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*Planning and Environment Act 1987*

**MARIBYRNONG PLANNING SCHEME  
AMENDMENTS C38 AND C41  
MAIDSTONE REDEVELOPMENT**

**Report of a Panel**

**Pursuant to Sections 153 and 155 of the Act**

**Panel:**

**Ms Kathryn Mitchell, Chair**

**Mr Eugene Kneebone**

**Mr Ken McNamara**

**September 2004**

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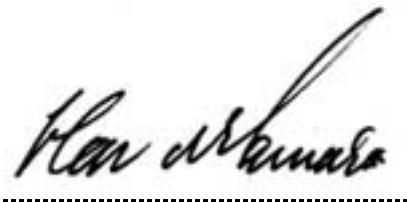
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**Ms Kathryn Mitchell, Chair**



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**Mr Eugene Kneebone, Member**



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**Mr Ken McNamara, Member**

**September 2004**

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1. Letter from Directions Hearing and Timetable
2. Exhibited Amendment C38
3. Exhibited Amendment C41
4. Modified Schedule to Development Plan Overlay
5. Framework Plan (Tract Consultants)

## EXECUTIVE SUMMARY

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1. *The Maidstone redevelopment proposal involves two related amendments to the Maribyrnong Planning Scheme on land previously used for Commonwealth purposes (AV Jennings site - Amendment C38) and for industrial purposes (JMC site - Amendment C41).*
2. *The purpose of the amendments is to facilitate a residential development on the sites with a mixed use component generally along the Hampstead Road frontage. A Development Plan Overlay is proposed for both sites to ensure an integrated development outcome.*
3. *Victoria University of Technology proposes a further amendment (Amendment C47) on adjoining land. This amendment (if exhibited), proposes to rezone a recently created western lot off Williamson Road, from Special Use Zone to Residential Use Zone.*
4. *Submissions in relation to these amendments were received from:*
  - *Local residents (off Omar Street to the west and beyond) and from residents from the recently created Waterford Green Estate to the north. Residents' concerns involved increased traffic circulation in their vicinity, potential overloading of nearby intersections and overlooking issues;*
  - *The adjoining Medway Golf Course to the west was concerned that negative residential reaction and perhaps liability and insurance claims could result from stray golf balls exiting from its 7<sup>th</sup> hole to the Jennings land;*
  - *The Australia Post Mail Centre was concerned that effective acoustic barriers and buffers be provided between its land (which lies between the amendment sites) and proposed residential properties, to achieve a desired noise reduction to SEPP N-1 standards;*
  - *The Peerless Holdings Plant, located some 740 metres to the west of the subject sites, was concerned that odour emissions from its rendering plant (under upset conditions) may result in residential complaints and pressure to relocate its multi-million operation; and*
  - *The Campbellfield Concrete Batching Plant on the south-east side of Hampstead Road, whilst not a party to the hearing, was seen as relevant to the parties because of its environmental emissions of noise and dust.*

5. *A preliminary environmental audit has been carried out over the Jennings site and a final audit will be carried out over both sites (including two existing easements) to the satisfaction of the Planning Authority.*
6. *The Panel heard and considered all the above issues and believes that the measures included in the Development Plan Overlay and its Schedule will satisfactorily address all potential amenity, safety and nuisance aspects.*
7. *The Council introduced a collaborative process in order to address interface, access and urban design aspects that involved the three potential developers. This resulted in the preparation of the Hampstead Road Precinct Framework Plan. Substantial agreement was reached between the parties, however the issues of appropriate open space provision and access/circulation of traffic remained unresolved at the time of the hearing.*
8. *The Panel favoured a central signalised access point with internal connection between sites, but without Omar Street extending to Williamsons Road. The Panel supports the open space provision of three "parks" as indicated on the proponents indicative Concept Plans (including a green linear link to the Maribyrnong River). The Panel believes that these and other agreed refinements should be incorporated in the adopted Schedule to the Development Plan and undergo a non-statutory consultation process to inform stakeholders of the final agreed Development Plan.*
9. *The Council accepted the Council and Proponents' strategic evidence that the proposals were consistent with the transformation of the industrial north Maribyrnong for attractive residential purposes. Further it is believed that the amendments fulfil urban consolidation objectives, support Activity Centres and are consistent with related policies associated with the Metropolitan Strategy - Melbourne 2030 as well as the relevant State and Local Policy frameworks.*
10. *The issue of the loss of potential industrial/commercial zoned land (albeit vacant) on the subject site to create a desirable and sustainable residential development, was not on balance, considered to compromise the community benefits associated with the proposals.*
11. *The Panel recommends that both Amendments be adopted generally as exhibited, subject to modifications to the Development Plan Overlay, and other specific recommendations.*

## 1. INTRODUCTION

---

A Panel to consider Amendments C38 and C41 to the Maribyrnong Planning Scheme was appointed under delegation from the Minister for Planning on 5 May 2004. It comprised Ms Kathryn Mitchell (Chair), Mr Eugene Kneebone and Mr Ken McNamara.

The Panel met in the offices of the Planning Panels Victoria and the City of Maribyrnong for eleven days to hear submissions in respect of these amendments. In reaching its conclusions and recommendations, the Panel has read and considered all submissions and a range of other material referred to it. This includes written submissions and verbal presentations.

The City of Maribyrnong is the Planning Authority for these amendments.

The proponent for Amendment C38 is AV Jennings. This amendment affects land known as the former Telstra site at 31 Hampstead Road, Maidstone and it proposes to facilitate an integrated housing development with a mixed-use component.

The proponent for Amendment C41 is the JMC Group. This amendment affects land at 17 to 25 Hampstead Road Maidstone and similarly, it proposes to facilitate an integrated housing development with a mixed-use component.

A Directions Hearing in relation to this matter was held on 7 June 2004. A number of directions were made about matters relating to the hearing and a copy of the letter that outlined those directions, and the hearing timetable is attached as Appendix 1. At the Directions Hearing and again at the commencement of the Panel Hearing, all parties agreed and accepted that the hearing should be conducted as one integrated process, and that one Panel report should be produced for both amendments.

On Day 3 of the hearing (15 July), the Panel undertook an accompanied site visit of the subject land and its general locality. The parties represented at these inspections included the Council, AV Jennings, JMC Group, Australia Post, Peerless Holdings, Victoria University of Technology, Medway Golf Club and Mr Armstrong. Apart from this site inspection, the Panel has visited the subject sites at other times.

## **2. WHAT IS PROPOSED?**

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### **2.1 Amendment C38**

Amendment C38 to the Maribyrnong Planning Scheme was prepared by the Planning Authority at the request of the Coomes Consulting Group Pty Ltd on behalf of AV Jennings Pty Ltd. The amendment proposes to facilitate an integrated housing and mixed use development by:

- zoning the former Commonwealth land to include part of the land in the Residential 1 Zone and part of the land in the Mixed Use Zone;
- removing the Design and Development Overlay (DDO1) applying over the land;
- introducing and applying a Development Plan Overlay (DPO5) over the land (proposed to be renumbered to DPO7);
- applying an Environmental Audit Overlay (EAO) over the land; and
- applying a Community Infrastructure Development Contributions Plan Overlay (DCPO2) over the land.

The proposed zoning of the northern part of the land (about 70% of the land) to Residential 1 zone will generate some 72 conventional lots and medium density housing sites. The Mixed Use zoning on the remaining land will allow some medium density housing and approximately 3000 square metres of commercial development. The development will provide for a total of 150 to 200 dwellings, ranging from detached lots to medium density housing.

The amendment was placed on public exhibition between 23 October and 25 November 2003. The notice of preparation of the amendment was published in a number of local newspapers, and the amendment was on display at various locations. Notification was given to property owners and occupiers in properties adjoining the land and in the surrounding area, to prescribed Ministers, and Service Authorities.

### **2.2 Amendment C41**

Amendment C41 was prepared and exhibited by the Maribyrnong City Council at the request of GHD Pty Ltd on behalf of the JMC Group. As exhibited, the amendment proposes to:



- rezone the land from an Industrial 3 Zone to part Residential 1 Zone and part Mixed Use Zone;
- apply a Development Plan Overlay (DPO8); and,
- apply the Environmental Audit Overlay (EAO) over the land.

(The Panel notes that a Community Infrastructure Development Contributions Plan was not exhibited as part of Amendment C41. It is not sure if this is an omission, but it is a matter for Council to resolve if necessary.)

The purpose of the amendment is to facilitate a residential development with a mix of densities. A Mixed Use Zone is proposed to a depth of about 75 metres from the Hampstead Road frontage while the remainder of the land is proposed to be rezoned Residential 1 Zone.

The Concept Plan submitted with the proposed amendment indicates a mix of 2 - 4 storey apartment buildings with ground level commercial uses fronting Hampstead Road, and 2 - 4 storey apartment/townhouse buildings to the rear within the Mixed Use Zone. Within the Residential 1 Zone, the Concept Plan indicates the following mix of development with the respective indicative yields:

- 3 mixed use precincts, which could yield in the order of 85 apartments;
- 13 standard residential allotments;
- 6 medium density two storey townhouses precincts, which could be expected to generate a yield of 47 townhouses;
- 2 - 4 multi-unit sites, which could be expected to generate a yield in the order of 70 apartments;
- 2 two storey apartment sites, which could be expected to generate a yield of 14 apartments; and,
- 5 two to three storey townhouse precincts, which could be expected a yield of 32 townhouses.

The proposed development anticipates over 261 new dwellings to be accommodated on-site, generating 522 persons (at an average rate of 2 persons per household). The urban design details and layout will be the subject of the Development Plan preparation and approval process, following the current planning scheme amendment process. The existing industrial buildings are proposed to be removed to facilitate the proposed residential development.

The amendment was placed on public exhibition between 1 April 2004 and 6 May 2004, and was on display at a range of locations. The notice of preparation was published in various local newspapers. Notification was given to property owners

and occupiers in properties adjoining the land and in the surrounding area, to prescribed Ministers and Service Authorities.

### **2.3 Amendment C47**

There is a third amendment that affects the locality of these amendments under consideration by this Panel. Amendment C47 has not yet been exhibited, and it affects the Victoria University student village site (described as Lots 1-13 on the Certificate of Title, Volume 10390, Folio 791). This site adjoins the Amendment C38 site to the north, and forms part of the broader Hampstead Road precinct. In September 2003, GHD (on behalf of Victoria University) lodged a combined planning application to subdivide the Victoria University site that has frontage to Williamsons Road into two lots. The amendment proposes to rezone the western (smaller) lot from a Special Use Zone to a Residential 1 Zone.

### **2.4 Submissions and Panel Hearing**

A total of nineteen submissions (and two petitions consisting of 44 signatories) were received in relation to Amendment C38 from the following:

- Environment Protection Authority
- Department of Sustainability and Environment
- Department of Primary Industries
- Abigroup (TXU)
- Melbourne Water
- Department of Victorian Communities
- Coomes Consulting, for AV Jennings
- Marie and Rod Dendtler
- Barry Armstrong OAM
- Emilynne and Bryan Hewitt (and others)
- Krishna Kumar (and others)
- Graham Hobbs
- Ron Brons
- GHD, for Victoria University of Technology
- GHD, for JMC Group
- Coomes Planning, for Medway Golf Club
- Jewell Partnership, for Australia Post
- Clayton Utz, for Peerless Holdings
- VicRoads

The exhibition of Amendment C41 resulted in 10 submissions from the following:

- Brimbank City Council
- Melbourne Water
- City West Water
- Abigroup (TXU Networks)
- Clayton Utz, for Peerless Holdings
- Emilynne and Bryan Hewitt
- Jewell Partnership, for Australia Post
- VicRoads
- Coomes Consulting, for AV Jennings
- Environment Protection Authority

All submissions were referred to a Panel for its consideration, and Council specifically requested the same Panel consider both amendments, (and Amendment C47 if and when it came up).

A Hearing in relation to the amendments was held over eleven days (13, 14, 15, 16, 20, 22, 23 July and 2, 4, 5, and 6 August 2004) at the offices of Planning Panels Victoria (including one afternoon at the City of Maribyrnong after the formal site inspections). The following parties were represented and/or heard:

***City of Maribyrnong (Planning Authority):*** Ms Louise Hicks, Phillips Fox Solicitors  
Ms Mei Lee, Strategic Planner  
Mr Don Robertson, Traffix Group  
Mr Andrew Robertson, Tract  
Ms Ann Cremean, Open Space Planner  
Mr Michael Stokes, Tract Consultants

***Proponent (Amendment C38):*** Mr Simon Molesworth AM QC,  
instructed by Mills Oakley Lawyers  
Mr Rob Milner, Coomes Consulting  
Mr John Kiriakidis, GTA Consultants  
Mr Rick Graham, SKM  
Ms Elizabeth Hui\*, Marshall Day  
Mr Mark Fowler, Thomson Perrett  
Mr Tim Pollock\*, GHD

***Proponent (Amendment C41):*** Ms Natalie Bannister, Gadens Lawyers  
Mr Andrew Biacsi, Contour Australia

<b><i>VicRoads:</i></b>	Mr Mark Bartley, Phillips Fox Solicitors Mr John Graves, North West Metropolitan Regional Office
<b><i>Australia Post:</i></b>	Mr Peter Jewell, Jewell Partnership
<b><i>Environment Protection Authority:</i></b>	Mr Quentin Cooke, EP Officer, West Metropolitan Region Mr Piyaratne Dewundege, Meteorologist
<b><i>Victoria University of Technology:</i></b>	Mr John O'Connell, GHD Ms Melissa Wickham, GHD
<b><i>Peerless Holdings Pty Ltd:</i></b>	Mr Ian Lonie, Clayton Utz Mr Julius Rath, Executive Director Dr Terry Bellair, Environmental Science Associates Mr Phillip Borelli, SJB Planning
<b><i>Medway Golf Club:</i></b>	Mr Nick Helliwell, Coomes Planning Mr George Diakogeorgiou, Pacific Coast Design
<b><i>Individual Submitters:</i></b>	Mr Barry Armstrong Ms Emilynne and Mr Bryan Hewitt Ms Krishna Kumar Ms Marie Dendtler

\* - Ms Hui and Mr Pollock prepared and presented evidence for the proponents of both C38 and C41.

## **2.5 Key Issues**

The Panel has considered all written submissions, as well as submissions presented to it during the Hearing. At the outset of the hearing, it identified what it considered to be the key issues for discussion and/or resolution. These included:

- Form of the amendments and the planning controls proposed, including the use of the Development Plan Overlay;

- Urban design and integration for sites, including the role and status of the Precinct Framework Plan;
- Rationalisation of open space and its optimum location;
- Environmental issues such as noise and odour; and
- Traffic, access and circulation.

Specifically, the key issues raised by the various submissions and presentation by parties to the hearing include:

***Planning Authority – City of Maribyrnong:***

- Integrated residential redevelopment
- Access and circulation
- Central and lineal open space
- Environmental audit
- Development contributions overlay
- Appropriate form of planning control

***Proponents – Amendments C38 (AV Jennings) and C41 (JMC Group):***

- Access and circulation
- Open space
- Lineal link to Maribyrnong River
- Impact on surrounding and nearby industrial uses
- 3 or 4 storey residential frontage to Hampstead Road

***Government Agencies:***

- Compliance with environmental regulations
- Access and circulation
- Acquisition of land for road widening purposes

***Industrial Landholders/Interests:***

- Impacts as a result of odour and noise
- Form of the amendment, and zone and overlay controls

***Residential Submitters:***

- Traffic
- Amenity and outlook
- Provision of services

The Panel addresses these issues in the following sections of this report.

### 3. SITE CONTEXT

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#### 3.1 Subject Sites

The land subject to **Amendment C38** is located at 31 Hampstead Road, Maidstone. This site is an irregularly shaped parcel of land of 9.79 hectares, with frontages to Hampstead Road and to a number of unconstructed government roads, including the northerly extension of Omar Street. The Commonwealth formerly used the land for industrial purposes, including the production of ordnances and pyrotechnics. The land was purchased and used by Telstra for commercial purposes until it was recently sold to AV Jennings. The land was contaminated with residual asbestos and unexploded ordnances (UXO). It is understood the land has been remediated by Telstra, and an Environmental Audit Statement has been issued with conditions. While in Telstra's ownership, the land was cleared of all above ground improvements and features.

This site is located within the broader Hampstead Road precinct, which comprises the amendment sites and various other significant land holdings. These land uses comprise the newly developed residential estate (Waterford Green) and existing developments that are at the threshold of redevelopment, such as the industrial land abutting to the south (owned by JMC), and land abutting to the north owned by the Victoria University. Adjoining the land to the south-west is the Australia Post Mail Centre and to the north-east, Victoria University's student accommodation village. To the east, the subject site abuts the Telstra telecommunications tower and the Maribyrnong Migrant Detention Centre. To the west, the land abuts the Medway Golf Course. While the Omar Street part of the subject land is residential in character, the Hampstead Road end has a commercial/light industrial character.

The land subject to **Amendment C41** is an irregular-shaped parcel of land of 5.828 hectares located at the corner of Hampstead Road and the unconstructed Crefden Street, Maidstone. The land comprises a large complex of industrial buildings that were formerly used for metal pressing and manufacturing of steel products. A drainage line depression traverses the site, from the centre of the site to its north-west corner.

The northern and eastern boundaries of the land abut continuous unconstructed road reserves of Almer Street, and Irwin and Crefden Streets, respectively. The Australia Post Western Mail Centre, which is zoned Mixed Use abuts to the west on the other side of the unconstructed Crefden Road reserve.

The western boundary and part of the southern boundary of the subject land abut the rear boundaries of existing residential properties that front Omar Street and Hampstead Road. The existing residential development is characterised by single storey detached houses and double storey units. Residential land extends further west, on the other side of Omar Street.

The Medway Golf course is located opposite the north-west corner of the subject land, on the other side of Omar Street. To the north and north-east of the land is the vacant Telstra site, now owned by AV Jennings. Land on the other side of Hampstead Road is zoned Industrial 3 and is characterised by a mix of commercial and industrial uses.

The following Melways Plan (from the report of Contour Australia) shows the subject site in the wider context of Maidstone:



### 3.2 Subject Locality

The Council advised that in recent years, the City of Maribyrnong, and in particular, the northern Maribyrnong region located north of Ballarat Road has experienced a surge of development on former Commonwealth land holdings. This has principally been on land formerly occupied by munitions manufacturing, and industrial/storage activities. Most of this land has been vacated in recent years, and has provided for broad acre redevelopment opportunities along the river for modern low-medium residential and mixed use redevelopment. Prominent sites within the northern Maribyrnong region where redevelopment activity is occurring include:

- Waterford Green Estate
- Edgewater Estate
- Riverbank Estate
- Riverview Estate
- Highpoint Residential Estate
- Riverside Estate
- Allara Estate
- Defence Site - Maribyrnong
- Corner of Rosamond Road and Mitchell Street site
- Kinnears site

The Council provided a useful plan at the hearing showing the location of these sites. In discussion about these sites and the implication of a changing land use pattern, Council noted:

*Residential redevelopment activity is supported in the MSS which estimates that about 50% of total land area in the City will be used for residential purposes by 2011 as compared to 44% in 1999 and 39% in 1980. Based on current trends, it is likely that the total land area allocated to residential redevelopment will be exceeded, given the vast number of brownfield sites which are at various stages of development.*

The Hampstead Road Precinct falls within the broader northern Maribyrnong region and is bounded by Williamsons Road to the north, Hampstead Road to the east, and the rear boundaries of residential development fronting Omar Street to the south and west. The Hampstead Road Precinct is subject to redevelopment pressures occurring in the broader northern Maribyrnong region, and comprise the following sites:

- Amendment C38 site - the AV Jennings site (the former Telstra site)



- Amendment C41 site - JMC Group site (the former Smorgon brass extrusion factory)
- Amendment C47 site - the Victoria University site
- Two commercial premises
- Telecommunications tower
- Australia Post Mail Centre
- Maribyrnong Detention Centre

The precinct comprises a range of zones and uses – Mixed Use Zone (Mail Centre); Commonwealth (AV Jennings' site, the telecommunications tower site, northern part of the Maribyrnong Migrant Centre); Special Use (VUT); and Industrial 3 Zone (JMC site, showroom, and the southern part of the Maribyrnong Migrant Centre).

