~~Investigate application of the Industrial 1 Zone to land known as Scoresby Industrial (not including land fronting Stud and Ferntree Gully Roads) in the Scoresby-Rowville-Knoxfield ‘Significant Business Location’ to ensure and support its ongoing industrial role.~~
- Investigate inclusion of ~~adequate~~ land for employment purposes [as part of an integrated](#) redevelopment of [land at](#) 181 George Street, Wantirna South (Boral Quarry) Strategic Investigation Site ~~to support Knox’s ongoing land for business needs.~~

...

Table 1 – Knox Significant Business Locations table

Wantirna Health Precinct	
Role and function	Strategic directions
...	...
	Ensure residential opportunities support the employment generating land uses with high levels

	<p>of complementary integration and accessible connections.</p> <p><u>Ensure residential developments are integrated with employment generating land uses.</u></p> <p>...</p>
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Reference documents

...

Knox Land for Business Directions Plan, Knox City Council, ~~2017~~2018, Urban Enterprise, ~~2017~~ July 2018

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