This precinct provides an interface with the developed residential estate to the north (Waterford Green) and the Industrial 3 developments on the south-eastern side of Hampstead Road. As such, the integrated planning of redevelopment sites is important to ensure coordination and legibility within the precinct, and to ensure permeability and connectivity to the surrounding neighbourhoods and environs.

Another significant site within the northern Maribyrnong region (and located north of the Waterford Green Estate) is the Defence Site Maribyrnong (DSM), which has an area of 130 hectares and a frontage of 3 kilometres to the Maribyrnong River. This site is proposed for a new residential development that could accommodate in the order of 2,000 households or 5,000 - 6,000 people. The south-eastern corner of the DSM site is within the walking distance to the Highpoint Shopping and Entertainment Centre, as is north-eastern corner of the Hampstead Road Precinct. Both the DSM and the Hampstead Road Precinct will strengthen the Highpoint Principal Activity Centre and its mixed use surrounds.

Beyond this residential redevelopment activity, the northern Maribyrnong region retains a strong commercial and industrial presence through its diverse land use activities, including commercial, retail, service industry, warehousing and distribution sectors.

Highpoint is one of Melbourne's seven "*Super Regional Centres*" and the largest shopping destination for people in the northern and western region. This Centre has an existing and approved total leasable floor space in the vicinity of 177,000 square metres. The Panel was advised Council has commenced a *Melbourne 2030* structure planning process for Highpoint. The Structure Plan will examine the future of the centre, changes in land use, pedestrianisation and integration with the broader environs, and connectivity with the public transport system. The Council noted that

*“Highpoint Shopping and Entertainment Centre and its low intensity retailing perimeter has a strategic significance for the western suburbs and is expected to consolidate its significance with moderate expansion. Adjacent to the centre, the proposed Maribyrnong Aquatic Centre will create a new community facility of regional significance, reinforcing the Highpoint area as a key destination in the West”.* The subject sites are well placed from a locational context to Highpoint.

The Hampstead Road Industrial Precinct (East), which is zoned Industrial 3, is located on the south eastern side of Hampstead Road. Council’s MSS identifies this precinct as a *“Mixed use area with industrial activity... in transition from general or light industry to mixed activity of various kinds which are compatible with adjoining or nearby residential activity.”* This precinct is referred to in the Physical Framework Plan, where the area is shown as *“Mixed Use Areas with Commercial, Industrial and Residential Activity in specified locations.”*

Council advised the long term planning of this industrial precinct will be conducted in association with structure planning for the Activity Centre, given its close proximity to Highpoint. At present, land use activities within the Hampstead Road Industrial Precinct (East) consist mainly of warehousing and distribution centres, service industries and low employment generating activities. The Panel accepts this may indicate a trend away from the traditional manufacturing industries in favour of lighter industrial processes – consistent with the transitory nature of the precinct.

In summary, the locational context of the amendment sites highlight the northern Maribyrnong region and individual precincts within it, are undergoing significant physical change, urban renewal and transition in terms of land use activity. The management of these changes are underpinned by on-going and future planning studies as identified by Council and the Department of Sustainability and Environment.

The following aerial photograph (from the report of Contour Australia) shows the subject sites in the context of its immediate neighbours:



## 4. PLANNING CONTEXT

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This section of the report considers the planning context for the amendments and focuses on the strategic and policy issues. It assesses how the amendments meet the objectives of the Planning Scheme, and whether the form of the amendments are appropriate. The following sections of this report include a brief appraisal of the State Planning Policy Framework (SPPF), the Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF), and the appropriate zone and overlay controls. The Panel then provides its findings on the planning context for the amendments.

Planning evidence was called by Council (through Mr Andrew Robertson of Tract Consultants), Amendment C38 (Mr Rob Milner of Coomes Consulting), Amendment C41 (Mr Andrew Biacsi of Contour Consulting) and Peerless Holdings (Mr Phil Borelli of SJB Planning). In addition the primary submissions of Council, AV Jennings, JMC, and others, including that of Australia Post and Victoria University addressed planning issues and the strategic context of the amendments. The Panel considers the strategic framework for the amendments to be particularly well addressed and argued.

### 4.1 State Planning Policy Framework

The purpose of the SPPF in planning schemes is to inform planning authorities and others of those aspects of state level planning policy which need to be taken into account and give effect to planning and development proposals. Planning policies are directed to land use and development through the *Planning and Environment Act 1987*, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land. Clause 11 of the SPPF contains seven principles of land use and development planning, namely settlement, environment, management of resources, infrastructure, economic well-being, social needs and regional co-operation. Clause 11.02 states:

*The State Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.*

In assessing the amendments, consideration has been given to the Goal of the SPPF and the various clauses, a number of which have direct relevance to these amendments. The Panel does not propose to repeat the provisions of these clauses, as they were well considered in the submissions of Council, AV Jennings and JMC. There was no issue with any party that the amendments compromised the provisions of the SPPF.

- Clause 14 - Planning for Urban Settlement
- Clause 15.01 – Protection of catchments, waterways and groundwaters
- Clause 15.04 – Air Quality
- Clause 15.05 – Noise Abatement
- Clause 15.06 – Soil Contamination
- Clause 15.10 – Open Space
- Clause 16.01 – Residential Development for Single Dwellings
- Clause 16.02 – Medium Density Housing
- Clause 17.01 – Activity Centres
- Clause 17.03 – Industry
- Clause 18.03 – Bicycle Transport
- Clause 18.09 – Water Supply, Sewerage and Drainage
- Clause 18.11 – High Pressure Gas Pipelines
- Clause 18.12 – Development Contributions to Infrastructure
- Clause 19.03 – Design and Built Form

With regard to the provisions of the SPPF, both amendments propose residential and mixed use zones that would ensure a supply of residential land of varying densities and small scale commercial developments that are appropriately located, and within reasonable proximity to the Highpoint Principal Activity Centre.

In this regard, urban consolidation can be achieved, while at the same time, site development would not be adversely compromised. The Panel was informed that the sites could be provided with a full range of services, existing environmental constraints and issues could be overcome, good site integration could be achieved, outstanding planning issues could be resolved, open space and recreational needs could be addressed, urban design and landscape issues can be managed, and overall access will be enhanced. The Panel generally accepts the overall position on behalf of Council, AV Jennings and JMC that the provisions of the SPPF support the amendments.

## ***Metropolitan Strategy - Melbourne 2030***

The following Directions of the Metropolitan Strategy - *Melbourne 2030* are considered by the Panel to be relevant to these amendments:

- **Direction 1 – A more compact city**
- **Direction 5 – A great place to be**
- **Direction 6 – A fairer city**
- **Direction 7 – A greener city**
- **Direction 8 – Better transport links**

These are explored further in some detail.

### **Direction 1 – A Compact City**

This direction seeks to locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport. The proposals are consistent with Initiative 1.3.1, which seeks to *“ensure an adequate land supply for urban housing development across the region to maintain competitiveness in the housing market. This should include an adequate supply of redevelopment opportunities within the established parts of the city to reduce the pressure for fringe development”*. Both proposals offer housing development on infill sites that are within an established part of the city with good access to a principal activity centre.

### **Direction 5 – A Great Place to Be**

The proposed amendments are consistent with Direction 5 of the Metropolitan Strategy, in that they provide for housing development to be well designed to make the environment more liveable. The proposals incorporate principles of neighbourhood design to ensure neighbourhood character and community safety.

### **Direction 6 – A Fairer City**

This Direction provides for increasing the supply of well-located affordable housing. These amendments will provide opportunities for affordable housing within an inner city location that can be achieved by a mix of lot sizes and housing types at various densities.

## **Direction 7 – A Greener City**

The amendments are consistent with this Direction in that they promote the concept of sustainability. In this regard, the submission of Council noted that:

*The amendments make provision for the housing development to be planned along ecologically sustainable development principles, incorporating initiatives, such as, a subdivision layout that allows for solar access through lot orientation and landscaping; reducing water usage; stormwater management to reduce impacts on the catchment; and a network of pedestrian and bicycle paths. The proposed design and siting guidelines that will form part of the future development plans to comply with the respective Development Plan Overlay schedules will ensure sustainable housing developments that are properly designed and built to reduce energy usage.*

## **Direction 8 – Better Transport Links**

A network of pedestrian and bicycle paths is planned in the proposed development to provide access to facilities and areas within and outside the amendment sites. In this way, the amendments are consistent with Policy 8.7 which states that more priority should be given to cycling and walking in planning urban development and in managing road systems and neighbourhoods.

Overall the Panel considers the amendments support the Metropolitan Strategy - *Melbourne 2030* and will not compromise its implementation.

## **4.2 Local Planning Policy Framework**

The LPPF comprises the Municipal Strategic Statement (MSS) and the local planning policies (LPPs). The MSS for Maribyrnong is found at Clause 21 of the Planning Scheme. It provides the strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving those objectives. The Maribyrnong MSS sets out the vision for the future development of the municipality. The Local Policies are found at Clause 22 of the scheme.

The Municipal Strategic Statement (MSS), in its Introduction identifies “... major and rapid change, amounting to the complete re-creation of some areas, will occur in a horse-shoe shaped area within a kilometre or so of the city’s eastern, northern and western boundaries.” The amendment sites of C38 and C41 are a part of these identified areas of change. The MSS states these physical changes will bring about significant cultural, social, economic and environmental changes and that the Council is committed to bringing about these changes.

The key issues identified in the MSS (Clause 21.02) which are relevant to Amendment C38 and Amendment C41 are as follows:

*The end of the once vast Commonwealth land holdings in the city...It is expected that by the year 2003, nearly all Commonwealth land in the city will have been sold or occupied by privatized activity (eg. Telstra). Most of this land is expected to be redeveloped for quality housing (about 4,200 dwellings) and mixed commercial/industrial development along arterial roads. The possible future development of all this land is indicated in the Physical Framework Plan (21.03-1) and individual Element Plans (21.04-8).*

*Declining industrial activity has led to significant rezonings of unwanted industrial land for residential development and public open space. While more such rezoning is anticipated, it is expected that most future surplus industrial land and most of the small industrial areas will be rezoned for a mixture of commercial and industrial activity where new non-industrial sustainable jobs can also be created. In some of these areas some residential development may be possible...*

*Increasing numbers of higher quality, higher density, town house type developments...This trend, coupled with the large number of small and large potential development sites identified in the city (including an additional 1,200 homes in the Braybrook and Maidstone redevelopment area) has the potential to increase the population by 21% by 2011. The influx will boost shopping centres, the longer viability of numerous services and community investment in facilities.*

The key issues are underpinned by Council's commitment, as part of its Vision 2011, to facilitate the redevelopment of Commonwealth and other land for housing and mixed use development (Clause 21.03), resulting in "A city which will have a greater residential focus than it has today".

By 2011, residential areas will be more attractive and more varied than they are today, residential densities slightly higher, but there will be better infrastructure (eg roads, etc.) better landscaping, community facilities and improved amenity and liveability. A wider range of housing choice will be on offer due to increased dwelling numbers. The Vision 2011 further notes:

*New housing will be built on surplus Commonwealth Government and industrial land, in existing residential areas at higher densities, in existing shopping centres, and in new mixed use areas, and most of it will be located within walking or easy cycling distance of employment leisure, entertainment and education opportunities.*



A reduction in the amount of land devoted exclusively to industrial activity.

The key strategic directions of the MSS for the Hampstead Road Precinct are as follows:

*Possible future residential development site, generating some 300 net new dwellings by 2011 as indicated in the Major Development Opportunities Map to Clause 21.02 covering the northern portion of the Amendment C38 site together with a portion of Victoria University site; and*

*Mixed Use areas with commercial, industrial and residential activity in specified locations south of the “possible future residential development site” to the Hampstead Road frontage, as indicated in the Vision 2011 – Physical Framework Plan.*

The Physical Framework Plan is the broad statement of intent and direction for the City for the next 15 years, which will see the redevelopment of surplus Commonwealth sites, former industrial land and the upgrading of physical and social infrastructure. The development scenario envisaged will be facilitated by the new planning scheme zones and, local planning policies and overlay controls. The broad physical framework plan would be supplemented by additional, more detailed plans to each of the key land use elements and larger scale neighbourhood developments providing much more detailed view of the desired future. The neighbourhood plan applicable to Amendments C38 and C41 is the Northern Maribyrnong Structure Plan.

The northern portion of the Hampstead Road Precinct is included in the Residential Land Use Framework Plan as being possible for future rezoned residential land. The northern part of the Amendment C38 land abuts Waterford Green to the north and the existing Omar Street residences to the south and is essentially residential in character. It is appropriately zoned Residential 1 zone.

For the southern portion of the Hampstead Road Precinct, the Physical Framework Plan indicates mixed use areas with commercial, industrial and residential activity in specified locations. This Framework Plan recognises that these areas are generally in transition from general or light industry to mixed activity of various kinds that are compatible with adjoining or nearby residential activity. It encourages the use of mixed activity zones to allow wide ranges of compatible activity. For this southern portion of the precinct where Mixed Use Areas are indicated, both amendments have proposed part Residential 1 Zone and a Mixed Use Zone fronting Hampstead Road. Medium density housing is proposed both in the Residential 1 Zone as well as in the Mixed Use Zone.

The Open Space Framework Plan of the MSS identifies the creation of new parks in redevelopment areas and ensures that large scale residential redevelopment provides adequate amounts of new high quality, accessible open space which can be used for a variety of activities. The Development Plan Overlay Schedules ensure that there will be appropriate provision shown in the development plans. However, further opportunity exists for the planning of recreational facilities on larger open space areas at a precinct level.

The Transportation Framework Plan indicates the required development of a new residential collector road west of Wests Road, extending in a westerly direction the existing Williamsons Road, and a northern extension along Omar Street to connect with the former. Amendment C38 is consistent with the Transportation Framework Plan making provision for both these connections.

The MSS Review (2003) has identified significant redevelopment activity since the preparation of the MSS in 1999. The City of Maribyrnong has experienced a surge of development on former Commonwealth land holdings. This new development is further catalysed by the recently released Metropolitan Strategy which seeks to increase development around activity centres and in strategic locations accessed by good public transport facilities. It is anticipated that redevelopment will continue over the next 15 years and will be fuelled by the redevelopment of significant parcels of land they become available.

The Council advised that there were no particular Local Policies at Clause 22 of the scheme that had direct relevance to these rezoning proposals.

### **4.3 Zones, Overlays and Other Planning Scheme Provisions**

The precinct comprises a range of zones and uses – Mixed Use Zone (Australia Post Mail Centre); Commonwealth (AV Jennings' site, the telecommunications tower site, and northern part of the Maribyrnong Migrant Centre); Special Use (VUT); and Industrial 3 Zone (JMC site, showroom, and the southern part of the Maribyrnong Migrant Centre).

The subject land for Amendment C38 is currently zoned for Commonwealth purposes, and is, technically, not subject to Planning Scheme control. The Panel understands that this site was transferred to private ownership in June 2003. No matter what the outcome of this Panel process, it is expedient to zone the site so it will be subject to the controls of the Maribyrnong Planning Scheme.

Notwithstanding the Commonwealth designation, the north western part of the site is covered by a Design and Development Overlay, the relevant purposes of which includes:

*To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Schedule 1 to the Overlay includes the site within a precinct known as “skyline areas”. The design objectives of this Schedule are:

*To protect areas along the Maribyrnong River from visual intrusion caused by the inappropriate siting or appearance of buildings and works.*

*To encourage development in keeping with the character and appearance of the area.*

*To protect and enhance the skyline when viewed from the River and its banks.*

*To encourage development consistent with the objectives of the Lower Maribyrnong River Concept Plan 1984.*

*To protect and enhance remnant vegetation and sites of biological significance.*

Development within this overlay is subject to various decision guidelines. Mr Milner advised the application of this Overlay on land zoned Commonwealth is an anomaly in the Maribyrnong Planning Scheme.

The subject land for Amendment C41 is currently zoned as Industrial 3, the relevant purposes of which include:

*To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.*

*To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.*

*To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.*

The immediate surrounding land for both amendments contain a number of parcels of land in a range of zones.

The Medway Golf Course to the west and the VUT land to the east are located in a Special Use Zone (Schedule 1 applies - Sportsgrounds and Religious Establishments) reflecting the special nature of these sites.

The Waterford Green Estate to the north is located in a Comprehensive Development Zone (Schedules 1 and 2 apply). The relevant purposes of Schedule 1 to the Zone include:

*To encourage residential development on land adjacent to the Maribyrnong River.*

*To provide for a variety of residential densities and dwelling types.*

*To encourage a high standard of urban design.*

The relevant purposes of Schedule 2 to the Zone include:

*To encourage redevelopment of land located in Wests Road, City of Maribyrnong for a mixture of commercial, office, light industrial, entertainment, community, residential and ancillary uses.*

*To encourage employment opportunities.*

...

The Maribyrnong Detention Centre to the east is designated Commonwealth land and is not controlled by the provisions of the Maribyrnong Planning Scheme.

The Australia Post site on Hampstead Road is located within the Mixed Use Zone, the purposes of which include:

*To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*

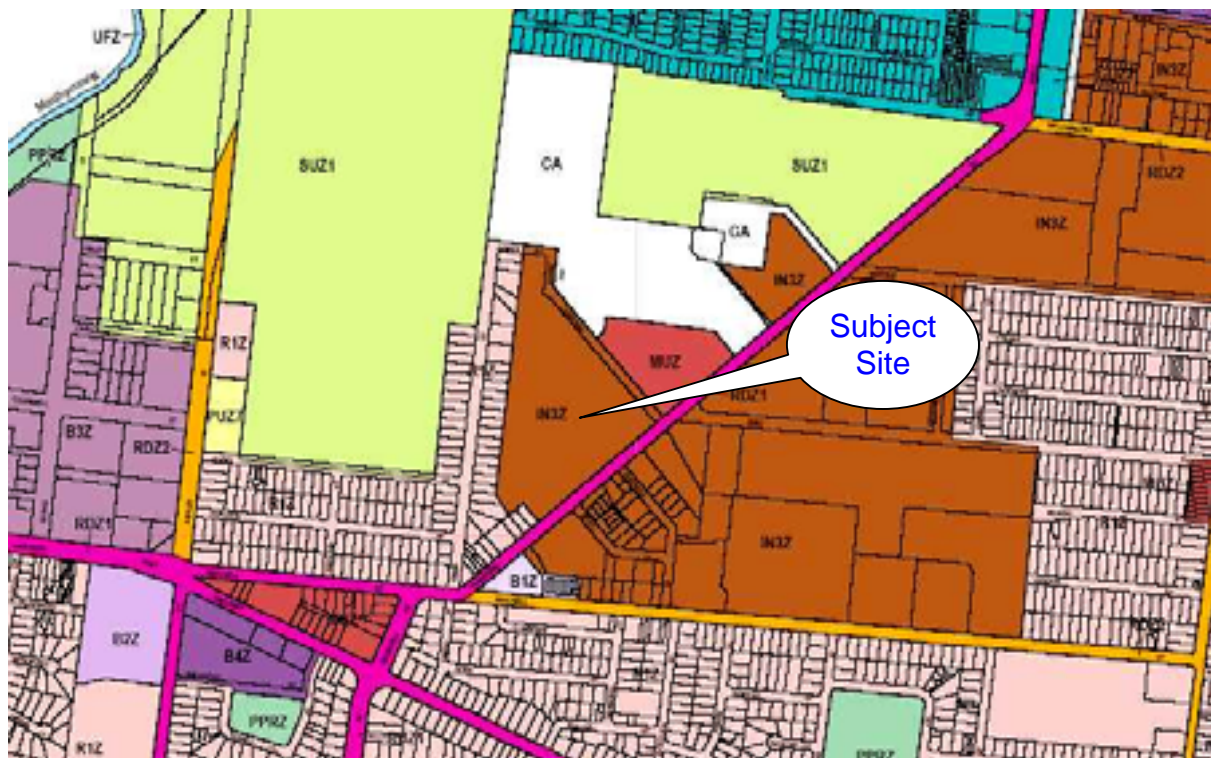
*To encourage residential development that respects the neighbourhood character.*

Omar Street and the remaining Hampstead Road frontages are located in a Residential 1 Zone.

The industrial land further to the west of the Medway Golf course, including the land occupied by Peerless, is located in a Business 3 Zone. The purposes of this zone include:

*To encourage the integrated development of offices and manufacturing industries and associated commercial and industrial uses.*

The following plan (from the report of Contour Australia) shows the zoning of the subject sites and immediate surrounds:



The subject site for Amendment C38 has been used for industrial and pyrotechnic related uses. It is therefore subject to Ministerial Direction No.1 – *“Potentially Contaminated Land”*. Where land has previously been used for such uses, the planning authority must satisfy itself that the environmental conditions of land are suitable for *“sensitive uses”* such as housing. Accordingly, it is necessary to apply the Environmental Audit Overlay to the whole site.

The provisions of Clause 52.10 of the Maribyrnong Planning Scheme (Uses with Adverse Amenity Potential) was discussed at length at the hearing. In this regard, there are two land uses in the proximity of the site (the Peerless factory at Evans Street, Braybrook and the Campbellfield Batching Plant on Hampstead Road) that are uses that would be subject to threshold distances set out in this clause if they were to establish at the current time. The purpose of this Clause is:

*To define those types of industries and warehouses which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood.*

The definition to this Clause states:

*The threshold distance referred to in the table to this clause is the minimum distance from any part of the land of the proposed use or buildings and works to land (not a road) in a residential zone, Business 5 Zone, Capital City Zone or Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.*

Note 1 of the table identifies that:

*The threshold distance is variable, dependent on the processes to be used and the materials to be processed or stored.*

As Mr Milner stated:

*It is significant to note that Clause 52.10 applies to industries establishing rather than to other uses establishing that might affect an established industrial use. Nonetheless, the proximity of two uses close to the Telstra site merits consideration as a potential constraint. However, it is also important to note that the existence of an industrial use with a threshold distance buffer does not prohibit the use of a site for an activity with adverse amenity potential, nor does it rule out the establishment of new sensitive uses.*

This Peerless rendering plant operates in a Business 3 Zone that is subject to a 1000 metre threshold distance buffer, and it operates with existing use rights. At its closest point, the Peerless factory is located just over 700 metres from both subject sites. It is also approximately 800 metres from the nearest house on Cedar Drive at Maidstone, with the nearest residentially zoned land in Braybrook being some 340 metres away.

The Campbellfield batching plant is located opposite the sites at Hampstead Road. It operates in an Industrial 3 Zone and is subject to a 300 metre threshold distance buffer. At its closest point, the batching plant property is 165 metres from the south eastern corner of the Telstra site and 30 metres from the JMC site. The Panel understands that the silos are located at the rear of the site.

## **4.4 Other Planning Strategies**

There were two key local planning strategies that Council placed some weight upon, that were referred to the Panel.

### **(i) City of Maribyrnong Housing Strategy**

The City of Maribyrnong Housing Strategy was adopted by Council on 13 November 2000 and provides policy objectives to promote innovative environmentally sustainable design. Amendments C38 and C41 are generally consistent with the Housing Strategy; however, require further detailed assessment at the Development Plan and planning permit stages.

### **(ii) Maribyrnong Integrated Transport Strategy**

Maribyrnong's Integrated Transport Strategy 2000 provides a focus for Council to ensure an integrated sustainable transport system that addresses the various transport needs of the community.

The Strategy provides a 10 year Action Plan to encourage walking, bike riding and public transport usage rather than the increasing high dependence on private vehicle use. The Strategy encourages integrated land use, transport and environment planning and seeks to:

- Integrate planning for land use and transport activity in new developments;
- Apply environmentally sustainable development objectives to strategic transport, land use and urban design planning;
- Identify opportunities to increase residential densities in areas within Council's MSS and increase the opportunities for mixed / commercial uses around public transport nodes; and
- Improving accessibility to cycling.

The amendment sites promote an integrated land use and transport planning outcome and propose increased residential densities in a locality that is well served by public transport. The residential and mixed use proposals are supported by a well planned road network, and complementary bicycle and pedestrian paths.

The Maribyrnong Strategic Bicycle Plan 2003 provides Council with a framework for providing a better connected network of on-road and off-road cycling routes. The Plan gives guidance for bicycle parking facilities and identifies key cycling links to

adjoining Council areas. The plan takes into account the established directions of Maribyrnong's Integrated Transport Strategy and as well as Melbourne 2030 Plan.

The Plan for Maribyrnong's Long Term Vision for Cycling Facilities indicates a proposed shared path along the northern extension of Omar Street connecting to the existing shared path along the river. This path is proposed in the indicative plans of Amendment C38. The link between the proposed development on the Medway Golf Course land is proposed as part of Amendment C38 and provided for in the DPO schedule.

Overall, the Panel considers the strategic framework for the proposals was well argued by Council and the amendment proponents. The Panel considers the amendments are supported by the SPPF and LPPF, and the Housing and Transport Strategies. The Panel considers the amendments are consistent with the strategic intent of Council for the precinct. The concept of residential development on the subject sites is supported by the Metropolitan Strategy - *Melbourne 2030*.



## 5. PLANNING CONSIDERATIONS

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There were a number of planning considerations raised through submissions and during the course of the hearing. These matters principally relate to the proposed planning framework for consideration of the amendments, the form of the amendments, and various zone and overlay options proposed by various parties. The Panel had also asked parties to consider the use of the Comprehensive Development Zone as an alternative to the Development Plan Overlay. In addition, the submissions and evidence for Peerless advocated the use of the Business 2 Zone and the Environment Significance Overlay as alternative options for the site.

### 5.1 Proposed Planning Framework

Both of the amendments exhibited a Development Plan Overlay in conjunction with the Residential 1 Zone and Mixed Use Zone as part of the package of planning controls for the land. While it was generally conceded that both sites seek to provide similar land use and built form outcomes, there were two separate Development Plan Overlays exhibited as part of the amendment, largely because of the different exhibition periods. The Panel understands that at this time, the proponents of the two sites had not engaged in any significant discussion to coordinate the planning of the area.

After the exhibition of the amendments, the Council encouraged the two proponents to meet to present a coordinated planning framework for the area.

In addition, the planning controls included an Environmental Audit Overlay for both sites and a Community Infrastructure Development Contributions Plan Overlay for the Amendment C38 site.

There was little discussion about the Environmental Audit Overlay and the Community Infrastructure Development Contributions Plan Overlay at the hearing, and the Panel accepts that their application is appropriate for the sites as exhibited. In addition, the existing Design Development Overlay Schedule 1 currently applying to the Amendment C38 site is proposed to be removed as part of the amendment, and the Panel and other parties have no issue with that part of the amendment.

The key issue for debate with regard to the planning framework for the sites related to the Development Plan Overlay and its form and content. In addition, there were various other zones and overlays mooted as possible alternatives for providing the planning framework for the subject sites, and these are briefly discussed.

## 5.2 Alternative Zone and Overlay Options

### (i) Business 2 Zone

The evidence of Mr Borelli recommended that the subject sites might be more appropriately zoned as Business 2. His underlying position was that the planning policy framework seeks to achieve a mix of industrial, commercial and possibly residential uses. He contended the Residential 1 Zone and Mixed Use Zone did not achieve that mix, but a Business 2 Zone would.

The proponents and Council soundly rejected this proposition. While the Panel has not pursued this zone option to any great extent, it does consider it would be fraught with difficulties, particularly if the Panel was inclined to accept the position of Mr Borelli and recommend it accordingly. It would result in a completely different strategic outcome for the site and one which in the opinion of the Panel, at odds with the strategic direction of Council. It therefore rejects this zone alternative.

### (ii) Environment Significance Overlay

The primary position of Peerless is that the C38 and C41 land should not be rezoned for residential uses. However, Mr Lonie submitted as a second alternative, that an Environmental Significance Overlay be introduced over land within one kilometre of the Peerless site. In this regard, he noted: *"The introduction of an ESO will assist in putting the future residents on notice as to the potential disamenity impact in the area they are proposing to reside. In this way, it would help manage expectations and provide a full understanding of the surrounding industrial area"*. Mr Borelli supported this position through his planning evidence, and said:

*I consider that the amendments should include an Environmental Significance Overlay (ESO) over the whole of the land, or at least that part of the land that is within 1000 metres of the rendering plant. The purpose of an ESO ... is to 'identify areas where development of land may be affected by environmental constraints. These circumstances apply in this case and the introduction of an ESO would ensure that the Planning Scheme is transparent and clearly conveys the issues that need to be considered in any future applications for planning permits. I note that an ESO has been applied in similar circumstances before and examples include the area around the Melbourne water sewerage treatment plant in Bangholme and the Merbein Mushroom production facility.*

Mr Molesworth did not agree, and questioned whether this approach was appropriate. He argued whether it was justified in the circumstances where: *"... in five years just two complaints have emanated from just on 1,700 existing homes within*

*relevant proximity to Peerless, how can it be justified that new housing at no less than 740 metres distance ought be psychologically overshadowed with the blight of such an Overlay. There is an element of fairness here: what message would be being conveyed to potential customers of Jennings? Is that message justified in the light of the environmental engineering evidence? It can be anticipated that such an Overlay would blight some of the potential for the new Jennings and JMC housing settlements to be seen as high quality and highly desirable."*

The Panel does not accept the position of Peerless in this regard. It considers that similar to the suggestion of a Business 2 Zone, the application of an Environment Significance Overlay is also fraught with problems. It was not exhibited as such, it would present an undesirable precedent, it would be inequitable and inappropriate to apply it to just the amendment land and not the other residential areas, and in any event, the Panel has concluded it does not consider it necessary (see section 8).

### **(iii) Comprehensive Development Zone**

The Panel sought some commentary on whether a Comprehensive Development Zone might be considered to provide a more appropriate integrated planning outcome for the sites. The Manual to the Victoria Planning Provisions suggest that the Comprehensive Development Zone is:

*... similar to the Special Use Zone but is designed to allow more complex developments in accordance with a comprehensive development plan incorporated in the scheme. Generally, only large or complex developments would warrant the use of this zone.*

In these proposals, the Panel considers the Comprehensive Development Zone could be used to facilitate the proposed development and use of the land, as it is a tool that is intended to be used for large and more complex projects. This could be more so where there could be some difficulty in using the conventional zones to implement the land use and development outcomes.

In discussing this outcome, Mr Biacsi submitted:

*In my view, the current case does not provide for a particularly large development and the land use and development issues are not particularly complex given that the proposal provides essentially for residential development on the land, with opportunity for commercial and mixed use activity fronting Hampstead Road.*

Having considered the above options in the context of what is proposed and the various submissions made, the Panel considers the form of planning control based

on the exhibited amendments is appropriate for the development sites.

### 5.3 Development Plan Overlay

There were two schedules to the Development Plan Overlay exhibited as part of the amendment, these being Development Plan Overlay Schedule 5 for the C38 land and Development Plan Overlay Schedule 8 for the C41 land. These schedules were somewhat different to each other, having been prepared separately.

The purposes of the Development Plan Overlay are:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

*To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.*

*To exempt an application from notice and review if it is generally in accordance with a development plan.*

In relation to the question as to the appropriateness of the Development Plan Overlay as a VPP tool, Mr Milner noted he considered the relevant Practice Note on the applying the incorporated plan and development plan overlays, and concluded it was appropriate because:

- *The land is reasonably large and in a single landholding;*
- *The land has limited abuttals in terms of established residential use.*
- *The outcome of the DPO can be used to provide a reasonably high degree of certainty in respect of the management of any sensitive abuttals (eg. ensuring single lot housing adjacent to the established housing along the Omar Street abuttal).*
- *The technique allows for a degree of flexibility in managing the future planning and development of the land without being subjected to a planning scheme amendment which would otherwise be necessary if an incorporated plan overlay was used.*
- *Subject to managing the sensitive interfaces through the DPO, third party interests will not be unreasonably affected.*

The Panel accepts that a Development Plan Overlay would provide the appropriate form of planning control for the two sites. Mr Milner noted that in having regard to the above, the Development Plan Overlay should address further matters as follows:

- *The development response to the sensitive interface with established residential properties, in particular to the west in Omar Street.*

- *The development response to potential noise sources including traffic noise on Hampstead Road, operational noise from Australia Post and operational noise from commercial/industrial uses to the south-east.*
- *The integration of the site and the adjoining redevelopment site at 31 Hampstead Road in terms of road linkages, open space linkages, pedestrian permeability and infrastructure provision.*
- *The interface between the site and the adjoining redevelopment site at 31 Hampstead Road to achieve an appropriate streetscape outcome.*

In general, other submitters and witnesses agreed the Development Plan Overlay needed further refinement. Mr Biacsi noted the Development Plan Overlay allows for interface issues and connectivity with adjoining redevelopment sites to be managed, and also suggested some changes to improve its useability.

There was significant discussion during the course of the hearing and at its conclusion about a revised Schedule to the Development Plan Overlay. All parties generally agreed that if there was to be a Development Plan Overlay, it should be in the form of one schedule for the two sites. The form of the revised schedule was discussed on a without prejudice basis, and the Panel requested the two proponents and Council to work together to achieve an agreed position. The Panel invited this work to continue after the hearing and for the agreed schedule to be submitted to the Panel within one week. Given that the hearing concluded on 6 August, the Panel was somewhat surprised that the revised schedule was not forwarded to the Panel until 8 September. The Panel received a letter from AV Jennings dated 28 September which clarified its position about the particular provisions of the Development Plan Overlay.

The amended version of the Development Plan Overlay is a considerable improvement on the exhibited versions, however it is apparent that the Council and the proponents were not able to reach an agreed position on all aspects, even though they all supported the proposals and the combined overlay.

The revised Schedule to the Development Plan Overlay provides for the following:

- Requirements before a permit is granted
- Conditions and requirements for permits
  - Creation of the TXU easement
  - Siting and design guidelines
  - Pedestrian and bicycle path
  - Traffic management and road construction works
  - Open space

- Requirements for development plan

The Panel also considers that a traffic and access management plan and an environmental and construction management plan should also be prepared as part of the overlay.

There were two further related matters that need to be discussed in the context of this overlay. The first relates to the Framework Plan and its possible basis as the Development Plan to the Development Plan Overlay, and the second relates to further community consultation.

The Council prepared its Framework Plan to provide the basis of an integrated development outcome for the subject sites (see Section 6). The submitters were aware of the preparation of this plan at the time of the Directions Hearing, and requested the Panel to direct Council to make it available prior to the commencement of the hearing to enable witnesses to review it. The Panel so directed (see Appendix 1) and the Framework Plan was the subject of much discussion at the hearing.

Essentially, the Framework Plan (prepared by Tract Consultants) was the Council's composite position of the two indicative plans that accompanied the amendments, plus its interpretation of the VUT proposal, and its desired framework for the overall layout and integration of all three sites. The Panel questioned whether it should form the basis of the Development Plan, and this idea was met with some opposition. The key issue to address here is the process by which the Development Plan becomes the approved Plan in the Development Plan Overlay.

The Panel was concerned that there has not been a Development Plan prepared or exhibited for the sites, and only those who attended the hearing would be aware of the Framework Plan. The Schedule to the Development Plan Overlay provides that a permit can be issued for any proposal – without third party notification - if it is in accordance with the Development Plan. The Panel considers that given the significant discussion about the Framework Plan, the various submissions made about it, and the Panels recommendations about specific aspects of the plan, it should form the basis of the Development Plan, for reasons of both transparency and consistency.

In addition, the Panel considers that the community should be provided with a further opportunity to input to the final Development Plan – before it is formally approved. This should take place as part of an informal non-statutory consultation process, whereby submitters to either amendment are notified that the Development

Plans have been completed. The submitters should then be invited to make any further comments to Council within a two week period, Council and the proponents should consider those comments, and then finalise the plans (if necessary) prior to the completion of the plans as part of the Development Plan Overlay.

The Panel has therefore recommended a revised Schedule to the Development Plan Overlay that includes the preparation of a Development Plan based on the Framework Plan, and the inclusion of a further consultative process (see Appendix 4). It is important to note that while the Panel has made various modifications to the Schedule, it does not see it as complete. There are a number of unresolved issues between Council and the proponents, and subject to the Panel's specific recommendations relating to inclusion of various plans to form part of the Development Plan, there are other fine tuning wording details to be resolved. The Panel considers this is best done after consideration of this report.

#### **5.4 Panel Findings**

Overall, the Panel considers the proposed amendments generally respond well to the existing land use context of the locality, and that which is emerging as a result of the land use initiatives and strategies advanced by the planning authority and contained in the Maribyrnong Planning Scheme.

There is established residential development that provides an immediate interface to the south and west of the sites, and an established residential area is located further to the south and west. Open space and recreational areas, including the Medway Golf Course are located to the west of the subject sites. The Australia Post site located along Hampstead Road is included in a Mixed Use Zone. There has been significant and recent residential development in the vicinity of the area, including Waterford Gardens to the north. Existing planning strategy within the LPPF of the Maribyrnong Planning Scheme promotes residential uses on the land immediately to the north of the site.

The subject sites are close to a range of services that support residential uses, including retail, business, entertainment and industrial and recreational uses. Hampstead Road provides a physical separation between the sites and the industrial properties to the south-east. In the opinion of the Panel, the Peerless site is of sufficient distance away so there should be very little impact, if any of its operations on the proposed residential areas.

The Panel considers the Development Plan Overlay provides the most appropriate form of planning control for the sites, particularly in the form of one schedule for

both amendment sites. This schedule could then be modified to include the VUT site if required. The Development Plan Overlay provides a degree of certainty in the form of preferred development outcomes. The key issue to resolve is whether there is sufficient detail in the Framework Plan to enable it to be the basis of the Development Plan. The Panel considers that given the discussion about the Framework Plan at the hearing, and its specific recommendations, the Framework Plan should be used as the basis of the Development Plan.

While the Panel accepts there is some merit in the argument of Mr Lonie that the Development Plan Overlay is more relevant to achieving built form outcomes rather than use outcomes, the Panel considers the process undertaken for these amendments is appropriate for finalisation of the Development Plan Overlay.

A fundamental issue is that the Framework Plan was not part of the exhibition process, and there has been very little input by the wider, interested community. For this reason, the Panel has recommended that there be a further period of informal, and non-statutory exhibition prior to finalisation of the Development Plan Overlay to allow this to occur. This recommendation is found in the revised schedule to the Overlay.

The Panel considers that one matter that should not be overlooked in consideration of these amendments is the level of Council support. It became apparent during the hearing process that Council considers these amendments to be appropriate in the context of its Planning Scheme. It has actively supported them, to the extent that when the amendments were first proposed, Council held off moving towards a Panel hearing by encouraging the two proponents to meet and to discuss an integrated planning outcome. This is to be commended. Council initiated and prepared the Precinct Framework Plan which was the basis of much discussion at the hearing. The intent of Council was to support the amendments and to seek a resolution on the best and most appropriate integrated site outcome. This positive resolution should not be lightly discarded.

Mr Lonie and Mr Borelli for Peerless, and Mr Jewell for Australia Post were at pains to inform the Panel that there was no strategic support for the amendments. While at times the Panel was frustrated with the way in which the strategic context for the amendments was submitted by Council (in a piecemeal and disjointed way), the Panel was left in no doubt that the long term direction of the Council and its vision for the future use of these sites is clear.

The subject sites were formerly used for industrial purposes and due to the extent of residential development, particularly to the north and east, the landscape of this part



of Maribyrnong is changing. The submission of Maribyrnong Council may have had its presentational problems, but it was genuine. There can be no doubting the desire of Council to redevelop this area, and the policies of the Planning Scheme and the further work of Council support this redevelopment.

*The Panel makes the following recommendations in relation to the planning considerations:*

*Amendment C38:*

- *Apply the Residential 1 Zone and Mixed Use Zone to the site as exhibited.*
- *Apply the Environmental Audit Overlay to the site as exhibited.*
- *Apply the Community Infrastructure Development Contributions Plan Overlay to the site as exhibited.*
- *Apply the revised (draft) Schedule 8 to the Development Plan Overlay to the site as outlined in Appendix 4, and in accordance with the recommendations in the following sections of this report.*

*Amendment C41:*

- *Apply the Residential 1 Zone and Mixed Use Zone to the site as exhibited.*
- *Apply the Environmental Audit Overlay to the site as exhibited.*
- *Apply the revised (draft) Schedule 8 to the Development Plan Overlay to the site as outlined in Appendix 4, and in accordance with the recommendations in the following sections of this report.*

## 6. URBAN DESIGN AND LANDSCAPE CONTEXT

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The key issues of urban design and landscape were well debated at the hearing. The Panel heard evidence from Mr Andrew Robertson and Mr Michael Stokes of Tract and Ms Ann Cremean from Maribyrnong City Council in relation to these issues. Council in particular was very focussed on these matters and the evidence and submissions of other parties assisted to contribute to this debate.

The Panel is of the view that urban and landscape design will be part of the key to any successful outcome of the development if the amendments are adopted. This is because of the range of residential densities anticipated (including medium density and up to four levels of mixed use development along Hampstead Road). The detailed design of built form will need to respond to identified residential amenity and privacy considerations. The design of public open space will also need to respond to potential passive and active recreational uses and also foster a sense of community.

In addition, the proposed building and landscape features in many instances will need to provide buffers against noise and visual intrusions. The linear spaces should define and transform the drainage depression and provide a safe and friendly cycle/pedestrian link to the Maribyrnong River nearby. In developing their detailed plans the proponents will need to respond sensitively to these identified physical/visual constraints and opportunities.

### 6.1 Draft Precinct Framework Plan

The issue of the need for an agreed, integrated and comprehensive plan for the Hampstead Road Precinct became one of the most discussed matters at the Panel hearing. Submitters including Peerless Holdings, Australia Post, VUT and various residential submitters believed that such a plan should have been prepared and agreed between the parties, adopted by Council and exhibited with the amendments to provide further detailed information for affected parties.

It was also clear to Council that three adjacent proposals were proceeding independently which as a result *"... they offered poor road and pedestrian linkages, connections and development interfaces. There was no coordination between land use, road and lot layouts for the individual properties"*.

The Council confirmed that as a result, it commissioned such a plan which was prepared in draft in early 2004 by Tract Consultants. This Plan was intended to

provide:

- *a vision for the integrated development of the Hampstead Road precinct; and*
- *broad directions for the coordination of development amongst the three sites undergoing immediate development pressures.*

This was informed and facilitated as a result of a December 2003 workshop involving council officers representing various relevant disciplines (planning, traffic, recreation and the like), but not including either proponents' representatives.

Subsequently, a draft Urban Design Framework was prepared and distributed by Council to the proponents of Amendments C38, C41 and to VUT (proponents of Amendment C47) for further comment in March 2004. This draft plan was partly in the form of a site analysis, showing off-site connections and vistas, and on-site physical features, including building envelopes, structures and works, mature vegetation, easements and drainage systems.

A follow-up meeting involving the three principal parties was held seeking to address critical interface issues, land uses, traffic access and circulation, open space distribution, location of medium density housing and the buffering of certain intrusive uses within the precinct. The stated intension of this approach was "*... to guide and assist proponents in refining development layout and concept plans for each of the land parcels*".

The resulting plan, titled the "*Hampstead Road Precinct Framework Plan*" (Framework Plan), as distinct from the earlier Draft and the various Concept Plans of the three parties, was prepared by Tract Consultants in June 2004. The Framework Plan is attached as Appendix 5.

A further overall plan was also prepared by Tract at the same time, as part of its study for the Framework Plan. This plan essentially cobbled together the (then) concept plans of the two proponents and VUT. Whilst this document was of some assistance to the Panel in indicating internal site connections and circulation patterns, as it did not represent the latest site proposals for either AV Jennings or VUT, it was therefore of limited value. Later concept plans as tabled by proponents, were preferred by the Panel in its considerations.

The Panel, when made aware at the Directions Hearing that Council's key site-planning document, the Hampstead Road Precinct Framework Plan, had had no public exposure to date, made *Direction No 2 - Additional Information*.

*... The Council is to provide a copy of the Draft Precinct (Framework) Plan, as prepared by Tract Consultants to Council for distribution to the other parties.*

Planning evidence led by the two proponents indicated that while a degree of agreement had been achieved between Council's preferred planning proposal and their individual planning concepts, there remained certain reservations over key elements of detail in both cases.

The Panel notes that the Framework Plan has no statutory basis and suffers from lack of public exhibition and stakeholder response to it. Nevertheless, the Panel believes it is a key document for the identification and discussion of identified key issues before it. Further the Panel believes that this Framework Plan could evolve into the Development Plan required to be prepared, pursuant to the Development Plan Overlay (DPO8) and complementary to the associated DPO schedule.

Discussion before the Panel related to the degree of specificity that is appropriate to various plans over the land, which would ultimately culminate with the various engineering, architectural and landscape documentation that will be required to physically build the works on site. Whilst it was acknowledged at the hearing that developed physical outcomes must of necessity follow the consideration of the proposed amendments, the Panel believes that more would need to be done to involve parties affected by interface issues in particular.

The debate revolved around the degree of public engagement and response that is appropriate for visual descriptions of the proposals, through plans as distinct from written documentation, through the exhibited amendments and the final preferred DPO schedule.

The Panel on balance believes, that in the absence of widespread exposure of the issues raised by the Framework Plan (apart from those who have participated in the Panel process), the Development Plan pursuant to the DPO, should undergo a non-statutory process to inform affected parties of the final physical layout intent. (See Section 5).

Mr Robertson described the role and characteristics of the Framework Plan in his evidence as follows:

*The Hampstead Road Framework Plan dated June 2004, establishes a broader land use structure to guide the long term development of this important land parcel.*

*In doing so, the Plan establishes key land use types, desired building heights and form,*

*main access points on Hampstead Road and desired road network between sites and the supply of public open space. Importantly this plan has been prepared to guide coordinated long-term development of the total Precinct.*

*The Plan also takes into account staging and timing of development so that each land holder has independent road access and is not reliant on neighbouring land.*

Mr Robertson then went on to describe in some detail the key elements of the plan, including single lot residential, medium density residential, mixed use, the gateway node, open space, intersection access and road structure and building heights.

It will be convenient to discuss these elements in detail, with the exception of traffic, circulation and access (dealt with in Section 7 following). In doing so, the Panel will reflect on other supporting Council evidence, the two proponents views and the views of submitters where they relate to these matters.

## **6.2 Open Space and Green Linkages**

It was somewhat surprising to the Panel that the issue of the location of the required 5% public open space provision should be the subject of so much contrasting opinion among those who presented to the Panel. Mr Robertson stated the Council's summary position:

*A central park is identified on land immediately to the west of the Telstra Tower and the Detention Centre land. This public open space has the function of providing a single and central area of open space to serve the community for active and passive recreation purposes. It is positioned to offer maximum opportunity for access within the Precinct.*

*The park also has the benefit of providing physical separation for residential development from the lower amenity uses of the Telstra Tower and detention Centre. It is desirable to create a buffer between such uses and future housing, where appropriate.*

Council maintained this position, despite strong objection by the proponent for Amendment C38 and the VUT.

Ann Cremean, Open Space Planner for Council, who is presently undertaking a comprehensive Open Space Plan Review for the municipality, provided comment in support of Council's position. She noted the review acknowledges the significant amount of new housing that has occurred in the broader northern Maribyrnong area. It further acknowledges the new open space areas and parks have generally become accessible to the community with these new developments, and conclude that

residents should achieve good access to these spaces.

In her submission she drew the Panel's attention to research which pointed to a remaining deficit of active Open Space suitable for the emerging population profile of the municipality. She cited the MSS at Clause 21.04-3 in support of the provision of suitable open space:

*Provide enough high quality open space for a wide range of outdoor recreation and leisure activity ...*

*In providing the city with a satisfactory and balanced open space system, emphasis will be placed on creating new parks in re-development areas.*

*Large areas of residential land and most activity centres do not have access to local parks within easy walking distance and many local parks are too small ...*

This is to be addressed by the following objective:

*Ensure that large scale residential redevelopment provides adequate amounts of new high quality, accessible open space which can be used for a variety of uses.*

Ms Cremean also went to the *Open Space Plan*, February 1997 which identifies a priority for open space in the form of neighbourhood parks, which serve a range of age groups and are of a minimum length of 90 metres in any one direction. She explained to the Panel that where Council was in the position of providing additional open spaces, the preference was for a small number of 'big' high quality open spaces, rather than a larger number of smaller spaces.

In her overall assessment of the Open Space Precincts in the broader northern Maribyrnong region, Ms Cremean concluded that of the broader open spaces, none will in fact serve the subject land. She noted the following in reasonable proximity to the subject land:

- Robert Barrett Reserve;
- Scovell Reserve;
- Cranwell Park;
- Pennell Reserve;
- Footscray Park;
- Henry Turner Memorial Reserve; and
- Pipemakers Park.

She advised the Panel that:

*Of these reserves, none is located within the Hampstead Road Precinct Framework Plan, and no park exists within a 500m distance from the Amendment sites.*

Whilst Ms Cremean acknowledges the provision of required open space in recent residential developments like Waterford Green Estate, she believes the type of space provided has been somewhat inappropriate to need (eg. smaller than 0.5 hectare and lacking a minimum dimension of 90 metres in both directions).

The Panel noted this point in its site inspection of open space at the Waterford Green Estate, where it sometimes occurred in the form of verges to residential development or on sloping land, making it inappropriate for Council's desired larger sized active recreational space.

In terms of who in the community might miss out on appropriate open space which assists with social cohesion and improved health levels and other community benefits, Ms Cremean believed it was the newer and younger members of the community. She cited the *Municipal Recreation Strategy Plan*, October 2002 prepared by ASR Research, in support of this view.

This document identified new cultural and linguistically diverse residents (typically aged 20-29 from Africa, the Middle east and Central Asia), resulting in " ... extreme hardship for a range of reasons - including lower than average car ownership - and that this impacts on their capacity to access recreation facilities or services."

Ms Cremean concluded that facilities for 20-29 year old's, playing cricket and hockey (India, Pakistan and Sri Lanka) and soccer, athletics and basketball (African communities) are in greatest demand and that " ... the northern Maribyrnong suffers from a shortage of suitable spaces" for this demographic. sector The need for a soccer field was identified as paramount along with its multiple use for "play grounds, walking of dogs, casual ball sports, shaded areas and BBQ's".

In Ms Cremean's assessment of total open space provision as a result of the Amendment C38 and potentially Amendment C47 over VUT land, a combined total requirement of 1.092 hectares was calculated.

The Panel noted that JMC Group's (Amendment C41) indicated contribution of 0.291 hectares of public open space, generally along an existing watercourse, was considered by Council and other parties as sufficient and appropriate.

With regard to the northern AV Jennings site, Ms Cremean argued that the provision of a central open space of at least 1.15 hectares, as indicated in the Framework Plan was essential. Council would primarily target this space for a soccer field with related facilities "...*(this) is one such opportunity that Council can ill-afford to miss, if it is to meet its obligations to the community by responding to demonstrated community need*".

Council's submission through Ms Cremean concluded that it wishes to provide for a flexible open space for recreational pursuits. This would ideally be set within a neighbourhood context providing appropriate passive and active recreation space, meeting emerging leisure needs, with pedestrian connections to the river and the screening of the Detention Centre and the Telstra Tower.

The Council provided additional open space and landscape design evidence in support of its Framework Plan through Mr Michael Stokes of Tract Consultants, which generally complemented Ms Cremean's submission.

Mr Stokes tabled developed plans and elevations of the proposed park. These resulted from the design consideration of open space options discussed at two Framework Plan workshops. The elevations in particular showed a favoured 8 metres wide, 20 – 30 metres high, tree canopy and lower understorey vegetation which was proposed as a visual buffer to the Telstra tower (combined with screen fencing). It also depicted the spatial relationship (setback) between proposed townhouses (and other mixed uses) and the landscape screen, across the proposed park.

Mr Stokes indicated that in reaching its preferred position, two landscape options were considered by Tract:

*A - Adjacent to the southern watercourse, thereby utilising the potential of the creek as a focal point and as part of the open space concept; and*

*B - Adjacent to the western side of the Telstra Tower, incorporating existing vegetation and the largely cleared flat area of land in this vicinity.*

The Panel noted that representatives of AV Jennings did not participate in this process, although their concept to back 2 to 3 storey attached/semi detached townhouses against the Telstra tower was also considered at the time. This approach was believed by the workshop participants to be unsatisfactory, placing residential uses hard-up against, and in the shadow of, uses of lower amenity.



The workshop favoured the Option B on the following basis:

- *Ability to include open space as part of a means to soften the undesirable aspects;*
- *Potential to incorporate trees of a height greater than 20 metres directly adjacent the tower facility and detention centre;*
- *Ability to maximise the total open space allocation on flat useable land for multi use purposes; and*
- *A generally central location within the precinct for equitable accessibility.*

Mr Stokes described the benefits of this concept as including the provision of an expanse of cleared flat land, retaining existing screen vegetation and creating distance between residential development and the tower. To further enhance the above concept, other suggestions were offered by Tract:

*... a perimeter road reservation has been included around the north, west and southern sides of the Telstra tower and detention centre, thus providing further separation opportunity for screen planting and opportunity for park side housing; and*

*An eight metre-wide landscape buffer zone has been set aside in both open space areas and road reservations to provide the opportunity for taller, clean-trunked Eucalypt plantings with thicker screen understorey planting...*

This concept was opposed by both abutting property interests (VUT and AV Jennings). Under this open space concept, they would be required to redirect their open space provision away from their intended locations elsewhere on their sites.

Whilst there was no amendment involving VUT land before the Panel, Mr John O'Connell on behalf of VUT, made a submission that went to the provision of open space in its proposed Amendment C47 involving its land. He believed Council's logic was flawed, both on the basis of the most suitable open space contribution from VUT and in its analysis of the need for a larger centralised space on the subject site.

With regard to VUT's required open space provision, Mr O'Connell stressed that the University has sub-divided its land into two parcels and it is only the western (and smaller portion of 4.061 hectares) that would be rezoned and redeveloped in the foreseeable future. Consequently, a much smaller open space contribution (approximately 2000 square metres), than had been previously assumed by Council, would be generated. Council had also recently conceded however (in correspondence of 2 June 2004) that it would only require a 5% contribution for Lot 1 and it preferred this to be located contiguously with the open space provision that Council proposed for AV Jennings.

Further, VUT indicated that it wished to locate its required open space contribution generally centrally to a notional residential redevelopment on Lot 1. This proposed development would replace the vacant and circular 1960's Migrant Hostel.

In support of this suggestion, Mr O'Connell tabled a Heritage Appraisal by Allom Lovell & Associates, Conservation Architects. Whilst this appraisal did not indicate that the remaining structures were of significance, it indicated that the site as a whole, appeared to have some (unspecified) cultural/heritage significance. VUT believes this significance could best be captured by the retention and enhancement of the central landscaped courtyard of some 2065 square metres, which would evoke and promote both cultural and landscape qualities in the proposed residential redevelopment. The Panel saw some logic in this approach by VUT.

Whilst VUT's concerns about the Council's analysis of open space needs on the subject sites were argued in greater depth by the proponents for Amendment C38, they nevertheless reflect the difficulty of Council negotiating a large central open space outcome with these two parties.

VUT, in support of its position, stated that:

*There is ample large open spaces in the vicinity of the subject sites for the recreation choices required by Council;*

*Council's Public Open Space analysis did not also consider large spaces in the adjacent Municipality which would assist a Regional recreation approach to Public Open Space provision. Specifically the areas chosen did not have and have not adopted a true strategic approach;*

*It has not considered the end analysis of the Public Open Space for the combined Amendments; and*

*That there will remain many opportunities for a diverse range of activities with the use of a range of smaller open spaces, specifically recognising that the proposed VUT Public Open Space could be used for quiet passive contemplation and tranquil use with a semi-woodland ambience.*

The position of AV Jennings on the provision of public open space, generally endorsed the above, but added a number of further arguments both in support of the open space proposals as shown in its concept plan and in opposition to the Council's preferred position.

Mr Milner on behalf of AV Jennings discussed the benefits of the two new parks (in excess of 5%) that would result from his client's developed proposal.

*The first of these would be located towards the Hampstead Road end of the site. This park is intended to serve a number of roles, as a landscaped "welcome" into the site, and a focus for recreational play for younger children, as well as a physical buffer between the subject site and the Australia Post depot to the south;*

*The second park would be located on the western boundary of the site. The park would be laid out to provide landscaped open space and a shared pathway. The intention is to link Omar Street to the Maribyrnong River via the Medway Golf Course giving local residents an opportunity to access the walkways and cycle routes around the river.*

Mr Milner concluded that substantial planning gain for local people would result from the proposed open space provision. This would include links to the south, and north and east to gain access to Williamson Road, themed landscaping using a mix of native (eg. *Corymbia maculata* and *Callistemon spp*) and exotic species and providing a visual screen to the Australia Post site.

In addition, he argued that the two spaces would perform complementary functions. The easternmost with a more formal shape he suggested is suited to active recreation and the westernmost encouraging passive recreation. This would take the full advantage of views towards the Maribyrnong River, but also provide links to the river for cyclists, walkers and joggers.

Mr Molesworth also addressed matters of public open space, and made a number of additional points in support of the AV Jennings open space proposals. He indicated that his client's proposal was entirely consistent with the plethora of open space and recreation documentation produced by Council over recent years including the Open Space Plan, Municipal Recreation Strategy Plan and the Social Planning for Urban Diversity Group Project - Planning for Playtime.

These, and related Council documents, stressed over and over again according to Mr Molesworth, the need for a wide diversity of open space, to meet a range of needs and lifestyles and the particular need to link up with the Maribyrnong River wherever possible. Mr Molesworth reminded the Panel of AV Jennings' record as an Estate developer and successful house builder that researches and understands their target market to survive. Thus AV Jennings would only propose open space solutions that respond to the real marketplace.

Further, Mr Molesworth drew attention to what he believed was Council's true motive in this matter - to obtain a facility in this vicinity which is essentially external to the proposal. The proposed soccer field was *"essentially to address the impact of recent increase in certain ethnic groups with activity/sport preferences of a particular kind - which could be alienating to the Jennings housing social profile"*.

Mr Molesworth went on to argue that a soccer field may in due course lead to calls for increased parking, night lighting, a Pavilion and other elements that would not sit well with their residential neighbours.

That extensive active recreational open space present and available in the sub-regional context (particularly to the north), was addressed by Mr Molesworth. Whilst he acknowledged that these facilities would likely be accessed by car from the subject precinct, this was often necessary however to transport sports equipment. This across river provision, was considered by Mr Molesworth to go a long way in meeting the perceived open space deficiency in the nearby parts of the Maribyrnong municipality.

Mr Molesworth questioned the Council's proposal for tall screening trees adjacent to the Telstra tower, noting the difficulty of local growing conditions on the *"inhospitable basalt western plains"*.

The potential lost opportunity of making the most of integration with the Medway Golf Course and linkages the Maribyrnong River was stressed by Mr Molesworth. The Panel noted that in relation to this point, Ms Cremean suggested that AV Jennings could offer to Council the western green link as well as the central park as a good will gesture. The proponent however, did not entertain this offer, along with the somewhat ambit claim by Mr Barry Armstrong that the whole of the AV Jennings land should be so donated.

Finally, Mr Molesworth endorsed the VUT concerns canvassed by Mr O'Connell, with the additional point that if Council's preferred open space were to proceed and VUT did not develop Lot 2 (as they have stated) new residents would be left with an unfinished open space provision.

The Panel, in considering the alternate views presented, whilst believing that the central configuration of open space suggested by Council's Framework Plan, was motivated by a genuine desire to provide amenity and recreational choice, was nevertheless inappropriate in this instance.

The uncertainty over VUT's development intentions and timetable would mean insufficient land would be available for Council's open space proposal in the foreseeable future.

Further, the Panel believes that arguments presented by AV Jennings representatives in support of a more diverse and linked-up open space arrangement in themselves, fulfil the many recreational and open space aspirations of Council as delineated through its many recent strategic statements, policies and detailed studies.

The Panel agrees that while no doubt there is a need for further soccer facilities for the new residents of the municipality, in its view, the subject site/s are not the best or only, location presently available for this activity in the sub-regional context.

### **6.3 Layout and Orientation of Built Form**

This part discusses the proposed Gateway Node, the disposition of multilevel mixed uses along Hampstead Road, and the arrangement of single lot housing and medium density/multi-unit residential development throughout the subject land. Issues such as building height and orientation, overlooking and overshadowing as raised by various parties will also be addressed.

The Council through Mr Robertson of Tract introduced these elements in turn, which for convenience will inform the following discussion:

#### **(i) Residential (single lot housing)**

This is the least controversial of proposals for the intended Residential 1 zoned land. This is described as typically single lot housing with an expected lot size of 300-650 square metres. This will result in predominantly detached one and two storey housing which creates an appropriate interface with established residential neighbourhoods and as a transition to medium density residential beyond.

#### **(ii) Medium Density Residential**

The Framework Plan picks up this housing product, which is intended to include multi-level apartments, town houses and attached houses/terraces. A typical lot size would be 300 square metres for the JMC land. The Framework Plan confirms the proponent's Concept Plan intent, suggesting medium density residential around the proposed open space spine in the centre of the site will offer both outlook and surveillance of this space.

An Omar Street residential objection from Emilynne and Bryan Hewitt, was opposed to the likely height and bulk of this housing form when viewed from their property. The Panel noted however that firstly the immediate interface was to be single lot housing, which was of reduced bulk compared with the existing vacant factory buildings. Further the maximum 3 storey townhouses would be reduced by perspective when viewed from the Omar Street properties, and should not be the cause of visual offence.

The Framework Plan generally adopts the proponent's layout for this housing product on site, locating medium density in the north western part of the site adjacent to Waterford Green Estate, the Medway Golf Course and in a strip to the rear of the existing Omar Street properties. This residential type has also been shown immediately adjacent to the Mixed Use development along the Hampstead Road frontage providing an appropriate transition from the potentially higher level mixed use development to the more conventional residential elsewhere on site.

The Panel noted a difference between the JMC site and the Council for the maximum building height of development for the southern portion of Hampstead Road, (3 storeys verses 4 storeys). The Panel nevertheless, believes the suggested general arrangement of medium density on the JMC site is satisfactory.

With regard to the AV Jennings site Mr Robertson advised:

*For the AVJ land, it offers an opportunity for north facing medium density housing with outlook to the central park.*

The AV Jennings various concept plans have shown initially the back yards of Type A & B 3 storey townhouses directly abutting the fencing to the Telstra tower. More recent thinking however by this proponent showed medium density immediately to the north and west of the proposed small park.

An area of undifferentiated mixed use development is also indicated, abutting the west and east boundaries of the Telstra tower. The Panel was advised that this latter development is proposed to face away from the tower and Detention Centre towards the proposed park.

The Panel remained comfortable with both proponents suggestions for medium density development as shown on their latest Concept Plans, in the knowledge that further refinement would occur prior to the production of the approved Development Plan.

### (iii) Mixed Use

This proposal for development, proved to be the subject of significant discussion at the hearing. The main reason for this seemed to be the indeterminate (or undefined) nature of the mix of uses. (This is distinct from a possible Comprehensive Development Zone, which was not favoured by most parties.) Opinion was widely varied. Some argued that the Mixed Use Zone would permit a total residential use, which would then be subject to the environmental intrusions from Hampstead Road traffic, and the potentially from intrusive uses on the southern boundary.

It was argued that a total residential development would not provide the potential of job's growth through small, innovative, service and retail businesses that were expected by the proponents to be located (especially on lower levels) along the Hampstead Road frontage of the subject land.

Alternatively, some witnesses argued at the hearing that potentially the whole of the mixed use zone could be totally given over to commercial uses like Showrooms and Offices, Service Stations, Fast Food Outlets and the like (although this was thought to be unlikely by the Panel). These uses would take advantage of the frontage's exposure to projected increasing passing traffic along Hampstead Road. This commercial-type use dominance would in turn offer little buffer to the residential uses behind the Hampstead Road uses. Mr Robertson however, expected the following:

*It is envisaged Mixed Use will comprise of business/commercial uses at ground level with residential at the upper levels. The Plan envisages long term conversion of property on the east side to comparative mixed use activities.*

Other evidence before the Panel also offered contrasting views. Mr Borelli for Peerless offered the view that an appropriate zoning for the land would be Business 2, which would facilitate industrial and commercial uses on the land. In Mr Borelli's view, this would better interface with surrounding uses and fulfil the Council's Strategic Intent for the land (See Section 5).

In Mr Borelli's preferred scenario, a small residential use to the rear of the site/s, the Hampstead road frontage and its immediate abutting land would be given over to the predominant intent of the Business 2 Zone, namely offices. The Panel was not convinced that this would be a suitable outcome, particularly in the light of the nearby Highpoint Principal Activity Centre and lack of evidence for either need or market demand for this type of development on the subject land.

Mr Milner for AV Jennings, indicated that he foresaw a mixture of commercial and community uses along the Hampstead Road frontage. Mr Molesworth was able to confirm that negotiations were ongoing with Council for a child care/kindergarten facility off Hampstead Road as evidence of this aspect of the intended community use. Mr Milner further noted:

*The location of non residential uses compatible with a Mixed Use Zone on the Hampstead road frontage. The effect of this is to create a transition zone between industrial uses on Hampstead Road and on adjacent site and residential uses within the estate.*

Mr Biacsi on behalf of JMC acknowledged a continuous built form along Hampstead Road. He concludes:

*The inclusion of that part of the land adjoining Hampstead Road frontage in the Mixed use Zone provides an appropriate response to the main road location and proximity to industrial activities to the south-east.*

The Panel noted that no person at the hearing was able to predict with precision, the final use outcome for the Mixed Use Zone. Both proponents pointed out to the Panel however, that self interest in the market place would protect against any extreme conflict of use in this zone, or abutting the proposed adjacent residential uses.

The Panel did not disagree with this assessment. It can generally endorse the location and form of the Mixed Use Zone as shown on the Framework Plan and believes that through detailed design studies, a mix of maximum heights of both 3 and 4 storeys along the frontages to Hampstead Road could well be justified.

#### **(iv) Opportunity for (Further) Medium Density Residential**

The Framework Plan indicates by cross hatching certain parts of the precinct where it is considered that further medium density housing could occur, essentially:

- along the proposed main signalised entry boulevard opposite Emu Street;
- to the north and west of the proposed central park; and
- adjacent to the west boundary with outlook to the Medway Golf Course.

The Panel concedes that some opportunities after detailed analysis may result for further medium density housing and would not be opposed to it as such. It believes however that medium density housing in the nominated locations is unlikely to result.



This is due to the Panel's belief that the location for the main signalised entry should coincide with the AV Jennings' proposal (see Section 7) and the Panel's further belief that there is no need has been established for the large central park as proposed by Council (see discussion above).

Finally the Panel notes the present preference by AV Jennings for single lot housing on its western boundary adjacent to its proposed linear open space. This position no doubt, would be subject to the final design exercise.

#### **(v) The Gateway Node**

Mr Robertson explained to the Panel that a Gateway Node was proposed by Council, positioned at the strategic intersection of West's Road, Williamson Road, and Hampstead Road to the north-east corner of the precinct located on VUT land. Again, significant Mixed Use development is proposed for this gateway intersection by the Precinct Framework Plan.

*An iconic 5 storey building is proposed at the north east corner of the Precinct to reinforce the edge/entry to the Hampstead Road precinct.*

While the Panel can see the merit of such a high profile use within 800 metres of walkable distance to the Highpoint PAC, offering commercial uses at ground level and residential uses above, in the light of the VUT evidence not to sell or redevelop Lot 2, seems at best premature.

The Panel notes that this VUT land will not be included in the required Development Plan (subject to the DPO) at this stage, and thus only Lot 1 will be potentially added in the short to medium term. Therefore the concept of the Gateway Node whilst having merit, will remain somewhat academic for some time to come.

## **6.4 Landscape and Acoustic Treatment**

The issue of the protection of proposed residential uses on the subject sites revolves around both amenity and aesthetic aspects. The evidence of Ms Elizabeth Hui, of Marshall Day Acoustics in Section 8 following, on behalf of both proponents, was not disputed by any party to the hearing. Whilst Section 8.1 following deals with noise issues in connection with EPA required SEPP N-1 noise limits to protect residential amenity, the proponents both concede that these need to be met.

Of particular interest in this regard is the Australia Post site, which effectively falls

between the two proponent's land parcels. A large emphasis of the Australia Post submission through its advocate Mr Jewell was acoustic protection for future residents on the subject sites from the noise generated from the Western Mail Centre (WMC). However, Mr Jewell accepts both Ms Hui's evidence and the proponents' interface concepts for his client's land.

*We note that the provision of a roadway around the perimeter of our site as shown in all plans before the Panel with suitable landscape treatment to soften the proposed acoustic fence is a positive outcome that we wish to see locked into the DPO.*

Ms Hui's recommendations with regard to noise control measures around the WMC are:

*We recommend the installation of an acoustic fence along the north-eastern and northern boundary of the Australia Post site.*

*This fence must be at least 3m high from Hampstead Road along the north eastern portion of the boundary extending to at least 5m high along the northern portion of the boundary.*

*The installation of this fence and the provision of a buffer zone of 15m from the acoustic fence to the nearest residential property boundary will allow SEPP N-1 and NSW EPA sleep disturbance criteria to be achieved. The 15m buffer zone will comprise of a landscaped area and a roadway...*

*The JMC site to the south -west is located much further from the loading bay area and is partly shielded from the loading bay area from the Australia Post building. It is recommended that provision be made to install a 3m fence along this part of the south-west boundary of the Australia post site. The actual extent of this fence can be determined as detailed design of the JMC site progresses.*

In response to a question from the Panel, Ms Hui indicated there existed a range of design solutions (including a range of dense materials) to achieve recommended acoustic protection, wherever it is finally determined to be provided. The Panel noted that contrasting types of acoustic screens can be readily observed along freeway reservations that abut sensitive uses. The Panel asked if these represent the range of solutions available in this case.

Ms Hui remained confident that an appropriate acoustic barrier design solution can be achieved for this interface, that will not be subject to the aesthetic criticism resulting from the recent acoustic protection to the Herriott's Glen Estate, when

viewed from the Monash Freeway.

*This interface could have been designed differently and still incorporated the desired acoustic treatment. Although the requirements for acoustic design do impose some restrictions, a creative design team could produce a concept which could be considered aesthetically pleasing to most.*

The Panel would likewise expect sensitivity, both in the final wording of the DPO and in the selection of materials for the acoustic barrier component (timber perhaps, in preference to concrete) and the species selected for the accompanying landscape planting at the Australia Post interface.

The AV Jennings Concept Plan indicates some consideration of this matter, suggesting “*Avenue trees together with colourful massed screen planting (callistemon species)*” together with a timber fence for its southern interface with Australia Post. The Jennings Concept Plan also indicates dense planting and screen fencing to the north, adjacent to the Telstra Tower and Migrant Detention Centre.

In any case, the Panel believes that the aesthetic sensitivity of intrusive incompatible uses which impact on amenity, where they are adjacent to residential development, need to be fully acknowledged by the design team with responsive total solutions for these interfaces.

A further issue canvassed by Mr Jewell was that of the actual location of the barrier. Mr Jewell made it clear that the barrier should not occur on Australia Post land and questioned if it were suitable to occur on Council road reserves. The Panel accepts the point made, but if the proponents are able to negotiate a location for the landscaped barrier on a road reserve with Council and still maintain the required 15 metre buffer to the nearest residential allotment, all other things being equal, no reasonable objection should arise.

## **6.5 Panel Findings**

With regard to urban design and landscape context, the Panel finds the Hampstead Road Precinct Framework Plan has provided a workable start for precinct integration. It bring together Council and the proponents concepts more into line for a number of significant elements. It suffers however from certain deficiencies, namely:

- lack of knowledge of, or widespread endorsement by, many interested parties;

- incorrect assumptions concerning the development intentions of major participants (eg. VUT); and
- lack of agreement on certain key elements (eg. size and distribution of required open space and traffic access points and the distribution of traffic through the site).

Nevertheless the Panel believes the Framework Plan can provide the basis of a final combined Development Plan associated with the Development Plan Overlay. This Development Plan, when finalised should then go through a non-statutory exhibition process to inform (and receive feedback from) interested parties.

In this regard the Panel prefers the open space network shown on the proponents concept plans to the central larger open space presently preferred by Council. The Panel does not consider that Council provided it with significant justification for the provision of a dedicated soccer field as part of the open space provision. With regard to changing community profiles, the Panel questions the extent to which a proposal be designed to cater for those who will live there, compared to the broader context where there is a community deficiency. In this instance, the Panel considers the open space requirements should be based upon the likely needs of the community who will reside in these new subdivisions.

In other respects the layout of residential development of various densities (except where it relates to the proposed central open space) as shown on the Precinct Framework Plan is seen as a workable basis for the Development Plan. The Panel supports the 3 to 4 story level of development along Hampstead Road as indicated on the JMC indicative plans.

The Development Plan will require some further detailed work by Council in association with the proponents, in much the same way as a collaborative effort by the parties has been able to bring about closer agreement on the Schedule to the Development Plan Overlay.

The acoustic measures as recommended by Marshall Day are endorsed by the Panel, as are the proposed acoustic barriers to sensitive uses, including their potential location on the Council road reserve, if this can be negotiated between the parties.

*The Panel makes the following recommendations in relation to the Urban Design and Landscape Context:*

*Prepare a landscape and open space plan to form part of the Development Plan to the Development Plan Overlay. This plan should be based on the Hampstead Road Precinct Framework Plan prepared by Tract Consultants (June 2004), but modified to include:*

- *The open space and landscape arrangements as shown on the "Indicative Development Plan" (AV Jennings site). (Selection of plant species to be subject to a more detailed landscape plan).*
- *Public Open Space to include the landscaped area surrounding the drainage depression (JMC), the park shown at the turning point of the Entry Avenue (AVJ) and the green linear park, adjacent to the boundary of the Medway Golf Course. The potential of this link to extend further north to the Maribyrnong River, via golf course land, is strongly encouraged.*
- *The building envelopes shown on the "Current Proposals" and "Indicative Development Plan" are supported.*

## **7. TRAFFIC AND ACCESS**

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Given the location of the subject site adjacent to an arterial road with increasing traffic volumes, two major intersections with capacity issues, the possible impact of the development on an existing residential street and the quantum of traffic generated by the development, the issue of traffic and access received careful attention by the Panel.

The Panel heard evidence from Mr John Kiriakidis of GTA Consultants representing the proponents, Mr. Don Robertson of the Traffix Group representing the Maribyrnong City Council, Mr John Graves and Mr Mark Bartley representing Vic Roads and Mr John O'Connell of GHD representing the Victoria University of Technology.

The Panel also considered presentations on traffic issues from local residents Mr Barry Armstrong, Ms Emilynne Hewitt, Ms Krishna Kumar and Ms Marie Dendtler.

Finally, the issue of access from Omar Street through the Medway Golf Club to the Maribyrnong River is a link of significant importance to the area and is considered in this section of the report.

### **7.1 Traffic Generation**

The proposal before the Panel comprised two amendments to the Maribyrnong Planning Scheme, Amendment C38 in relation to 31 Hampstead Road, (Jennings) and Amendment C41 in relation to 17 - 25 Hampstead Road (JMC Group).

The indicative Development Plan for the C38 site prepared by Jennings indicated the following potential development scenarios:

#### **Scenario 1**

- 73 detached dwellings, 77 medium density style dwellings and in order of 1500 square metres of non-residential use which for the purpose of calculating vehicle movements has been defined as Office use.

#### **Scenario 2**

- 100 detached dwellings and 100 medium density style dwellings. Access to both scenarios consists of a primary access point on Hampstead Road and a

secondary access off an extension to Omar Street.

The proponent's traffic engineering consultant indicated this form of development will generate the following traffic generation rates.

**TABLE 1: TRAFFIC GENERATION SUMMARY (C38)**

USE	TRAFFIC GENERATION	
	DAILY	PEAK HOUR
Traditional Dwellings 73	730	73
Medium Density Residences 77	501	51
Commercial Offices 1500m <sup>2</sup>	150	30
<b>TOTAL</b>	<b>1,381</b>	<b>154</b>

The figures which are based on the consultants experience in relation to comparable developments and established traffic engineering practice, were generally accepted by the Council's traffic consultant.

The indicative Development Plan for the C41 site prepared by the JMC Group indicated the following potential development scenario:

- Single dwelling lots: 13
- Medium density: 248 dwellings
- Non-Residential 200 square metres defined as Office Use for traffic generation purposes.

Access to the C41 site proposes a number of options but for traffic assignment and distribution purposes a vehicular entry opposite Richards Street is the main access point. The proponent's traffic engineering consultants GHD indicate this form of development will generate the following traffic generation rates:

**TABLE 2: TRAFFIC GENERATION SUMMARY C41**

USE	TRAFFIC GENERATION	
	DAILY	PEAK HOUR
Traditional Dwellings 13	130	13
Medium Density Residences 248	1,612	161
Commercial Non Residential 2000m <sup>2</sup>	200	40
<b>TOTAL</b>	<b>1,942</b>	<b>214</b>

It was indicated these figures are based on the consultant's experience in relation to comparable developments and established traffic engineering practice and were

generally accepted by Council's traffic consultant at the Hearing.

## 7.2 Traffic Assignment and Distribution Issues

### (i) Road networks

The subject sites allow vehicular access via Hampstead Road in the case of both C38 and C41, and Omar Street in the case of C38 only. There is also the potential for the Jennings site to be linked to Williamson Road.

**Hampstead Road** is a primary arterial road, aligned in a south west/north east direction linking the Western Highway (Ballarat Road) and Cordite Avenue/Raleigh Road via two signalised intersections at Mitchell Street/Omar Street and Williamson Road/Wests Road. Hampstead Road contains a 4 lane undivided carriageway approximately 18 metres wide with provision for two traffic lanes in each direction. "No Standing" parking restrictions apply to each side of the carriageway adjacent to both sites.

Despite some debate between the proponents and Council's traffic consultants, the Panel is satisfied that Hampstead Road carries in the order of 19,000 vehicles per day.

**Omar Street** functions primarily as a local access street aligned in a north/south direction providing access to the residential area north of the Western Highway, the Medway Golf Club and to the proposed C38 Jennings development. It presently terminates immediately north of the Golf Club entrance.

Omar Street contains a 9 metre carriageway within a 20 metre road reserve which provides for one traffic lane in each direction as well as unrestricted parallel kerbside parking. Omar Street carries in the order of 600 vehicles per day immediately north of Mitchell Street, and is controlled by traffic signals at the Mitchell Street/Hampstead Road intersection.

**Williamson Road** is an arterial road east of Hampstead Road, a 2 lane local road between Hampstead Road and Central Park Avenue and basically a laneway access into the VUT property west of Central Park Avenue. Given future development potential in the area including the Defence Site north of Cordite Avenue, peripheral sales further north in Hampstead Road, and growth around Highpoint Shopping Centre, traffic growth of 2% per year in Hampstead Road is accepted by the Panel as being realistic.



## **(ii) Traffic Assignment and Distribution**

The assignment of traffic by use, taking into account the location of allotments, likely travel routes of employees to and from the sites, and the average delays at the access points is generally agreed by the consultants and the Panel. The possible exception to this relates to Omar Street in terms of volumes assigned to that alternative.

In terms of the maximum daily traffic volume on the road network surrounding the sites, Hampstead Road in its existing configuration has a capacity of 20,000 vehicles per day and is presently carrying 19,200 vehicles/day. It is proposed a further 2658 vehicles/day will be generated from the C38 and C41 developments. This combined with other traffic volume growth factors lead the Panel to conclude that considerable traffic capacity improvements will be required in Hampstead Road in the future.

In submissions to be Panel by Mr Graves and Mr Bartley representing VicRoads, the Panel noted that VicRoads had requested a 4 metre road widening along the entire Hampstead Road frontage of both development sites to cater for the proposed new intersections and traffic volume increases in the road. The Panel noted this had been agreed to in principle by both Jennings and JMC on the basis that such widening formed part of a future VicRoads Development Contributions Overlay (or Public Acquisition Overlay). The Panel noted that no formal road widening reservation had been applied to other properties along Hampstead Road at this time, but VicRoads indicated that this may take place at some future date. The Panel makes no specific recommendation in relation to this matter.

Omar Street has a daily traffic volume capacity of 2,000 vehicles per day, an existing daily traffic volume of 515 vehicles per day and an anticipated increase of somewhere between 332 and 690 vehicles per day. The Panel believes this can be accommodated without Omar Street exceeding its environmental capacity. The Panel notes the concern of local residents Mr Armstrong and Ms Hewitt on the effect of through traffic on both Omar Street and other streets in the area, and believes the amount of traffic being assigned to Omar Street from the proposed developments should be minimised.

In terms of Local Street Traffic Management Issues, the speed of vehicles using Omar Street was raised. The Panel understands that tests have previously been taken to indicate that a problem exists, and traffic speed management devices might be warranted. The Panel accepts that advice, but notes resident concerns with the previous use of speed reduction devices. This is an issue for the Council to monitor and resolve in consultation with local residents once the development proceeds.

Considering the traffic impacts on intersections surrounding the subject sites, the intersections have been assessed by the proponent's consultants using Degree of Saturation DOS and average delays to determine their SIDRA Values. These results show:

- Hampstead Road/Williamson Road/Wests Road has a degree of saturation of 0.96 which will cause the intersection to perform poorly with excessive queuing and delays unless it is upgraded.
- Hampstead Road/Mitchell Street/Omar Street has a degree of saturation of 0.95 in the evening peak causing long delays on the Omar Street leg.

The Panel notes that VicRoads have suggested to Council that a financial contribution be made by the developer to upgrade this intersection and that a Conceptual Plan has been prepared by Council's consultants.

Both Mr Barry Armstrong of Radio Street, Maidstone, and Ms Hewitt of Omar Street made mention of the present potential danger at this intersection. This has been taken into account in the Panel's findings.

### **7.3 Site Access Issues**

The Panel concurs with the findings from the traffic consultants and VicRoads that the intersections of Hampstead Road/Williamson Road/Wests Road and Hampstead Road Mitchell Street/Omar Street require upgrading as a result of both the natural increase in traffic and the proposed development.

#### ***Hampstead Road***

The Panel notes the development proposals brought forward by Jennings in the case of Amendment C38 show the main entry into the development area via an unsignalised intersection with Hampstead Road, between Emu Road and Wattle Road.

The main entry and exit to the JMC site off Hampstead Road is proposed via a signalised intersection off Hampstead Road opposite Richards Street. Following the tabling of Council's Framework Plan at the hearing, agreement was generally reached that the entry would best be relocated to the unconstructed Crefden Street entry into Hampstead Road opposite Emu Road. This would be signalised. There is also a secondary non-signalised entrance proposed into the mixed use area opposite Keith Street.

The Framework Plan proposes an additional signalised intersection at Wattle Road, with an access road through the VUT site to link up with Central Park Avenue as part of the future C47 proposal. Whilst Amendment C47 is not under consideration by the Panel, the link was opposed very strongly by Mr O'Connell on behalf of VUT. The intersection proposed does have some relevance from the practical viewpoint of the number of signalised intersections that can be accommodated in Hampstead Road between Mitchell Street and Williamson Road.

The Panel having noted Wattle Road is predominantly a residential street with an unsignalised intersection with Rosamond Road, consider that signalling the intersection at Hampstead Road could impact on the residential amenity of that street and introduce a potential traffic danger at its intersection with Rosamond Road.

Whilst not directly related to access off Hampstead Road, the linking of the proposed developments into a contiguous residential and mixed use precinct, is a prime consideration of the Panel. Thus a link between the main access roads into both development sites as indicated in the Framework Plan is strongly supported by the Panel.

The Panel in considering the main vehicular access into the Jennings C38 development off Hampstead Road, notes the anticipated volumes of turning traffic using this intersection. There is also the possibility of traffic from the residential areas north of the Western Highway (Radio Street, Dunedin Street etc) using the intersection as access to Hampstead Road as an alternative to the Mitchell Street/Omar Street/Hampstead Road intersection. The Panel considers there would be considerable benefit in signalling this intersection.

To rationalise the number of traffic signals along Hampstead Road, the Panel notes the suggestion made to relocate the present pedestrian signals near Keith Street to the intersection of Emu Street is a sound suggestion and should be supported.

### ***Connection to Williamson Street***

As previously stated, linking the proposed developments into a contiguous residential and mixed use precinct with other nearly similar developments is a key issue for consideration as far as the Panel is concerned. It notes the various options expressed by expert witnesses regarding the merits or otherwise of linking Omar Street to Williamson Road including the link inclusion in the City of Maribyrnong Transportation Framework Plan. It further notes the concerns of potential short cuts by external traffic, as expressed by Marie and Rod Dendtler, Barry Armstrong,

Emilynne and Bryan Hewitt, Mr Graeme Hobbs, GHD on behalf of VUT, and finally GHD on behalf of the JMC Group.

On the basis of linking the existing and new developments in the area and relieving the pressure on the Omar Street/Mitchell Street/Hampstead Road intersection, the Panel considers the extension of Omar Street should be an informal internal access road only with provision for bicycle and pedestrian links into Williamson Road. The Panel concludes a more practical vehicle link into Williamson Road would be via one of the north south internal roads shown by arrows on the Framework Plan.

#### **7.4 Public Transport, Pedestrian and Bicycle Facilities**

From the evidence presented at the hearing, the Panel concludes both development sites C38 and C41 are accessible and adequately served by a number of public transport alternatives in the immediate vicinity of the site. It notes the Maribyrnong Integrated Transport Strategy encourages public transport use as a substitute for private vehicle use.

The Panel notes the 10 year action plan contained within the Maribyrnong Integrated Transport Strategy to encourage walking and bicycle riding and to integrate planning for land use and transport activity in new developments.

In addition the Maribyrnong Strategic Bicycle Plan 2003 provides guidance for the provision of bicycle parking facilities and key links to the Principal Bicycle Networks. In the case of Amendment C38, the plan indicates a proposed shared path along the northern extension of Omar Street linking to the Maribyrnong River pathway which the Panel endorses.

The Panel notes the proposed widening of Hampstead Road by four (4) metres may well provide for a future bicycle lane along that road.

#### **7.5 Panel Findings**

The Panel considers that traffic and access matters were well addressed during the course of its proceedings. It finds the traffic generation figures provided by the proponents in order to design intersections and access the proposed developments including the impact on the existing road network by the developments are in accord with established traffic engineering practice.

Given the existing traffic volumes carried by Hampstead Road, the traffic generated by developments C38 and C41 and the anticipated traffic growth in the Maidstone

area, the Panel finds that the four (4) metre widening on the west side of Hampstead Road proposed by the VicRoads is warranted. However, the widening should apply via an official reservation along all properties on the west side of Hampstead Road between Mitchell Street and Williamson Road, and it is a matter that should be pursued separately. Furthermore the land resumed for road widening purposes could form part of a Public Acquisition Overlay or a Development Contribution Overlay, however that is a matter for further consideration by Council, the proponent and VicRoads.

Given the likely impact of the proposed developments on the residential amenity of streets such as Omar Street, the amount of traffic being assigned to Omar Street as a result of the proposed development should be minimised. Given the existing speed of vehicles using Omar Street, and the proposal to add further traffic as a result of Amendment C38, the Panel finds that traffic speed management devices in Omar Street are warranted, and should be designed in consultation with local residents.

Given the degree of saturation and resultant delays to motorists, the Panel finds that the intersections of Hampstead Road/Williamson Road/Wests Road and Hampstead Road/Mitchell Street/Omar Street should be upgraded in the short term. The Panel notes that VicRoads have suggested to Council the proponent of Amendment C38 should make a financial contribution in respect of the Hampstead Road/Mitchell Street/Omar Street intersection.

Given the likely impact on the residential amenity of both Wattle Road as a result of signalling the intersection of Wattle Road with Hampstead Road, and the potential danger of an unsignalled intersection with Rosamond Road, the Panel finds signalisation of this intersection is not warranted.

Given the anticipated volumes of turning traffic using the intersection providing access to the C38 site of Hampstead Road, and the possibility of traffic from residential areas north of the Western Highway using the intersection as access to Hampstead Road as an alternative to Mitchell Street/Omar Road/Hampstead Road, the Panel finds there would be considerable benefit in signalling this intersection.

Given the need to integrate both the C38 and C41 proposals into a contiguous residential and mixed use precinct, the Panel strongly supports the provision of a link between the main access roads into both developments.

The Panel finds the extension of Omar Street should be an informal internal access road for the Jennings C38 development. Provision should be made for bicycle and pedestrian links to Williamson Road only, and the link to Williamson Road should

be via one of the north/south internal roads indicated by arrows on the Council Framework Plan.

The Panel finds the site is well provided for in terms of public transport and the Development Plan Overlay should provide for appropriate facilities to promote utilisation of Public Transport. The Panel finds both the C38 and C41 development sites are readily accessible to the Maribyrnong River Principal Bicycle Pathway and a link should be provided through the northern extension of Omar Street linking to that river pathway.

The Panel finds that the development site and other cyclists would also benefit from providing a bicycle lane in the widened section of Hampstead Road.

*The Panel makes the following recommendations in relation to Traffic and Access issues:*

- *Prepare a traffic and access management plan to form part of the Development Plan to the Development Plan Overlay. It should include the following provisions:*
  - *Signalise the intersection providing the main access to the C38 site between Emu Road and Wattle Road on Hampstead Road.*
  - *Consider options for speed management devices in Omar Street, in consultation with the local community.*
  - *Provide for the upgrade of the intersections of Hampstead Road/Williamson Road/Wests Road and Hampstead Road/Mitchell Street/Omar Street.*
  - *Provide for a link between the main access roads into the two development sites.*
  - *Provide for bicycle and pedestrian links to Williamson Road only, with any formal road link to Williamson Road being via one of the north/south internal roads indicated by arrows on the Precinct Framework Plan.*
  - *Develop a pedestrian/bicycle link through the northern extension of Omar Street to the Maribyrnong River.*

## 8. ENVIRONMENTAL CONSIDERATIONS

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There were three key issues relating to potential environmental impacts of the proposed redevelopment of the subject sites, these being odour, noise and audit issues.

With regard to odour, the Panel heard submissions from Mr Lonie representing Peerless (whose operations are located within 1000 metres of the subject sites), and expert evidence from Mr Borelli on planning issues and Dr Bellair on odour issues and atmospheric conditions. The proponents through Mr Molesworth relied on expert evidence from Mr Rob Milner and Mr Andrew Biacsi in terms of planning, and Mr Tim Pollock on odour issues. The Council relied on expert evidence on planning issues by Mr Robertson. The Environment Protection Authority relied on submissions from Mr Cooke and Mr Dewundgee on the odour and buffer issues.

The second environmental issue considered was that of the possible effect of noise on the proposed development both from traffic in Hampstead Road and various surrounding land uses including Australia Post, the Omar Reception Centre, Campbellfield Concrete Batching Plant, Medway Golf Club, and others. In this regard, the Panel heard evidence from Ms Hui on behalf of JMC and Jennings on acoustic issues, and submissions from Mr Jewell on behalf of Australia Post and Mr Cooke on behalf of the EPA.

The final issue considered was the Environmental Audit of the subject land and the Panel heard evidence from Mr Graham about this matter.

### 8.1 Odour Issues

The Panel was advised that Peerless own and occupy premises at 11-21 Evans Street, Braybrook, which are used for the primary purpose of a rendering and refining business. Peerless has a long history of operations at the premises and these are of significant importance to the local economy of Maribyrnong. Mr Lonie provided the basis of the objection of Peerless as follows:

*Peerless objects to the proposed rezoning of industrial land to residential land contained in Amendments C38 and C41 to the Maribyrnong Planning Scheme. All of the C41 land, and most of the C38 land (including all of the proposed Residential 1 Zone component of that land) is within 1 kilometre of the perimeter of the Peerless site. Peerless' key concern is that the ongoing viability of its business and future operations may be compromised by the introduction of up to 2,500 new residents within 1 kilometre*

*of the Peerless site. Both the Maribyrnong Planning Scheme and the EPA have specific policies to prevent the very conflict which may arise from the interface of residential areas and industry (in this context, an existing rendering plant). The planning system's buffer distances are aimed both at protecting the amenity of residential areas and the continued operation of existing industry.*

Mr Lonie acknowledged that Peerless has significantly improved its environmental performance, and noted has to be seen in the context of the need to maintain adequate buffer distances to provide protection in upset or abnormal conditions. He argued that: *"Peerless should not be disadvantaged by its good environmental performance, nor should the planning system ignore the fact that on occasions there will be plant malfunctions, breakdowns, accidents and meteorological conditions which will cause emission of odours which can adversely impact upon residential amenity of this proposed new residential area"*.

His submission provided the background to the operations of the Peerless plant and the range of goods produced. The Panel notes that it produces a range of products including tallow, edible fats and edible oils. Mr Lonie advised the operations at Evans Street provide employment for 170 people on site, with over 50% of the company's employees living in the City of Maribyrnong and immediately surrounding municipalities.

Mr Lonie advised Peerless is continually upgrading and investing in its site, and the premises are subject to an EPA Waste Discharge Licence (No. EA663) originally issued in 1977. It has undergone a number of revisions, most recently in May 2003. The licence sets limits on discharge of waste to air at specified discharge points. It specifies that no odours shall be discharged from the site that might reasonably be expected to be offensive to the senses of human beings in a residential area or in a public space adjacent to a residential area. A monitoring program is also prescribed. The Panel was informed over recent years, Peerless has worked closely with the EPA in developing new air emission control technology at the site, and has developed a comprehensive Environment Improvement Plan (EIP) for the site.

The Panel noted the location of the Peerless Holdings plant in Evans Street Braybrook during its site inspections. It is currently zoned Business 3 and is located some 740 metres from the proposed C38 and C41 sites. Its location raises a number of key planning, economic and environmental issues which the Panel addresses, including:

- The long term future direction of land redevelopment in the Maribyrnong and Maidstone area.



- Competing land use strategies in the Maribyrnong Municipal Strategic Statement.
- The possible impact of odour from the Peerless plant on future residents occupying the proposed C38 and C41 development, the relevance of buffer distances and whether an Environmental Significance Overlay (ESO) should be applied to the subject land.
- Finally, the impact on the longer term future of a viable industry which has been in existence for a long period of time, and which employs a considerable number of people.

These issues occupied significant debate and discussion both during the hearing and in the Panel deliberations.

In terms of the long term future direction of land redevelopment in the Maribyrnong - Maidstone area, Mr Milner representing AV Jennings, put the point that the subject sites are part of a precinct of Inner Metropolitan Melbourne that is in transition ie. land is being transformed from former industrial use. He argued the two amendments constitute part of that transition process, facilitating the move from disused industrial land to residential land with a mixed use interface to Hampstead Road.

GHD on behalf of the JMC Group indicate in their report that areas of former industrial land within the City of Maribyrnong are being rezoned to facilitate other land uses. The report noted that this occurs when it is no longer viable to operate a modern industrial business subject to building or land constraints. Furthermore, the amenity interface with residential land use further constrains the land's continuing use for industrial purposes. GHD claim the predominant land use prevailing in the area is residential.

Mr Biacsi on behalf of JMC indicated in his planning evidence the proposed amendment responds well to the current land use content of the locality, which is emerging as a result of the land use initiatives and strategies advanced by the City of Maribyrnong. This includes recent residential development in the immediate vicinity of the site.

Mr Robertson of Tract prepared the Framework Plan for the Hampstead Road Precinct for Council. In his planning assessment of the amendments, he indicated that in a sub regional context in the north Maribyrnong Region, major residential infill redevelopments of former industrial land is the predominant form of development. Ms Hicks for Council emphasised in her closing submissions that Council had carried out a strategic industrial assessment, and the subject land was

not required for industrial purposes.

Mr. Borelli of SJB Planning on behalf of Peerless Holdings indicated in his evidence to the Panel that a more appropriate zoning would be a Business 2 Zone to achieve more compatibility with the existing Peerless Plant and other industry in the area.

Considerable debate ensued around the appropriate future use of the amendment land, and the Panel having considered these reports accepts the land covered by the amendments is in a state of transition, and the predominant use in the overall vicinity will be residential or mixed use. Notwithstanding this conclusion, other amenity factors should be taken into consideration.

In terms of competing land use strategies in the MSS, it contains reference to bolstering industry and employment. The proponents of the amendments note there will be a greater proportion of residential development. The Panel is satisfied that the MSS contains a number of land use strategies, none of which can be considered in isolation.

In considering the possible impact of odour emissions from the Peerless Plant on the subject sites and the impact on the buffer distance, the Panel considered expert evidence and technical reports from Mr Tim Pollock of GHD who used evidence from a Kellogg Brown & Root KBR Odour Assessment Report and CAMM report. Mr Pollock represented Jennings and JMC. Dr. Terry Bellair presented a number of reports and revisions, and gave expert evidence on behalf of Peerless Holdings.

The Environment Protection Authority also tabled reports and provided advice on both atmospheric issues and the buffer zone.

The main source of odour emission from the plant is the scrubber stack from the rendering plant, which is a subsidiary plant to the main edible oils manufacturing plant on the site.

Considerable discussion took place at the Panel hearing on issues of accurately measuring wind direction impacts under various atmospheric conditions, the accuracy of the anemometer on the site, the impacts of improvements to processes at the plant in terms of emissions from the plant and finally the number of complaints received over recent years. All these uses were seen in terms of having impact on the buffer distance around the plant.

In terms of the buffer distance the Panel notes the nearest point in the proposed development is some 740 metres from the boundary of the Peerless Plant. The

Peerless representatives indicate 1,000 metres is the recommended buffer for a rendering plant under clause 52.10 of the Planning Scheme and the EPA recommended a risk assessment be conducted to determine the suitability of reducing the buffer distance.

The proponents claimed the 1,000 metre buffer under Clause 52.10 was for the future establishment of plants – not where plants previously existed as is the case with Peerless. As a matter of principle, the Panel accepts that claim.

During the course of the hearing, there was considerable debate concerning the accuracy of measuring devices in terms of air flow at the Peerless Holding plant, and the katabatic wind directions along the Maribyrnong River valley. Whilst there was disagreement between Mr Pollock and Dr Bellair on the potential impact of these matters, especially the methodology and measurements, the Panel generally has found that this debate had little impact on its overall considerations of odour dispersion from the Peerless site. While it is acknowledged that there might be the odd occasion when there could be an upset condition, the Panel doubts whether adverse odour would impact on the subject sites. This acknowledgment is backed up by the lack of complaint by the residential submitters and the fact that there is significant residential development located within the Peerless preferred 1000 metres distance. The Panel therefore has placed little weight on this line of evidence, and it did little to assist it in its overall considerations of environmental impacts in relation to odour.

In reflecting on these matters, the Panel has noted the considerable improvements that have been made and are planned for the plant over recent years and the future. The small number of complaints received (two recorded) and the fact that the rendering plant is only one process on a site mainly concentrated on processing vegetable oils is instructive.

The Panel also notes that some 1,700 residential properties already exist within the 1,000 metre buffer zone, many within a 350 metre radius of Peerless, and the plant seems to have co-existed quite satisfactorily with these residents. Questioning of local submitters by the Panel indicated they had not experienced odour problems for the past twenty years (as distinct from an earlier period, prior to Peerless upgrading its plant).

The Panel therefore finds the proposal to locate residential development within 1000 metres of the Peerless site (but at a distance of some 700 metres away) to accommodate both the C38 and C41 proposed developments is warranted.

Given the existence of some 1,700 homes within the existing buffer zone and the fact these homes would have changing ownership, the Panel believes that the proposal by Peerless to place an Environmental Significance Overlay over the amendment sites would be inequitable and not able to be justified.

In terms of the impact of these amendments on Peerless Holdings which is a long established business with considerable investment and a large number of employees, the Panel notes the site is located in a Business Zone 3 within the Maribyrnong Planning Scheme. It can continue to operate within that zone, provided it complies within its environmental operational conditions.

## **8.2 Noise and Emissions from Adjacent Development**

The impact of noise on the environment of the proposed development sites at 17 - 25 and 31 Hampstead Road for residential and mixed use is important from a residential amenity perspective, particularly given the industrial and commercial interfaces in this location.

The evidence from Ms Hui of Marshall Day Acoustics on behalf of JMC and AV Jennings primarily related to the JMC site, which is currently zoned Industrial 3. It has boundary frontages to Hampstead Road, residential properties to the west fronting Omar Street, the Australia Post mail sorting centre to the north east and the AV Jennings C38 site to the north.

The commercial/industrial properties to the south east with possible noise emission issues include:

- Omar Reception Centre
- Campbellfield Concrete Batching Plant
- Showrooms and factory including North Western Billiards and HK Hampstead Kitchens
- Highpoint Clearance Centre

The Panel was advised the Concrete Batching Plant and HK Hampstead Kitchens produce the highest noise emissions.

The AV Jennings site C38 is currently zoned Commonwealth land. It has boundary frontages to Medway Golf Club to the west, residential properties to the north in Waterford Green, a Telstra communications tower with a height of 80 metres on the eastern boundary, Maribyrnong Detention Centre and VUT student village to the east, a warehouse factory Alucobond to the east, Hampstead Road and commercial

and industrial uses to the south-east, Australia Post Mail Centre to the south, the JMC site to the south west and Omar Street residential properties to the south-west.

The sources of noise occur from traffic noise from Hampstead Road and noise emissions from abutting industrial land. Ms Hui provided a table that indicated a number of potential noise impacts:

**TABLE 3: SITE NOISE IMPACTS**

SITE	POTENTIAL NOISE IMPACT	LOCATION
<b>AV Jennings: C38</b>	Australia Post	South
	Midway Golf Club	West
	Peerless Pty Ltd	West
	Hampstead Road	South East
<b>JMC: C41</b>	Australia Post	North East
	Omar Reception Centre	East
	Campbellfield concrete batching plant	South East
	HK Hampstead Kitchens	South East
	Hampstead Road	South East

The Panel was informed that to ensure residential amenity in the subject development sites, noise from these sources must be attenuated to acceptable levels.

Ms Hui of Marshall Day Acoustics advised guidance had been sought from VicRoads on traffic noise issues, which indicated 63 dBA was the acceptable limit for the external part of a residential building and 30-40 dBA for internal sleeping areas.

It was indicated that in terms of noise from industry, the relevant noise policy is the State Environment Protection Policy (SEPP) which sets time periods for the calculation of noise at a receiver position using SEPPN-1 (control of noise from Commerce, Industry, and Trade). This policy would apply to the industrial and commercial properties listed. SEPPN-2 (controls music noise from Public Premises) at a residential property and would apply to Omar Receptions.

The consultants also applied the NSW Sleep Disturbance Criteria which indicates internal noise levels below 50-55 dBA are unlikely to cause awakening reactions, and one or two noise events per night of 65-70 dBA are not likely to affect health and wellbeing significantly.

It was indicated that achievement of these results could be obtained by providing an appropriate building envelope or to reduce noise levels at the source to acceptable limits. In the case of the proposed developments, the proponents have agreed to

include noise control criteria into their developments.

Measurements have shown the background industrial/commercial areas to the south east are influenced by Hampstead Road traffic noise.

**(i) Australia Post Site**

Australia Post through their consultant Mr Jewell made submissions about both amendments and appeared at the hearing. He requested noise readings over a 24 hour period for at least a seven day period on the basis their existing site use could be compromised, unless buffer distances and amenity issues were given due consideration.

Marshall Day based their studies on a 24 hour, 7 days per week operation and used the Preston Mail Centre that operated on the same basis as a data source. This methodology was accepted by Australia Post. Data revealed the Mail Centre met the daytime noise limit but exceeded the evening limit by 3 dBA and the night time limit by 8dBA.

The operations at the Australia Post site failed to meet sleep disturbance criteria, thus necessitating a proposal to construct a 3 metre high acoustic fence along the north-eastern boundary, and a 5 metre high acoustic fence along the northern boundary of the AV Jennings site. In addition, the AV Jennings site is proposed to include a buffer zone of 15 metres from the acoustic fence to the nearest residential property boundary.

In the case of the JMC site which is located further away from the loading bay area and is partially shielded, a 3 metre high acoustic fence is recommended along part of the south west boundary with the extent to be determined as development progresses.

Mr Jewell put the case that the Council should abandon both amendments on the basis of insufficient strategic background work. In addition he made the point that the use of the Australia Post site for a more intensive use should not be compromised by the proposed residential use of the amendment sites. The Panel does not accept these arguments. Despite these comments, the Panel noted Mr Jewell generally accepted the acoustic recommendations as proposed by the proponents, and recommends these should be implemented as part of the development.

**(ii) Concrete Batching Plant, Peerless Holdings, HK Hampstead Kitchens, Omar Receptions and Medway Golf Club**

Ms Hui advised the Hampstead Road frontage of the proposed JMC development is exposed to traffic noise as well as noise from the industrial/commercial uses located to the south of Hampstead Road. The main noise producers include the concrete batching plant, the cabinet making factory and a reception centre. The concept plans for the JMC site show ground floor commercial uses with above ground residential uses, but this could vary according to development circumstances. Noise from these abutting land uses must comply with SEPP N-1 and SEPP N-2.

To ensure compliance with SEPP N-1 for the proposed residential dwellings, Ms Hui recommended no external balconies/recreation/courtyard areas should face south, and the southern façade of the residential dwellings consist of unopenable windows to achieve a noise reduction to 38 dBA.

Ms Hui noted that if buildings along the Hampstead Road frontage are 2 or 3 storeys high with a building height of 6 metres, these buildings would act as a barrier which would reduce noise to the remainder of the estate and the SEPP N-1 night time noise limit of 44 dBA to be achieved. The Panel accepts this premise.

Ms Hui recommended an amendment to Schedule 8 of the Development Plan Overlay to incorporate requirements for Acoustic Sensitive Design as detailed ie.

***Acoustic Sensitive Design***

*An application to use or develop land for residential purposes must identify whether the proposed use and/or development is likely to be adversely affected by the noise from:*

- *The traffic on Hampstead Road*
- *The operations of the concrete batching plant: or*
- *Australia Post's operations*

*If the proposed use and/or development may be adversely affected, it should be accompanied by a report prepared by a suitably qualified acoustic engineer which provides recommendations for acoustic treatments to ensure that the development incorporates design measures which will ensure that the indoor sound level for any residence complies with the Australian Standard 2107-2000 Acoustics: Recommended Design Sound Levels and Reverberation Times for Building Interiors and/or SEPP N-1 (as applicable) to the satisfaction of the responsible authority.*

Ms Hui noted that compliance with this requirement would ensure the residential dwellings will be designed appropriately to minimise noise intrusion. The Panel concurs with that finding.

### *Concrete Batching Plant*

The Panel notes that considerable discussion took place at the hearing regarding the operations of the Campbellfield Concrete Batching Plant located some 100 metres from the JMC site. (This is notwithstanding that the Batching Plant did not make a submission until the end of the hearing process.) A number of issues were examined, including:

- EPA recommended buffer distance of 100 metres (and where in the batching plant that distance should be measured from).
- Noise emissions from the plant.
- Dust emissions from the batching operations, unsealed yard surface and material stockpiles.
- Complaints received from a nearby industrial property regarding mud being deposited on the adjacent roadways.
- Whether in fact the plant had a town planning permit and EPA Works Approval to operate as a Concrete Batching Plant which covered the recent improvements to the plant.

In evidence presented to the Panel, Mr Cooke indicated that both the EPA and Council were currently investigating the question of whether a Works Approval and a Town Planning Permit had been granted.

In terms of the buffer distance, Mr Cooke indicated that whilst this was a distance set by the EPA, remedial issues such as sealing the yard around the batching plant, preventing dust escaping from the hopper tower and the position of the hopper could all contribute to a review of the buffer distance. He commented that a design overlay over buildings fronting Hampstead Road for both amendment sites, could solve the issue of noise from the plant impacting on residents. The requirement would be to reduce the noise levels from 67 dBA to 29 dBA, a reduction of 38dBA.

Ms Bannister on behalf of JMC made the point that no risk assessment as part of the Works Approval process was carried out, and there is scope within the Concrete Batching Plant site to locate all emissions inside the buffer zone, which is the emphasis of the EPA Policy.

The Panel accepts that with appropriate controls relating to noise for the amendment



sites, and appropriate conditions on the Concrete Batching Plant being enforced, the issues raised can be satisfactorily dealt with. Clearly the legality of the present operations of the Concrete Batching Plant is a key factor in this matter. The Panel finds that both the EPA and the City of Maribyrnong should take urgent steps to ensure compliance with all relevant regulations.

### *Peerless Holdings Plant*

Ms Hui indicated the Peerless plant in Evans Street Braybrook is located 740 metres west of both the Jennings and JMC sites. Noise readings were taken on the western boundary of the Jennings site at night time, as this is the nearest boundary to the Peerless plant and noise emissions would have a greater effect at night. The readings indicate that noise emissions from the Peerless plant meet SEPPN-1 noise limits and the Panel notes that finding.

### *HK Hampstead Kitchens and Omar Receptions*

Ms Hui noted that HK Hampstead Kitchens operate their business with the front roller door open, and noise from power tools was audible at the southern boundary of the JMC site. However, due to the high ambient traffic noises in Hampstead Road, noise emissions from the site were not measurable.

Similarly anticipated noise emissions from the Omar Receptions premise could impact on the JMC site. In this regard, Ms Hui's recommendation was to incorporate design criteria as previously noted for the buildings fronting Hampstead Road so as to provide an appropriate level of sound attenuation from all nearby industry and land use activities. The Panel notes there are no planning permit conditions in place to control noise emission from Omar Receptions.

The point was also made that the first row of proposed buildings on the Hampstead Road frontage would shield other buildings in the proposed developments from noise sources originating in the Hampstead Road area. The Panel agrees with these observations.

### *Medway Golf Club*

Sound measurements carried out by Marshall Day indicate some intermittent noise emissions from the golf course at the western boundary of the Jennings site. These can be attenuated by an acoustic enclosure at the source. The Panel notes the proponents are prepared to provide that acoustic enclosure to alleviate any problem.

### 8.3 Environmental Audit of the Subject Land

In considering the issue of an Environmental Audit of the subject land, the Panel has taken into account the expert evidence provided by Mr Rick Graham of Sinclair Knight Merz. He presented on behalf of AV Jennings and is an EPA appointed environmental auditor.

The AV Jennings site was previously used by the Department of Defence for pyrotechnics manufacture, and then by Telstra who cleared the site. The Panel notes the site has been the subject to demolition of existing buildings (many of which were of asbestos cement construction), a clean up and an environmental assessment that has revealed small quantities of asbestos sheet pieces both on and in the soil. A statutory environmental audit was completed in 2002 and the site has been declared clear for residential, commercial and industrial issues. Where the Telstra cable easement has been relocated along the boundary fence, the Panel notes the former easement land will be subject to an environmental audit.

Mr Graham's conclusions and recommendations were:

- *Site development controls be given effect through a Construction Environmental Management Plan, to be implemented by Jennings and its contractors.*
- *The on-going use of the site be subject to a (future use) Environmental Management Plan, which will provide information to landowners and Occupiers and servicing authorities and their contractors, on the likelihood of finding asbestos or unexploded ordinance (UXO) residues and the actions to take in that event.*
- *Agreements under Section 173 of the Planning and Environment Act 1987 between the responsible planning authority and site owners (A.V. Jennings as current owner and developer, and future owners) be made to require that development and use be undertaken in accordance with the Construction EMP and (future use) EMP respectively.*

The Panel finds that these conclusions are an appropriate and orderly way to proceed. In the case of the JMC site, given its former use for industrial purposes the Panel supports the proposal to introduce an Environmental Audit Overlay over the site is appropriate.

## 8.4 Panel Findings

The Panel has carefully considered all the environmental evidence and issues. It would be fair to note that a significant amount of the discussion at the Panel hearing was about these matters, particularly the possible impacts of odour on the subject sites. The Panel was not convinced by the submissions from Peerless that a 1000 metre buffer should be reinforced around its site – which could result in the residential proposals as put forward by the amendments to being abandoned. The Panel is of the opinion that the evidence did not support this position from Peerless for the following reasons:

- there is already a significant amount of residential development within this area (some 1700 dwellings),
- there is no evidence that odour is a problem in the vicinity of this site,
- the Peerless plant is constantly improving its environmental performance
- the site is located in a Business 3 Zone within the Maribyrnong Planning Scheme, and can continue to operate within that zone provided it complies within its environmental operational conditions.

With regard to noise, the Panel considers the buildings proposed to front Hampstead Road should be required to meet Acoustic Sensitive Design as set out in Schedule 8 of the Development Plan Overlay, and that acoustic measures such as buffers and fences should be included to minimise noise impacts. The Panel notes that noise emissions from the Peerless Holdings plant meet SEPPN-1 noise limits. The Panel notes that an acoustic enclosure is to be provided to provide sound attenuation for fixed plant on the Medway Golf Course.

To assist resolve issues relating to the concrete batching plant, the Panel considers further discussions should take place between the EPA, the Maribyrnong Council and the Plant regarding noise and dust emissions and the need for compliance with the relevant regulations.

The environmental issues are manageable and do not provide compelling reasons to recommend against the amendments. The Panel considers the subject sites comprise part of former Commonwealth and Industrial land in the North Maribyrnong area, which is in a state of transition. The predominant land use in the overall vicinity will be residential or mixed use, and these proposals are consistent with that strategic imperative.

*The Panel makes the following recommendations in relation to Environmental issues:*

- *Prepare an Environmental Management Plan and Construction Management Plan as part of the Development Plan to the Development Plan Overlay.*
- *Undertake an Environmental Audit along the former Telstra cable easement land.*
- *Implement the recommendations of the Marshall Day Acoustic report for incorporation in the Development Plan Overlay, to include the following:*
  - *A 3 metre high acoustic fence along the north eastern boundary between the Australia Post land and the AV Jennings site.*
  - *A 5 metre high acoustic fence on the northern boundary of the Australia Post site and the AV Jennings site.*
  - *A buffer area of 15 metres be set aside between the acoustic fence and the nearest residential property boundary to provide adequate noise protection to the AV Jennings site.*
  - *A 3 metre high acoustic fence along part of the south west boundary between Australia Post and the JMC site, with the extent of the fence to be determined as development progresses.*
- *Amend the Development Plan Overlay to accommodate Acoustic Sensitive Design to alleviate noise issues by meeting Australian Standard 2107-2000 Acoustics Recommended Design Sound Levels and Reverberation Times for Building Interiors or SEPP N-1 for:*
  - *The operations of the concrete batching plant*
  - *Australia Post operations on their site*
  - *Omar Reception Centre*

## 9. MEDWAY GOLF COURSE

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The Medway Golf Course is located directly to the west of the Hampstead Road Precinct and it directly abuts the AV Jennings land. Its location raised a number of interface issues, which could be seen as both a challenge and an opportunity.

The Panel noted the fundamental responsibility was with the Medway Golf Club to take any necessary action to avoid potential golf ball danger and nuisance. It further noted that AV Jennings was willing to assist with an outcome to address the potential danger and nuisance issue and to improve aesthetics along the boundary. The Panel considers it would be in everyone's interest for an agreement to be reached between the parties.

The opportunity to view the landscaped golf links from the subject land and the opportunity for golfers to view an attractive residential development as they played the course, was seen by the Panel to create a potential advantage from both sides of the boundary. Further, the possibility of creating a walking, cycling, jogging link to the river from both sites potentially via the north-east corner of the Medway Golf Course site was also seen as a distinct advantage.

It was suggested, however, that stray golf balls emanating from the 7<sup>th</sup> Tee of the Golf Club could provide a potential danger and inconvenience to future nearby residential development. On the day of its accompanied site inspection, the Panel found a number of stray golf balls on the AV Jennings site.

It seemed that Medway may not have presented to the Panel at all if negotiations with AV Jennings had reached a mutually satisfactory conclusion at an earlier stage. During the hearing, the Panel encouraged the parties to further attempt a resolution of the issues between them, which essentially related to the quantum of resources available to assist the Club (with interface solutions and improved landscape presentation).

Mr Molesworth for AV Jennings indicated that his client had offered assistance to Medway in the form of:

- Boundary fencing;
- Landscaping planting on the boundary;
- Some land-forming (possibly through mounds along the boundary); and
- A watering system.

It was explained to the Panel this assistance was not offered because it was the responsibility of AV Jennings to address the potential of egress golf ball nuisance, but as a good will gesture in exchange for the creation of a fenced pedestrian/cyclist easement of the north east corner of the course.

This further green link to the river over golf course land had not been shown in the Framework Plan, however Mr Robertson admitted to the Panel that this had in fact been an omission. It was suggested that an arrow together with an accompanying notation "*explore opportunities for a link to the river*", could appropriately be added to the Plan.

The various open space and recreation strategy documents provided by Council to the Panel (see Section 6.2 - Open Space and Green Linkages) made it clear that a prime objective of Council was to link-up as many green linear spaces with the Maribyrnong River in this vicinity as possible. The relevant overall Objective stated in Clause 15.10 of the SPPF Open Space perhaps sums up this widely held intent:

*To assist creation of a diverse and integrated network of open space commensurate with the needs of urban communities and rural areas.*

Major gains had been made in this regard over recent years, contributing together with recent residential developments, to the "*new Maribyrnong*".

Ms Hicks confirmed the desirability of the identified link through the golf course giving access to both existing residents in Omar Street and nearby streets, as well as potentially to new residents on the subject sites.

The Panel had viewed the potential link during its inspection and this was reinforced by photos tabled by Mr Molesworth, which showed this land to be of an indifferent level of maintenance (infested with thistles and the like). In answer to questioning from Mr Molesworth, Mr Diakogeorgio, agreed the land lay behind the green for the 7<sup>th</sup> hole and the Tee for the 8<sup>th</sup> hole and was not required for golfing purposes.

Mr Molesworth put it to the Panel that a fenced easement through this land would deliver great community access to the river as well as cleaning up a disused and somewhat derelict, far corner of the golf course. It seemed to the Panel that this was an objective not in dispute by any party at the hearing. The sticking point seemed to be the level compensation sought by the club.

The Panel noted that it would be in everybody's interests if these matters could be amicably resolved and suggested the parties make a further attempt at resolution

through meaningful negotiation prior to the final day of the hearing. Unfortunately the parties reported that they had not been able to do so, although there remained the feeling that agreement between the parties may not be very far away.

Mr Helliwell of Coomes Planning represented the Medway Golf Club as their advocate, and he introduced Mr George Diakogeorgiou as an expert witness in the field of Golf Course Design.

The Panel indicated that they had gained a direct appreciation of the circumstances at the 7<sup>th</sup> Tee through their own site inspection when four players were observed hitting off from the middle Tee at the 7<sup>th</sup>.

Mr Diakogeorgio for the Medway Golf Club, indicated that his brief was "...to assess the potential impact of future residential development from Medway's 7<sup>th</sup> Tee". He suggested that the impact of residential development on the AV Jennings site might be to increase the risk of personal injury to pedestrians and property damage to newly constructed dwellings. He indicated that other golf clubs that he was familiar with, had to relocate because of urban encroachment, often after initial buffers had been developed for residential use (Waverley Golf Club, Sunshine Golf Club and Chirnside Golf and Country Club were cited).

The egress of golf balls can be a common problem according to Mr Diakogeorgio with the occasional shot, commonly slicing to the right, occurring on more than just the isolated occasion. In his investigation into the matter he prepared a contour plan which displayed the playing features of the 7<sup>th</sup> hole which illustrated a potential risk to the proposed development site, and said:

*The hole is a medium length Par 4, 362m and the opening tee shot runs parallel with the boundary to the primary landing zone. The second approach shot to the green is a dogleg left away from the boundary.*

*The fairway has a prominent slope from right to left (when viewed from the hole) and mature (pine and eucalyptus) trees align the property boundary which gives a false sense of security because the tees are actually elevated to almost the same height as the trees and ball egress has been known to go over the trees.*

Mr Diakogeorgio explained to the Panel the technical aspects of why stray balls may end up on the subject land.

*Because of the prominent slope from right to left and the tendency of a golf ball to roll down the slope, it is the intention of most golfers to aim as far right as they can to remain*

*on the higher side of the fairway and have a clearer approach to the green. However this leads to an increased risk of ball egress if a tee shot was miss-hit due to the line of play being right of a normal centre line approach. Ball egress has known to occur between the 150m and 250m range and to land up to 20m inside the proposed development property.*

Mr Diakogeorgio demonstrated with a template (developed from a golf design text by Dr Michael Hardpan) applied to the contour plan. He used what he considered to be a safe angle (adopting a conservative 18 degrees variation from the centre line rather than the 15 degrees suggested in the golfing text) of perceived risk or mis-hit from the tees. Whilst Mr Diakogeorgio suggested that there were no absolute standards in predicting these matters, with variations due to golf ball technology, prevailing wind, weather, topography/slope direction of play and other factors effecting the result.

Mr Mark Fowler presented golf design evidence on behalf of AV Jennings, and tabled templates of safety guidelines over the 7<sup>th</sup> Tee area available to him via the Society of Australia of Golf Course Architects (SAGCA). He checked this result via the templates of equivalent peak Societies in the USA and Europe. He concluded that with respect to the *"subject land ... it complies with safety guidelines in all cases"*. The Panel noted that the SAGCA templates were not too dissimilar to the template used by Mr Diakogeorgio.

Mr Fowler under questioning from the Panel did not completely exclude the possibility of the occasional shot from the 7<sup>th</sup> Tee, aided by adverse weather conditions and the skill of the player, from landing a golf ball on the subject site. The Panel observed that despite the basis of the theoretical calculations, the two witnesses agreed that the possibility of a few balls a year may find their way onto the Jennings' land. It seemed to the Panel however, that if just one of these balls caused serious nuisance, injury or damage, remedial measures should be taken from the outset.

Again, both golfing witnesses agreed that some measures would be justified, however the extent of these works was the matter remaining in dispute. Mr Fowler stated that:

*.... provided the proposal proceeds in accordance with the intentions shown in ...the planning Report, the proposed development by AV Jennings would achieve reasonable standards in respect of golf safety.*

Whilst this was initially considered by Mr Fowler to involve extensively thickening up of the landscape planting on the boundary, maintaining the existing fence and



little else, under cross examination from Mr Helliwell, Mr Fowler conceded that other measures could also increase the safety factor. These would include:

- reversing the direction of the golf course play;
- lakes, bunkers and the removal of *out of bounds pegs* further away from the boundary (to force players not to play too far to the right);
- thickening up of the grass on the right hand slope to prevent balls rolling so readily into the gully on the opposite side of the 7<sup>th</sup> fairway; and
- the planting of additional trees and lower scrubs, possibly on newly created mounds, to provide greater interception of golf ball's horizontal trajectory.

The cross-examination of Mr Diakogeorgio by Mr Molesworth and Ms Hicks centred on other issues, including the height and use of the respective (three) available tees at the 7<sup>th</sup> hole. The fact that a worst case scenario (highest tee) had been assumed by the witness to present the highest risk. The inherent difficulties of the slope and dogleg were seen as a challenge by golfers and a feature of the course.

Mr Helliwell in his concluding comments emphasised the sensitive nature of the interface and the consequent need to take due care. He illustrated this point by tabling a report on property damage from the *Environmental and Planning Law Journal* - Volume 16, No 2, which discusses a range of cases where property damage and personal injury have resulted from stray golf balls. It says with regard to golf ball nuisance being a common problem:

*In most cases of golf ball nuisance there is usually evidence that the club or course propriety had prior notice of the nuisance, often with the problem continuing without an adequate remedy over a long period of time.*

In seeking a compromise, Mr Helliwell suggested that a combination of higher fencing from the outset and thickened planting over time, may strike the right balance and provide an ongoing workable solution. Mr Molesworth, on the other hand, informed the Panel that the Medway Golf Course had "*exaggerated the risk*" and that this risk can be relatively easily managed. He further confirmed that his client was prepared to make a reasonable contribution to mitigating this risk.

### ***Panel Findings***

The potential for at least some golf balls emanating from the 7<sup>th</sup> Tee onto the AV Jennings land requires the Medway Golf Club to undertake further works at the interface with the subject land, as a clear duty of care. Necessary works are considered to be:

- A fence of sufficient height to retain golf balls within the course (or other aesthetically acceptable alternative) for those areas of the boundary where theoretical calculations (and golfing experience) have proved to be where golf balls are likely to egress; and
- Increased tree and scrub planting to both screen the safety fence and contribute to golf ball safety, perhaps on mounding, to raise the boundary land form to at least the height of the uppermost Tee at the 7th.

It is desirable to link the subject land to the Maribyrnong River and the intension to do so should be clearly indicated on the required Development Plan, subject to the Schedule of the DPO.

As AV Jennings have indicated a willingness to offer assistance for interface works and the like in exchange for the Medway Golf Club creating a fenced easement over land on its north-east corner, further negotiations should be sought. In this regard Council's offer for the provision of mediation services to reach a mutually satisfactory conclusion, should be taken up by the parties. In the event that the above negotiations cannot produce a result, Council could consider acquisition of the Golf Course land in question as a medium term priority in conjunction with parallel works to open up the river to residents.

*The Panel makes the following recommendations in relation to the interface issues between the subject sites and the Medway Golf Course:*

- *Construct an aesthetically designed fence of sufficient height to retain golf balls within Medway Golf Course on sections of the boundary between the golf course and the subject land, where theoretical calculations and golfing experience indicate where golf balls are likely to egress the golf course.*
- *Provide increased tree and shrub planting to both screen the boundary fence and contribute to reducing the risk of golf ball egress from the course with planting being created on mounding to a height commensurate with the highest tee on the 7<sup>th</sup> hole.*
- *Link the subject land with the Maribyrnong River via an easement located through the Medway Golf Course at the north western end of the site, and show the link on the Development Plan. (Council could give consideration to compulsorily acquiring the land required for this link reserve from the Medway Golf Club, if negotiations to create this link between the subject land and the Maribyrnong River prove unsuccessful.)*

## 10. PANEL CONCLUSIONS

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In developing its conclusions about Amendment C38 and C41, the Panel has firstly responded to the Strategic Assessment Guidelines and secondly has provided its overall findings.

### 10.1 Strategic Assessment Guidelines

Strategic Assessment Guidelines are included as a General Practice Note in the VPPs and should be used by Councils and Panel during the consideration of amendments (or proposals). The Strategic Assessment Guidelines include a number of matters that should be considered to ensure that planning is strategic and policy based. The broad issues to be considered in assessing an amendment include the following, and each of these matters is briefly addressed in turn.

- Is an amendment required?
- What is the strategic basis for the amendment or proposal?
- Have the requirements of the Act been considered?
- Does the amendment or proposal support or implement the SPPF and the LPPF?
- What consequences will any proposed or necessary changes to the MSS or local planning policies have for other aspects of the policy framework?
- Does the amendment make proper use of the VPP?
- What is the outcome of the amendment or proposal in terms of the planning scheme's strategic directions, useability and transparency?

#### (i) Is an amendment required?

An amendment is required for both sites. With respect to the AV Jennings land, it is currently designated Commonwealth land and thus has no planning controls pursuant to the Maribyrnong Planning Scheme except for the anomaly of the Design and Development Overlay (to be removed by the amendment).

With respect to the JMC Group, as the site is presently in the Industrial 3 Zone, an amendment is required to facilitate the development and use of the land primarily for residential purposes.

In both cases the Application of a Mixed Use Zone to the Hampstead Road frontage is included to facilitate an appropriate mix of uses (including residential) and for a

Residential I Zone for the balance of the land, which represents about 70% of the land area.

As well, three overlays are applied to the land to achieve Council's and the proponents' various purposes, namely:

- A Development Plan Overlay;
- A Development Contributions Plan Overlay (AV Jennings site only); and
- An Environmental Audit Overlay.

The Panel considers these are a comprehensive and appropriate package of planning tools and measures.

**(ii) What is the strategic basis for the amendment or proposal?**

The proposed amendments are consistent with State, regional and local strategic planning intent. As discussed earlier in the report, the amendments fulfil policy intent for both the SPPF and the Maribyrnong Planning Scheme. A range of incorporated, or work-in-progress Council strategic documents, relating to Open Space, Housing, Transportation, Industrial Development and the like, complement the amendments. Further, the Amendments support the various Key Directions of Melbourne 2030.

The amendments will promote some employment via construction, on-site commercial operations in the Mixed Use Zone and off-site with the expanded support for the Highpoint PAC and other nearby providers of services and goods.

**(iii) Have the requirements of the Act been considered?**

The amendments meet the requirements of the *Planning and Environment Act 1987* and in particular Ministerial Directions and the requirements of Section 12 (2) of the Act which relates to environmental, social and economic matters.

**(iv) Does the amendment or proposal support or implement the SPPF and the LPPF?**

The amendments are generally consistent with the following Clauses of the SPPF:

- 11.03 - Sustainable development, in association with the DPO;
- 14.01 - Settlement, through a relevant mix of uses;
- 14.02 - Metropolitan development policies, including mixed use, residential

- use and (potentially) links to the river;
- 15.03 - Air quality, with improvements to emissions from nearby uses;
- 15.05 - Noise, with mitigation of noise from neighbouring uses;
- 15.06 - Soil contamination, with existing site clean-up and the Environmental Management Plan and EPA to provide ongoing management;
- 15.10 - Open space, with satisfactory arrangement of three 'parks' on site and potentially further green links beyond;
- 15.12 - Energy efficiency, with an intensification of land use and an efficient range of residential densities;
- 16.01 - Housing, the primary outcome of the Amendments;
- 16.02 - Medium density housing, an appropriate location for this housing choice with proximity to central Melbourne, Highpoint PAC and the rejuvenated Maribyrnong River;
- 17.02 - Business, opportunities for commercial uses in the Mixed Use Zone attracted by Hampstead Road passing traffic;
- 17.03 - Industry, not the best use of these sites as noted in Municipality's strategic assessment. The Amendment however will not preclude other existing industrial uses in the vicinity;
- 18.02 - Car parking and transport access to development, surrounding and internal traffic circulation is considered satisfactory;
- 18.03 - Bicycle transport, internal layout will facilitate bicycle and pedestrian access; and
- 18.12 - Development contributions to infrastructure, contributions via Sect.173 agreements for off-site infrastructure including road widening, and a Development Plan Contributions Overlay.

With respect to the LPPF, the amendments are consistent with the following Clauses:

- 21.01 - Municipal Profile, in terms of intended land use patterns and demographics with a reverse of previous population decline and the changing nature of industrial activity and location;
- 21.03 - Vision and Strategic Framework Plan, which advocates a "...greater residential focus..." and "a reduction in the amount of land devoted exclusively to industrial activity" and specific references to "Major new Residential Development" in the associated Residential Land Use Framework Plan; and
- 21.04-5 - Industrial Development, which states "Industry change and decline is now creating many exciting opportunities to restructure and change the image of the city, to improve the amenity of industrial areas and the residential areas next to them".

It is considered that where any apparent conflict in State or local strategies which

promote both the industrial uses and residential uses in any single location, the means of determining which value should have preference should embrace the principles of “sustainability” and “community benefit”. In this case the principles would favour residential use with respect to the subject land in its sub-regional context.

**(v) What consequences will any proposed or necessary changes to the MSS or local planning policies have for other aspects of the policy framework?**

There are no changes proposed by the amendment to the MSS or the LPPF. It is envisaged however that the present review of the MSS (and in particular the framework plans at Clause 21.02, 21.03 and 21.04) will reflect the present planning intentions of these amendments. A more explicit land use outcome is expected however, which reflects the amendment outcomes within the Hampstead Road Framework.

**(vi) Does the amendment make proper use of the VPP?**

In implementing planning objectives it is important to consider if the best mix of proposed zones, overlays and schedules has been selected.

The Panel explored the application of a Comprehensive Development Zone. Whilst the CDZ would allow some degree of certainty, through prescription, it is believed to more suitable for larger and more complex sites. A CDZ might have been more appropriate if the foreshadowed VUT amendment had been able to come on-line in parallel with the amendments presently under consideration. Also, the alternative suggestion of a Business 2 Zone for much of the land, which is most often associated with Office uses, is also considered inappropriate.

The mix of the Residential 1 Zone with the Mixed Use Zone, combined with the revised Development Plan Overlay (see Appendix 4) is considered to make proper and effective use of the available VPP tools.

**(vii) What is the outcome of the amendment or proposal in terms of the planning scheme’s strategic directions, useability and transparency?**

Subject to a combined schedule to the Development Plan Overlay and the non-statutory exhibition of the final Development Plan, the outcome of the amendments should be both transparent and useable. The result would lead to a residential and mixed use of the subject land with a range of new housing opportunities. Issues such as streetscape, landscaping and screening, overlooking, residential address,

traffic circulation and permeability considerations are addressed in the revised Development Plan Overlay.

## 10.2 Panel Conclusions and Findings

Overall, the Panel considers that the Council and both proponents have established a manageable planning case for a residentially based mixed use development on the subject sites, which would deliver a number of environmental benefits of metropolitan and local significance. As Mr Molesworth noted:

*The Residential 1 and Mixed Use Zones are appropriate zones to apply to both the Jennings and JMC land, having regard to the proponents' intended end uses for the site and other Statewide and regional policies that seek to promote urban consolidation and an increased proportion of new dwellings to be established in activity centres and other strategic redevelopment sites.*

The Panel supports the application of the following zones and overlays to the sites:

- Residential 1 Zone to both sites, as exhibited
- Mixed Use Zone to both sites, as exhibited
- Environmental Audit Overlay to both sites, as exhibited
- Development Plan Overlay to both sites, but subject to one schedule and further modifications
- Development Contributions Plan Overlay to the C38 site

The Panel considers the Development Plan Overlay is an appropriate planning tool for implementing the developments the subject of both the Amendment C38 and C41 sites. In addition, the Panel supports the removal of the Design Development Overlay 1 from the Amendment C38 site, as it is no longer required.

The Panel accepts that the indicative development plans respond well to the site constraints and opportunities, as well as the interfaces with surrounding land. These plans provide for a range of housing options and opportunities. The Council Framework Plan, when modified and finalised, will further enhance the overall development opportunities and framework for the sites.

The Panel is satisfied that the amendments will not impact on Australia Post, the Campbellfield concrete batching plant, or Peerless Holdings, and the submissions and objections raised by these submitters do not constitute a reason to reject the Amendments. The design and layout of the sites, with the mixed use development along the frontage of Hampstead Road should ensure there will be few amenity

impacts in relation to noise, odour, traffic and dust.

The interface of the sites with the Medway Golf Club, the VUT land, the Australia Post complex, the Telstra Tower and the Maribyrnong Detention Centre can be satisfactorily accommodated. The Panel is not persuaded by Council argument that a soccer field would provide the optimum use of the open space allocation, and it accepts the submission from AV Jennings that the open space provide in its indicative plan is preferable.

In summary form, the net community benefit and disbenefits that might accrue from these proposals include the following:

### **Net Community Benefit**

- Reuse of redundant industrial land;
- Decontamination and remediation of the sites;
- Promotion of a good housing outcome for the inner west;
- Compliance with the housing strategies of Metropolitan Strategy - *Melbourne 2030*;
- Compliance with the strategic direction of Council's existing planning policies;
- Improvements to the surrounding road system and improved access for local residents;
- Provision of networked open space and improved access opportunities to the Maribyrnong River;
- Resolution of a compatible interface with residential properties in Omar Street;
- Support for the Highpoint Principal Activity Centre; and
- Increased job opportunities (both during the construction phase and further on as the Mixed Use Zone is developed).

### **Disbenefits**

- Loss of zoned industrial land;
- Creation of residential interface opposite an existing industrial area; and
- Increased traffic movement, in the vicinity of the Hampstead Road precinct.

Overall, the Panel is satisfied that approval of the amendments will result in a beneficial result with respect to the land under consideration. The Panel believes that this outcome will prove positive, and overall, will result in a net benefit for the local and wider community.



## 11. PANEL RECOMMENDATIONS

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For the reasons set out in this report, the Panel appointed to consider Amendment C38 and C41 to the Maribyrnong Planning Scheme recommends that both **BE ADOPTED**, subject to the following modifications:

### 1. *Planning Framework:*

#### *Amendment C38:*

- *Apply the Residential 1 Zone and Mixed Use Zone to the site as exhibited.*
- *Apply the Environmental Audit Overlay to the site as exhibited.*
- *Apply the Community Infrastructure Development Contributions Plan Overlay to the site as exhibited.*
- *Apply the revised (draft) Schedule 8 to the Development Plan Overlay to the site as outlined in Appendix 4, and in accordance with the recommendations below.*

#### *Amendment C41:*

- *Apply the Residential 1 Zone and Mixed Use Zone to the site as exhibited.*
- *Apply the Environmental Audit Overlay to the site as exhibited.*
- *Apply the revised (draft) Schedule 8 to the Development Plan Overlay to the site as outlined in Appendix 4, and in accordance with the recommendations below.*

### 2. *Urban Design and Landscape Context:*

*Prepare a landscape and open space plan to form part of the Development Plan to the Development Plan Overlay. This plan should be based on the Hampstead Road Precinct Framework Plan prepared by Tract Consultants (June 2004), but modified to include:*

- *The open space and landscape arrangements as shown on the "Indicative Development Plan" (AV Jennings site). (Selection of plant species to be subject to a more detailed landscape plan.)*
- *Public Open Space to include the landscaped area surrounding the drainage depression (JMC), the park shown at the turning point of the Entry Avenue (AVJ) and the green linear park, adjacent to the boundary of the Medway Golf Course. The potential of this link to extend further north to the Maribyrnong*

*River, via golf course land, is strongly encouraged.*

- *The building envelopes shown on the "Current Proposals" and "Indicative Development Plan" are supported.*

### 3. *Traffic and Access Issues:*

- *Prepare a traffic and access management plan to form part of the Development Plan to the Development Plan Overlay. It should include the following provisions:*
  - *Signalise the intersection providing the main access to the C38 site between Emu Road and Wattle Road on Hampstead Road.*
  - *Consider options for speed management devices in Omar Street, in consultation with the local community.*
  - *Provide for the upgrade of the intersections of Hampstead Road/Williamson Road/Wests Road and Hampstead Road/Mitchell Street/Omar Street.*
  - *Provide for a link between the main access roads into the two development sites.*
  - *Provide for bicycle and pedestrian links to Williamson Road only, with any formal road link to Williamson Road being via one of the north/south internal roads indicated by arrows on the Precinct Framework Plan.*
  - *Develop a pedestrian/bicycle link through the northern extension of Omar Street to the Maribyrnong River.*

### 4. *Environmental Issues:*

- *Prepare an Environmental Management Plan and Construction Management Plan as part of the Development Plan to the Development Plan Overlay.*
- *Undertake an Environmental Audit along the former Telstra cable easement land.*
- *Implement the recommendations of the Marshall Day Acoustic report for incorporation in the Development Plan Overlay, to include the following:*
  - *A 3 metre high acoustic fence along the north eastern boundary between the Australia Post land and the AV Jennings site.*
  - *A 5 metre high acoustic fence on the northern boundary of the Australia Post site and the AV Jennings site.*
  - *A buffer area of 15 metres be set aside between the acoustic fence and the nearest residential property boundary to provide adequate noise protection to the AV Jennings site.*

- *A 3 metre high acoustic fence along part of the south west boundary between Australia Post and the JMC site, with the extent of the fence to be determined as development progresses.*
- *Amend the Development Plan Overlay to accommodate Acoustic Sensitive Design to alleviate noise issues by meeting Australian Standard 2107-2000 Acoustics Recommended Design Sound Levels and Reverberation Times for Building Interiors or SEPP N-1 for:*
  - *The operations of the concrete batching plant*
  - *Australia Post operations on their site*
  - *Omar Reception Centre*

#### *5. Interface between Subject Sites and Medway Golf Course*

- *Construct an aesthetically designed fence of sufficient height to retain golf balls within Medway Golf Course on sections of the boundary between the golf course and the subject land, where theoretical calculations and golfing experience indicate where golf balls are likely to egress the golf course.*
- *Provide increased tree and shrub planting to both screen the boundary fence and contribute to reducing the risk of golf ball egress from the course with planting being created on mounding to a height commensurate with the highest tee on the 7<sup>th</sup> hole.*
- *Link the subject land with the Maribyrnong River via an easement located through the Medway Golf Course at the north western end of the site, and show the link on the Development Plan. (Council could give consideration to compulsorily acquiring the land required for this link reserve from the Medway Golf Club, if negotiations to create this link between the subject land and the Maribyrnong River prove unsuccessful.)*

**Kathryn Mitchell**  
September 2004

**Eugene Kneebone**

**Ken McNamara**